

Memorandum



Date: July 8, 2010
To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioner

Agenda Item No. 13(B)(1)

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

A handwritten signature in black ink, appearing to read "R. A. Cuevas, Jr.", written over the printed name.

Subject: Bond Counsel request for grant of Conflict Waiver

I have received the attached letter from Adorno & Yoss, one of the County's bond counsel firms, requesting a waiver of conflict of interest from the Board so it may represent a terminated County employee who is seeking reinstatement and back pay from the County in legal proceedings which are adverse to the County.

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.

Adorno & Yoss' has stated in its request that during the course of its representation of the terminated County employee, it will not challenge the authority of the Board, a Board policy, or the constitutionality or legality of a County code provision.

ADORNO & YOSS
A LIMITED LIABILITY PARTNERSHIP
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JEFFREY D. DECARLO

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May 21, 2010

VIA E-MAIL AND U.S. MAIL

R.A. Cuevas, Jr., County Attorney
Miami-Dade County Attorney's Office
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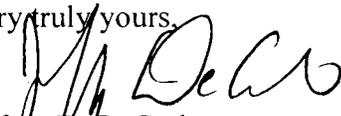
Re: Conflict Waiver

Dear Bob:

As you know, our firm acts as Bond Counsel to the County in the Authority Bond Counsel pool (the "Pool"). One of my partners, who joined our firm a few weeks ago, represented, while at his prior firm, Bennett Shelfer, III ("Shelfer") in Mr. Shelfer's claim for reinstatement and back pay against Miami-Dade County. Mr. Shelfer was employed by Miami-Dade County from February 22, 1999 until his employment was terminated on July 23, 2009. His position at termination was Security Supervisor with GSA Security Management. An Arbitration proceeding was instituted with the American Arbitration Association on July 28, 2009. On April 19, 2010 the Arbitration proceeding was administratively closed due to lack of activity. As a result of the termination of the Arbitration, Mr. Shelfer will now be requesting that the County Manager reinstate him at his termination level and compensate him for his lost wages during the period of unemployment. My partner would like to continue to represent Mr. Shelfer in the matter. In the course of such representation, the firm will not challenge the authority of the Board of County Commissioners ("Board"), a Board policy or the legality of a County code provision.

Please advise us whether you are able to waive the conflict yourself or whether the waiver needs to be approved by the Board. If it needs to go before the Board, we would appreciate your putting it on the earliest possible agenda. Thanks for your assistance.

Very truly yours,


Jeffrey D. DeCarlo

Conflict waiver approved:

R.A. Cuevas, Jr.
Miami-Dade County Attorney