

## Sanchez, Rodzandra (COE)

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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Tuesday, October 23, 2018 9:18 AM  
**To:** Sanchez, Rodzandra (COE)  
**Subject:** INQ 18-233, Richard Barone, Esq. on behalf of Lobbyists, City of Miami (Withdrawal as Lobbyists)  
**Attachments:** Lobbyist Withdrawal for Andrew Hall 10-10-18.pdf; Lobbyist Withdrawal for Adam Lamb 10-10-18.pdf

INQ 18-233 Barone

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**From:** Perez, Martha D. (COE)  
**Sent:** Monday, October 22, 2018 1:44 PM  
**To:** Richard Barone <rbarone@hlhlawfirm.com>  
**Cc:** Arrojo, Jose (COE) <Jose.Arrojo@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Sanchez, Rodzandra (COE) <Rodzandra.Sanchez@miamidade.gov>  
**Subject:** RE: Withdrawal as Lobbyists: Richard Barone, Esq. on behalf of Lobbyists City of Miami, INQ 18-233

Dear Mr. Barone,

You inquire regarding lobbyist registration and training in the City of Miami.

### Background

Your firm registered two attorneys on September 12, 2018, to lobby on behalf of a client during the public comment section of the City of Miami Commission meeting to address proposed Ordinance No. 13791 regarding gambling. Both attorneys paid the \$525.00 lobbyist registration fees. Only one of the registered lobbyists addressed the Commission on the issue. The ordinance passed on September 27, 2018. Consequently, both lobbyists filed Notices of Withdrawal on October 10, 2018. You were advised by a Miami City Hall representative that, although the lobbyists withdrew, they are still required to complete the ethics training course within 60 days of registration. As part of your inquiry, you pose the following questions:

- 1) If the attorneys were not required to register, and have since withdrawn, are they excused from the ethics training?
- 2) Are the registered lobbyists required to submit an expenditure report?
- 3) Are the lobbyists entitled to a refund from their registration fees?
- 4) Is the lobbyist who did not lobby (actively participate) in the same position as the one who addressed the Commission?

### Analysis

The City of Miami amended its lobbyist ordinance to be consistent with the minimum standards for lobbyist registration in Section 2-11.1(s) of the County Ethics Code. The County Ethics Code at Sec. 2-11.1(s) (1)(b) defines a lobbyist as “all persons, firms or corporations *employed or retained* by a principal who seeks to encourage the passage, defeat or modification of... an ordinance..... of the [City] Commission...” Section 2-654 (c) of the City of Miami Code (and its County counterpart) requires registration within 5 business days of being retained *or* before engaging in lobbying activities, whichever comes first. In this instance, both attorneys were retained to lobby on behalf of the client, therefore, both attorneys were required to and in fact, properly registered with the City of Miami Clerk.

The lobbyist registration requirements apply to anyone who is employed or retained for the purpose of lobbying, regardless whether that person ultimately lobbies. Consequently, in response to Questions 3 and 4, the attorney lobbyist who registered yet did not lobby or did not actively participate in lobbying is in the same position as the one who lobbied

with regard to the registration and fee requirements and is therefore, not entitled to a refund. (Note, the lobbying activity described in your inquiry does not fall under the category of quasi-judicial proceeding as mentioned in your email, therefore, the exemption does not apply).

Section 2-655 of the City of Miami Code requires all lobbyists who have incurred lobbying expenditures to file a statement of all lobbying expenditures by January 15<sup>th</sup> of each year for all expenditures incurred during the preceding calendar year. If the lobbyist had no expenditures in the preceding calendar year, then he or she is not required to submit an annual expenditures report. Consequently, in response to Question 2, registered lobbyists are required to submit an expenditures report only if they have incurred lobbying expenditures.

Section 2-654 (a) of the City of Miami Code states in part, “A person may not lobby a City....board member...until such person has registered as a lobbyist with the Clerk and submitted a certificate of completion, of an ethics course provided by the Miami-Dade County Commission on Ethics Public Trust completed within 60 days after registering.” This requirement is repeated in Subsections (b) and (c) of the Code. The Miami Code also requires, in Subsection (g), that any person who withdraws as a lobbyist shall file a notice concerning representation of the principal, at no cost.

Question 1 raises presents us with the following scenario: An individual properly registers to lobby, however, the individual’s lobbying activity/representation terminates and he or she withdraws before the 60- day deadline for completion of the required 4-hour ethics course.

Both the City and County lobbyist ordinance require registration of lobbyists within 5 business days of being retained *or* before engaging in lobbying activities, whichever comes first. *See* Section 2-654 (a), City of Miami Code. Therefore, at a minimum, a lobbyist cannot lobby without being properly registered. Part of the registration requirement includes a certificate of completion of the ethics course offered by the Miami-Dade County Commission on Ethics & Public Trust. This course must be completed within 60 days of registering as a lobbyist. Lobbyists who have not completed the ethics course within the required 60 days may not lobby beyond the 60<sup>th</sup> day until the ethics course has been completed. *See* INQs 18-151,18-96 and 17-289.

