



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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David Alvarez Castañeda  
Vice President, Strategic Advisory  
CPM North America  
2100 Ponce De Leon Boulevard  
Coral Gables, FL 33134  
Via email @ [dalvarez@cpmintl.com](mailto:dalvarez@cpmintl.com)

RE: INQ 20-70, Section 2-11.1(s), County Ethics Code, *Lobbying*

Dear Mr. Alvarez Castañeda,

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding the Contingency Fee Ban contained in the County Conflict of Interest and Code of Ethics Ordinance (County Ethics Code).

Section 2-11.1(s)(7) of the County Ethics Code specifically states that "No person may in whole or in part pay, give or agree to pay or give a contingency fee to another person. No person may on whole or in part, receive or agree to receive a contingency fee."

The section defines a "contingency fee" as a fee, bonus, commission, or non-monetary benefit or compensation, which is dependent on or in any way contingent on the passage, defeat or modification of the official government action.

The Ethics Commission which is responsible for interpreting and enforcing the County Ethics Code, has stated that the ordinance prohibits a person from giving, agreeing to give, receiving or agreeing to receive, in whole or in part, a contingency fee. It has also explained that "**this prohibition serves to restrict the form of compensation that a principal is permitted to give (and a lobbyist is permitted to receive) while protecting against possible tendencies to corrupt the government process which may exist when lobbyist compensation is contingent on obtaining the desired action.**" See INQ 19-98.

Generally, a person who is employed or retained by a principal and has been assigned to represent the interests of that principal, may lobby as long as the entire, definitive amount of compensation related to the lobbying activity is established at the time the person lobbies and such amount is not dependent on the success of the lobbying efforts. See INQ 12-132.

An exception has been made for employees of principals whose duties include lobbying on behalf of their employers. For example, the ordinance does not prohibit a salesperson from lobbying on behalf of his or her company and receiving compensation or commission as part of a bona fide practice of the company, provided such compensation or commission is ordinary and customary

in the industry. In general, these commission percentages are awarded based on the profit of the sale in question. *See* RQO 06-34; INQ 12- 231.

Consequently, based on the brief facts that you provided, should your company choose to hire a third party lobbyist, the entire, definitive amount of compensation related to the lobbying activity must be established at the time the person lobbies, and such amount shall not be dependent on the success of the person's lobbying efforts. *See* INQ 12-231.

Should you need anything further, please do not hesitate to contact me.

Sincerely,

Radia Turay  
Staff Attorney, COE

INQs 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. While these are informal opinions, covered parties that act contrary to the 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.