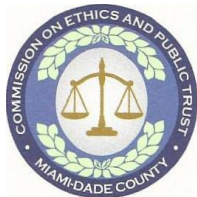


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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January 26, 2021

Via Email Only: miguel@brizuelalaw.com

Miguel Brizuela, Esq.
2199 Ponce de Leon Boulevard, Suite 301
Coral Gables, Florida 33134

Re: INQ 2021-12, Certain Appearances Prohibited, Section 2-11.1(m), County Ethics Code

Dear Mr. Brizuela:

Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust and for requesting ethics guidance regarding the application of the County Ethics Code to limitations on Board Members representing clients before other County Boards.

Issue:

Whether a County Unsafe Structures Board Member may represent a non-party witness/victim in a contractor disciplinary matter before the County Construction Trades Qualifying Board.

Facts:

The Unsafe Structures Board (USB) is a quasi-judicial advisory board, which reviews the decisions of Building Officials regarding buildings considered unsafe. You are a member of the USB.

The Construction Trades Qualifying Board (CTQB) is tasked with ensuring the competency level of local contractors. The Board screens applicants for examination in construction trade categories and reviews applications for contractor licenses. The CTQB is authorized to review and resolve, through a formal and informal hearing process, complaints against contractors and tradesmen. The Board may take disciplinary action, including sanctions, fines, suspensions, or revocation of a contractor license, on those found guilty of violations.

Zonia Caicedo had work performed at her residence by Rene Betancourt. It is alleged in Miami-Dade County RER v. Rene Betancourt, et al., Case No. A2020003112, that Mr. Betancourt

contracted to do work, and did perform work, in violation of the Code of Miami-Dade County. That contractor disciplinary matter is pending and set for hearing before the CTQB.

You are an attorney and seek to represent Ms. Caicedo, a non-party witness/victim in the case against Mr. Betancourt that is filed and set for hearing before the CTQB.

Discussion:

As a result of your membership on the USB, you are considered “quasi-judicial” personnel and are a covered person under the County Ethics Code. *See* Section 2-11.1(b)(3).

Section 2-11.1(m)(2) limits the representational activities of quasi-judicial personnel before County Boards. Specifically, quasi-judicial personnel may not:

[Appear] before the County board or agency on which he or she serves, either directly or through an associate, and make a presentation on behalf of a third person with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall such person receive compensation, directly or indirectly or in any form, for services rendered to a third party, who has applied for or is seeking some benefit from the County board or agency on which such person serves, in connection with the particular benefit by the third party. Nor shall such person appear in any court or before any administrative tribunal as counsel or legal advisor to a third party who seeks legal relief from the County board or agency on which such person serves through the suit in question.

Accordingly, you are prohibited from appearing or presenting on behalf of third party before the USB. Additionally, you may not receive compensation from a third party for services rendered to a person that seeks benefits from the USB. Finally, you may not appear in any court or tribunal on behalf of a third party that seeks relief from the USB.

Section 2-11.1(m)(2) does not prohibit your appearance on behalf of a third party before another County board on which you do not sit as a member.

Section 2-11.1(g) of the Ethics Code prohibits covered persons from using their official position to secure special privileges for himself or herself or others. Because you are a member of the USB and your position may be known to CTQB members or to staff, you should be cautious not to use your position or title to unfairly influence the CTQB in the Betancourt matter.

Clearly, you should not reference your USB membership or title in any written or oral communications with the CTQB or its staff. Also, you may not use any County resources available to you as a USB member in your interactions with the CTQB or its staff.

Opinion:

Under the details provided to this office concerning your current position as a USB member and your representation of a client as a witness/victim in a contractor disciplinary action before the CTQB, you are not prohibited by Section 2-11.1 (m)(2) of the County Ethics Code from accepting this retainer.

Of course, Section 2-11.1 (g) of the Ethics Code would prohibit you from using your official position or title to secure special privileges or treatment for yourself or your client in the matter. You may not use any County resources available to you as a USB member in your interactions with the CTQB or its staff.

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.

Please do not hesitate to contact me should you require any additional information or guidance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jose J. Arrojo".

Jose J. Arrojo
Executive Director

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.

cc: All COE Legal Staff