

Memorandum



Date: September 15, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: R. A. Cuevas, Jr.
County Attorney

Subject: Bond Counsel request for grant of Conflict Waivers

Agenda Item No. 13(B)(1)

I have received the attached request from Greenberg Traurig, one of the County's bond counsel firms, for the Board to grant the firm a waiver of conflict of interest to represent one of the firm's non-County clients in a DERM enforcement action.

I am submitting the request to the Board for its consideration in accordance with the current policy for conflict waiver. That policy is articulated in the latest RFQ for selection of bond and disclosure counsel, which is set forth below. The specific policy applicable to conflict waivers involving litigation adverse to the County is underlined:

The current policy on conflict of interest waivers permits bond counsel to represent third parties in legal matters involving the County other than litigation so long as such representation does not challenge the authority of the Board, a Board policy or the constitutionality or legality of a County Code provision. A request for a conflict of interest waiver shall be presented to the County Attorney in writing. Such a request is routinely granted for matters that meet the criteria in the previous sentence. With respect to litigation adverse to the County, Senior Counsel and/or Associate Counsel may present a written request for a conflict of interest waiver to the County Attorney to submit to the County Commission for consideration on a case by case basis. If a conflict of interest waiver is not granted, Senior Counsel and/or Associate Counsel shall not undertake the representation of a third party in any matter involving the County.

As set forth in the request, Greenberg Traurig's representation of a non-County client in an enforcement action will not challenge the authority of the Board, a Board policy, or the constitutionality or legality of a County ordinance, nor will damages be sought from the County.

Additionally, Greenberg Traurig is one of the County's lobbying firms. As such, my office has advised the firm to pursue an appropriate request with the Office of Intergovernmental Affairs for conflict waiver in accordance the terms of its contract for lobbying services.

RAC/up

August 17, 2009

VIA ELECTRONIC MAIL and HAND DELIVERY

Jose Rasco, Director
Office of Intergovernmental Affairs
Miami-Dade County
111 N.W. 1st Street
Miami, Florida 33131

Robert Cuevas, Jr., Esq.
County Attorney
Miami-Dade County
111 N.W. 1st Street
Miami, Florida 33131

Re: Request for Waiver of Conflict of Interest /
Miami-Dade County v Vecellio & Grogan, Inc.,
Case No. 09-57869 CA 10

Dear Messrs. Rasco and Cuevas:

Greenberg Traurig, P.A., is the Contractor under that certain contract for Governmental Representation and Consulting Services in Washington, D.C. (Contract No. Q74a) with Miami-Dade County dated February 6, 2006. Greenberg Traurig also serves as one of the Miami-Dade County's Bond Counsel.

We respectfully request that the Miami-Dade County Board of County Commissioners (the "Board") grant our firm waivers of conflict of interest to represent our client in matter described above.

This matter is adverse to the County and involves an enforcement action brought by the Department of Environmental Resources Management against our client, Vecellio & Grogan, Inc. Our representation in this matter will not involve any challenge to the authority of the Board, a Board policy, or the constitutionality or legality of a County Code provision.

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We appreciate consideration of this request by you and the Board. Please feel free to contact us with any questions that you may have.

Very truly yours,



Clifford A. Schulman

cc: Peter S. Tell, Esq.
Jerry Heffernan, Esq.
Jess McCarthy, Esq.
Diane Blagman
Kerri Barsh, Esq.
Bruce Giles-Klein, Esq.