Unlike payment of the lobbyist registration fee, the 4-hour ethics course is not a pre-requisite to commence the lobbying activities. Therefore, in response to Question 1, an individual who registers to lobby, pays the registration fee, lobbies (or chooses not to lobby ) and then withdraws (files City of Miami’s Notice of Withdrawal/Completion of Lobbyist Issues with the Clerk) *prior* to the expiration of the 60 days to complete the ethics course, *is not* required to take the course. However, should that individual re-register to lobby at a later date, he or she must take the ethics course within 60 days of registering. *See* INQs 13-171 and 13-189. Lobbyists are encouraged to complete the ethics course even though they withdraw from their specific lobbying activities/ representations because completion of the 4-hour ethics course satisfies the *ongoing* requirement by the City for lobbyist ethics training in connection with any re-registration. *See* INQs 14-85, 15-132 and 15-162

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics and City of Miami Lobbyist ordinances only and not applicable to any prohibited conduct under state law. Also, this opinion is based only on the facts provided by the party requesting the opinion. You may contact the State of Florida Commission on Ethics for questions regarding limitations under state law.

INQs of this type are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. Covered parties that act contrary to an ethics opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal complaint filed with the Commission on Ethics and Public Trust.

Thank you again for seeking guidance from the Commission on Ethics. Please do not hesitate to contact me should you require any additional assistance.

Sincerely,

**Martha D. Perez**  
Staff Attorney  
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST  
19 West Flagler St. Suite 820  
Miami, FL 33130  
(305)350-0656  
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**From:** Richard Barone <rbarone@hlhlawfirm.com>  
**Sent:** Friday, October 19, 2018 2:15 PM  
**To:** Sanchez, Rodzandra (COE) <Rodzandra.Sanchez@miamidade.gov>  
**Cc:** Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>; Arrojo, Jose (COE) <Jose.Arrojo@miamidade.gov>  
**Subject:** RE: Withdrawal as Lobbyists

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Thank you very much for all of your assistance.

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**RICHARD R. BARONE**  
*DIRECTOR OF LITIGATION SUPPORT*

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**From:** Sanchez, Rodzandra (COE) [<mailto:Rodzandra.Sanchez@miamidade.gov>]  
**Sent:** Friday, October 19, 2018 2:13 PM  
**To:** Richard Barone  
**Cc:** Perez, Martha D. (COE); Arrojo, Jose (COE)  
**Subject:** RE: Withdrawal as Lobbyists

Good Afternoon Jose/Martha,

If you can please see Mr. Barone's question below.  
He first forwarded the questions to [ethics@miamidade.gov](mailto:ethics@miamidade.gov) , but he didn't receive a response.

Ty..

***Rodzandra Sanchez, MPA***  
***Administrative Officer***  
***Miami Dade Commission on Ethics and Public Trust***  
***19 West Flagler Street***  
***Suite 820***  
***Miami, Florida 33130***  
***(305) 350-0655***

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**From:** Richard Barone <[barone@hlhlawfirm.com](mailto:barone@hlhlawfirm.com)>  
**Sent:** Friday, October 19, 2018 2:10 PM  
**To:** Sanchez, Rodzandra (COE) <[Rodzandra.Sanchez@miamidade.gov](mailto:Rodzandra.Sanchez@miamidade.gov)>  
**Subject:** FW: Withdrawal as Lobbyists

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**RICHARD R. BARONE**  
*DIRECTOR OF LITIGATION SUPPORT*

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**From:** Richard Barone  
**Sent:** Thursday, October 18, 2018 9:59 AM  
**To:** 'ethics@miamidade.gov'  
**Subject:** RE: Withdrawal as Lobbyists

Good morning,  
I am following up on the message below sent on October 12, 2018. Kindly acknowledge receipt and advise.  
Best,

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RICHARD R. BARONE  
*DIRECTOR OF LITIGATION SUPPORT*

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**From:** Richard Barone  
**Sent:** Friday, October 12, 2018 10:07 AM

To: 'ethics@miamidade.gov'

Subject: Withdrawal as Lobbyists

To Whom It May Concern:

I registered two litigation attorneys from our office as lobbyists for a client so that they could speak to the commissioners during public comment regarding proposed ordinance # 13791 before the Miami City Commission a few weeks ago. A meeting before the Commission took place and the ordinance was passed on September 27, 2018. Both attorneys from my firm paid their requisite registration fees and were permitted to address the Commission. However, only one lawyer actually spoke at the meeting for two minutes during the public comment portion. Since the sole purpose for lobbyist registration was to address the Commission for this limited purpose and, with the subsequent passage of Ordinance # 13791, Notices of Withdrawal/Completion of Lobbyist Issues were filed with the City of Miami yesterday.

During my visit to Miami City Hall to withdraw the lobbyist registrations I was advised that although we have successfully withdrawn as lobbyist and were only actively registered for a very small window of time, the lawyers remain required to complete the ethics training within sixty days of registration. Upon return to my office, I reviewed the "Lobbying in Miami-Dade County FAQs" on the Ethics Commission's webpage. There I found a section titled "**Who is not required to register**" which states in part:

- o **"Attorneys or other representatives appearing at publicly noticed quasi-judicial proceedings where ex-parte communications are prohibited."**

My questions are these:

1. If the lawyers were, in fact, not required to register as lobbyists (and have since withdrawn) may they be excused from the ethics training required within sixty days of registration?
2. Will they still be required to submit an expenditure report?
3. In light of not having been required to register as lobbyists, are they entitled to a refund of the registration fees?
4. Is the attorney who never spoke at the Commission Meeting in the same position as the attorney who did speak for two minutes, or does his lack of active participation relieve him of any responsibilities?

In an abundance of caution we have reserved two spaces for the next ethics training course available. Please advise, at your earliest convenience, if we may cancel this training, and address the other questions above. Thank you for your time and attention to this matter.

Respectfully,

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**RICHARD R. BARONE**

*DIRECTOR OF LITIGATION SUPPORT*

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