



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Amy E. Mehu
Former Economic Development Assistant Director for the City of Miami Beach

FROM: Loressa Felix, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2021-02, Section 2-11.1(q), County Ethics Code, Two Year Rule

DATE: January 15, 2021

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding limitations on employment by former municipal employees within two years of separation from the City of Miami Beach.

Facts:

You were previously employed as the Economic Development Assistant Director for the City of Miami Beach. Your duties included assisting in development, implementation and administration of economic plans, programs, and policies; assisting local business community regarding marketing, commercial space, financing, and workforce training; maintaining strong working relationships with local BIDs, business associations, and property owner associations; negotiating joint development project agreements for Miami Beach which maximize use of City assets and further City priorities; and preparing budgets and work plans and overseeing the City's community redevelopment areas.

You resigned from your position in late 2020 and have started in a new professional capacity as a compensated consultant. You have recently been retained to provide consulting services for SOBESafe, an organization focused on lobbying elected officials and policing authorities regarding the safety of the City of Miami Beach.

You advised that your role with SOBESafe is to provide context and ministerial support with the City's administration. You will not be speaking on behalf of SOBESafe in any capacity with any city commission, administration, or staff regarding any items before them. More specifically, you will assist your client with updating and revising web content, responding to daily emails, drafting

and recapping all material meetings, schedule meetings for SOBESafe members to speak with elected officials, observe community, commission, and public meetings, track commission agenda items through committees, local election tracking and its impact, policy direction and recommendations on new and existing legislative items, establish and maintain relationships with community stakeholders, and establish and maintain communication strategies and schedules.

Analysis and Opinion:

Section 2-11.1(q) of the Miami-Dade County Ethics Code prohibits former municipal employees from “lobbying” their former cities for a period of two years following separation i.e. the Two-Year Rule. Moreover, the post-employment lobbying activity prohibitions contained in subsection (q) of the Ethics Code are more expansive than those found under the general lobbying ordinance.

Whereas the County’s lobbying ordinance at Section 2-11.1(s) and its municipal counterpart, Section 2-481 of the City of Miami Beach Code, characterize “lobbying” as advocating for matters that will foreseeably be decided by the commission, the manager/mayor, or a board/committee, the Two-Year Rule includes advocating for actions or decisions that may be made at the sole discretion of *any* municipal personnel. *See* RQO 12-09; RQO 13-07.

Former city employees are however allowed under subsection (q) of the Ethics Code to share institutional knowledge regarding their former municipal employer’s procedures with their new clients, and to provide guidance to their clients or employers regarding interactions with the city. *See* INQ 20-63.

Direct meetings and contacts by the former employee with city personnel are permissible **as long as there is no advocacy involved in the interactions and the former city employee is not seeking to influence city personnel.** *See* INQ 20-63.

Further, a former municipal employee may engage in interactions with city staff which are ministerial in nature. *See* RQO 04-33. However, **any attempt to persuade city staff, whether in person or by written communication, to take a particular course of action or to make a determination, are considered lobbying and are thus, prohibited.** *See* RQO 02-139.

You would also be prohibited from making presentations before city selection committees, boards and agencies, city commissioners and its boards, and committees and subcommittees. This prohibition is broad and covers any activity where you attend meetings and are publicly identified as part of SOBESafe’s lobbying team. *See* RQO 04-34 (citing RQO 01-38, where the Ethics Commission opined that a former County employee could not engage in such activities but was not prohibited from attending quasi-judicial hearings and County Commission meetings and from providing administrative support as long as he was not publicly identified as a member of the lobbying team).

Consequently, as it appears that you will only be conducting ministerial acts and imparting institutional knowledge to your client, there is no prohibition of your post-employment position as a consultant for SOBESafe. You are, however, cautioned against any action that may be perceived as advocating or seeking to influence City elected officials or personnel in your interactions, as this would be a violation of the County’s Two-Year rule.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry change, please contact us for additional guidance.

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.