

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Tuesday, July 31, 2012 1:52 PM
To: 'peterstell328@gmail.com'
Cc: Centorino, Joseph (COE)
Subject: Two-Year Rule (INQ 12-129)
Attachments: RQO 11-26 Goldstein.pdf; RQO 12-09 Carreno.pdf

Mr. Tell,

Congratulations on your retirement from the County Attorney's Office on April 1, 2011.

As you are aware, Sec. 2-11.1 (q) of the County Code prohibits you from lobbying the County for two years following your retirement unless you are appearing on behalf of a governmental entity, a nonprofit organization or an educational institution.

Please be advised that lobbying activities as described in the post-employment ordinance at Sec. 2-11.1 (q) are much more expansive than those found under the general lobbying ordinance at Sec. 2-11.1 (s). Whereas the general lobbying ordinance characterizes lobbying as advocating for items that will *foreseeably be decided or recommended by any County commission, County board or the County Mayor*, the post-employment ordinance makes no such limiting connection to matters that will foreseeably be brought before voting bodies or the Mayor. Consequently, advocating for decisions that may be made at the sole discretion of County personnel, not necessarily a voting body or the Mayor, are prohibited under the post-employment ordinance.

You'll also note that specifically excluded from the definition of lobbyists under Sec. 2-11.1 (s)(1)(b) are "attorneys or other representatives retained or employed solely for the purpose of representing individuals, corporations or other entities during publicly noticed quasi-judicial proceedings where the law prohibits ex-parte communications."

Therefore, to answer your specific questions—

- You may *not* represent private-entity clients before any County boards prior to April 1, 2013, unless the proceedings are quasi-judicial in nature. You may represent government clients at any time.
- You may *not* represent private-entity clients in meetings with County staff prior to April 1, 2013, *unless* you are meeting with *County attorneys* in pre-suit negotiations or in anticipation of quasi-judicial hearings. Again, you may represent government clients in meetings with County staff at any time.

A recent County ethics opinion to Thomas Goldstein, a former County Attorney, is relevant to your questions. (*See* RQO 11-26, attached.) Mr. Goldstein, who wished to represent private clients in eminent domain issues, was not allowed to participate directly in the initial pre-suit negotiation phase of eminent domain proceedings if the property owner was negotiating with non-lawyer County personnel. However, he was allowed to participate directly in pre-suit negotiations if the discussions were being conducted with County attorneys.

I've also attached a recent opinion to a former Miami Beach employee that distinguishes lobbying under Secs. 2-11.1 (s) and (q). (*See* RQO 12-09.) References made to city employment and city entities are correspondingly applicable to County employment and entities.

Finally, in Mr. Goldstein's case, some Ethics Commissioners expressed concerns that an appearance of impropriety could occur even when the guidelines discussed above were followed. Consequently, we

urge you to exercise your highest personal and professional ethical values before taking any actions during the next year that could possibly erode the public's trust.

If you have additional questions, please feel free to contact me.

Sincerely,

VICTORIA FRIGO, STAFF ATTORNEY

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-----Original Message-----

From: Peter Tell [mailto:peterstell328@gmail.com]

Sent: Mon 7/30/2012 5:02 PM

To: Murawski, Michael P. (COE)

Subject: Ethics Request for Opinion

Honorable Members:

I retired from County service on April 1, 2011 after 35 years as an Assistant Miami-Dade County Attorney. During my employment I advised many boards: Public Health Trust Board, Fire Safety Appeals Board, various advisory boards, South Florida Workforce Investment Board, Environmental Quality Control Board, Board of County Commissioners, etc. I propose to start representing, as an attorney and member of the Florida Bar in good standing, private entity clients and , perhaps, public entity clients, before any and all Miami-Dade County boards, including but not limited to the above-referenced boards, prior to April 1, 2013 and after April 1, 2013. I would also like to represent these private and perhaps, public, clients in meetings with County staff for the resolution of various legal issues, prior to April 1, 2013 and after April 1, 2013. I would be appreciative if you could opine as to what I may and may not do with respect to these proposed representations as an attorney with respect to the laws and ordinances within your jurisdiction before and after April 1, 2013..

Thank you.

Respectfully,

Peter S. Tell, Esq.

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