



# Palm Beach County Commission on Ethics

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Steven P. Cullen

June 7, 2013

Mr. Ned Obradovic, Compliance Associate  
HedgeOp Compliance LLC  
184 High Street, Fl 6  
Boston, MA 02110

Re: RQO 13-010  
Lobbyist Registration Ordinance

Dear Mr. Obradovic,

The Palm Beach County Commission on Ethics (COE) considered your request for an advisory opinion, and rendered its opinion at a public meeting held on June 6, 2013.

YOU ASKED whether the City of Boca Raton Police and Firefighters Retirement System (retirement system) is subject to the Countywide Lobbyist Registration Ordinance and if so, whether investment advisory services providers must register as lobbyists when conducting a meeting with the board for the limited purpose of a yearly portfolio review.

IN SUM, a lobbyist is defined as any person who is employed and receives payment for or who contracts for economic consideration for the purpose of seeking to influence a decision of a public employee or official on an issue which foreseeably will be presented to a municipal governing body or advisory board. Any person who meets this definition must register as a lobbyist with the central lobbyist registration database unless an exception applies. Section 2-353(c)(1) provides an exception for vendors who meet with officials and advisory board members regarding issues related only to the performance of their services under their contract. So long as your client's representatives only meet with retirement system members for the limited purpose of reviewing the board's plan investments, they are not required by the ordinance to register as lobbyists.

THE FACTS as we understand them are as follows:

You are a compliance associate with HedgeOp Compliance, LLC. Your company contracts with hedge funds and private equity groups to provide guidance on local, state and federal regulations. Your firm does not have a contract with the City of Boca Raton or with the City of Boca Raton Police and Firefighters' Retirement System (retirement system). However, a hedge fund that you provide compliance services to has a contract to provide investment advisory services to the retirement system board. On a yearly basis, the fund team meets with board members for the sole purpose of reviewing the board's investment portfolio. The team's contract for services will not be reviewed for renewal at this meeting. There is no attempt by the team to influence a decision of a public employee or official on an issue which foreseeably will be presented to a municipal governing body or advisory board.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the revised Lobbyist Registration Ordinance which took effect April 2, 2012:

**Sec. 2-353. Registration and expenditures.**

- (a) **Registration required.** Prior to lobbying, all lobbyists shall submit an original, fully executed registration form to county administration, which shall serve as the official location for countywide lobbyist

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registration and which shall be known as the "Central Lobbyist Registration Site." The registration may be submitted in paper or electronic form pursuant to countywide policies and procedures. Each lobbyist is required to submit a separate registration for each principal represented. A registration fee of twenty-five dollars (\$25) must be included with each registration form submitted. A registrant shall promptly send a written statement to county administration canceling the registration for a principal upon termination of the lobbyist's representation of that principal. This statement shall be signed by the lobbyist. Lobbying prior to registration is prohibited. It is the responsibility of the lobbyist to keep all information contained in the registration form current and up to date.

(c) **Registration exceptions.** Registration shall not be required for the following:

- (1) Persons under contract with the county or municipalities as applicable who communicate with county commissioners, members of local municipal governing bodies, mayors or chief executive officers that are not members of a local municipal governing body, advisory board members or employees regarding issues related only to the performance of their services under their contract;

The City of Boca Raton is subject to the county-wide lobbyist registration ordinance. A lobbyist is any person who is employed and receives payment, or who contracts for economic consideration for the purpose of lobbying on behalf of a principal.<sup>1</sup> Lobbying is defined as seeking to influence a decision of a public employee or official on an issue which foreseeably will come before a municipal governing body or an advisory board.<sup>2</sup> Any lobbyist who engages in lobbying activities is required to register with the central lobbyist registration database unless one of several exceptions applies.

Section 2-353(c) of the ordinance provides an exception for vendor-representatives who meet with members of local governing bodies regarding issues related only to the performance of their services under their contract. Based on the information you provided, your clients are meeting with retirement system members for the limited purpose of reviewing the board's portfolio as required by the contract between the investment management firm and the retirement system. So long as your clients are meeting with board members for the sole purpose of reviewing the board's existing investment portfolio, your clients are not required to register.

IN SUMMARY, although HedgeOp Compliance, LLC does not have a contract with the retirement system, your client undertakes a yearly portfolio review meeting pursuant to a contract between it and the retirement system. Persons under contract with the county or municipalities who communicate with officials or employees regarding issues related only to the performance of services under their contract are not required to register as lobbyists. Based on the facts and circumstances you have submitted, your client's representatives are meeting with retirement system members for the sole purpose of reviewing the plan's investment strategy as provided for in the plan's contract for services with your client. Accordingly, your client's representatives are not required to register as lobbyists at this time.

This opinion construes the Palm Beach County Code of Ethics Ordinance and the Palm Beach County Lobbyist Registration Ordinance. It is based upon the facts and circumstances that you have submitted. It is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at (561) 233-0724 should you have any further questions in this matter.

Sincerely,

Steven P. Cullen  
Executive Director

<sup>1</sup> §2-352 Lobbyist

<sup>2</sup> §2-352 Lobbying