



February 15, 2011

Ms. Elizabeth M. Murphy, Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

Subject: SEC Ruling, file Number S7-45-10 ("municipal advisor")

Dear Secretary Murphy:

I am writing this letter as General Counsel of the Lower Colorado River Authority ("LCRA"), a conservation and reclamation district in the state of Texas. On behalf of LCRA, I am writing to request that the SEC revise its interpretation of proposed Rules 15Ba1 to 15Ba7 (the "Proposed Rules") so as to exclude appointed board members from the definition of a "municipal advisor." LCRA's appointed board members are not advisors; they are decision makers. I am requesting that appointed board members be categorized no differently than elected board members and employees of a municipal entity. I respectfully disagree with the SEC's distinction that appointed board members are not directly accountable for their performance to the citizens of a municipal entity.

LCRA is governed by a board of 15 directors, appointed by the Texas Governor and confirmed by the Texas Senate to serve 6 year terms. The LCRA Board of Directors ("LCRA Board") meets as a whole 34 times a year on average and the directors expend considerable time in preparation for these meetings, consulting with staff, communicating with other state and local officials, and meeting with citizens. The LCRA Board deliberates and votes as a collective governing body. Any action taken by the LCRA Board must be voted by a majority of the directors with a quorum present. In addition, any LCRA Board resolution to issue bonds must be concurred in and approved by at least 12 of the members. The action that a board member takes is not a recommendation or advice provided to a governing body, but each board member is a decision-maker as part of the majority.

A prospective LCRA Board director is subject to confirmation hearings by the Texas Senate, an elected legislative body. An appointed director must take an oath of office upon being sworn in as a state officer and is subject to the requirements and regulations provided by Texas ethics laws. During an appointed state officer's term, the officer is required to file financial statements yearly that include an officer's individual and family finances, securities and property owned by the officer, gifts, trust benefits or any other sources of income, as well as participation in lobbying activities and other board positions that are held by such officer. The financial statements required to be filed by appointed state officers are public records.

In addition to financial statements, Section 572 of the Texas Government Code sets forth the standards of conduct by which an appointed state officer must abide and any conflicts of interest that an appointed officer may have that must be disclosed. The standards of conduct with which an appointed state officer is required to comply under section 572.051 of the Texas Government Code include the duty to maintain independent judgment, avoid conflicts of interest, not solicit or accept benefits for exercising one's duties and not disclosing confidential information. The Texas Ethics Commission oversees and enforces the laws governing state officers. Any complaints against a state officer are filed with the Texas Ethics Commission, and if the commission finds the officer in violation of Texas ethics laws, civil enforcement action can be taken, including civil penalties, and the commission can refer the matter to the state prosecutor's office for criminal prosecution. In addition to civil and criminal penalties, an appointed state officer can be impeached from office.

All action by the LCRA Board is subject to open records in accordance with the Texas Public Information Act and all meetings are recorded and available to the public according to the open meetings requirements under Texas law. Therefore, there is an extraordinary amount of oversight and accountability to which an appointed state officer such as the LCRA Board of Directors is subject under Texas law and these requirements must be taken into consideration by the SEC in stating its concern that appointed state officers are not directly accountable to the citizens it serves. Texas law clearly provides strict standards of conduct and penalties for violation of such standards.

The SEC's interpretation will impose a heavy burden on board members when the benefits of the Proposed Rules are unclear. The LCRA Board is one of many appointed boards in the state and its composition and governing approach is deeply embedded in Texas law. LCRA, and its constituents, rely on the expertise, community leadership and civic responsibility of appointed board members. Many are leaders in their professions and provide invaluable information and insight.

Thus, LCRA requests that the SEC revise its interpretation of the term "employee of a municipal entity" to include appointed board members. Valuable talent will be lost because prospective board members will not want to subject themselves to the additional regulations of the SEC and the heightened fiduciary duty the Proposed Rules impose. The extent to which the Proposed Rules will dissuade talented people from serving on boards cannot be measured.

Respectfully,



John W. Rubottom  
General Counsel