

MIAMI-DADE COUNTY COMMISSION ON ETHICS AND PUBLIC TRUST

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March 9, 2022

Ms. Basia Pruna
Director for the Clerk of the Board Division
111 NW First Street, Room 17-202
Miami, Florida 33128
Basia.Pruna@miamidade.gov

Re: RQO 22-01 issued to the Clerk of the Board Lobbyist Online Registration and Information Section, § 2-11.1(s), County Ethics Code

Dear Ms. Pruna:

At a public meeting on March 9, 2022, the Miami-Dade Commission on Ethics & Public Trust (COE) opined that the contingency fee statement submitted by lobbyists and principals during the lobbyist registration process may be satisfied with a signed contingency fee declaration under oath.

As a result of several meetings to discuss ways to enhance the lobbyist registration process in Miami-Dade County and achieve better compliance, a review of the statements required for registration revealed that two out of three of the statements were satisfied with a signed declaration under oath while a third, the contingency fee statements from the lobbyist and the principal, required an affidavit. The inconsistency in these forms has, in part, prevented the Clerk of the Board from developing and implementing its overall enhancement of the lobbyist registration process.¹

While the current online registration process is designed to accept auto-fillable information, the Statement and Expenditure Report declarations (and Contingency Fee affidavit) require wet signatures, causing the registrant to print, sign, scan and email those forms back to the Clerk of the Board. The proposed new online registration system will accept electronic signatures on all these statements thereby dispensing with the timely and onerous process presently in place.

Notably, an affidavit and a declaration under oath are both statements under oath about facts within one's personal knowledge. They are both documents signed under penalty of perjury.

¹ The Clerk of the Board is the County's office charged with the administration and management of the lobbyist registration process, including the collection of fees and the overall maintenance of the registration forms and reports.

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Whereas an affidavit is sworn before a notary, a declaration under oath is not. Accordingly, the oath element of these signed statements achieves the same legal effect.

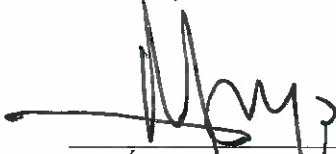
Pointedly, the Florida Supreme Court held that, pursuant to Section 92.525, Florida Statutes, the alternative method of a signed written declaration is a substitute for a notarized oath as long as the declaration contains the following language at the end of or immediately below the document being verified and above the signature of the declarant: “Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true.”² Consequently, by signing a statement with the aforementioned language, the registrant lobbyist and principal are making sworn written declarations without the need of a notary.

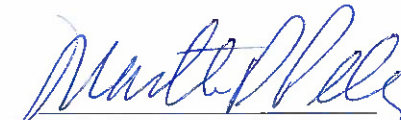
Further, the Lobbyist Registration ordinance subjects a lobbyist or a principal who engages in a prohibited contingency fee transaction to the same penalties whether the statement is in the form of an affidavit or a signed written declaration under oath.

Therefore, we conclude that a Contingency Fee declaration by both the Lobbyist registrant and the Principal complies with the lobbyist registration requirements under Section 2-11.1(s)((3)(f) of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance.

If you have any questions regarding this opinion, please contact the undersigned or General Counsel Martha D. Perez at (305) 579-2594.

Sincerely Yours,



JOSÉ ARROJO
Executive Director

MARTHA D. PEREZ
General Counsel

/MDP

² The Court also noted that because the oath starts with the words “under penalties of perjury,” a person falsely signing it could be convicted of perjury. See State v. Shearer, 628 So.2d 1102 (1993)