



January 28, 2011

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

RE: **File Number S7-45-10**

Ms. Murphy,

Thank you for the opportunity to comment on the proposed permanent rule governing the required registration of municipal advisors.

There are five state-wide bond issuing authorities in the State of Washington. On behalf of three of them; the Washington State Housing Finance Commission, the Washington Higher Education Facilities Authority, and the Tobacco Settlement Authority, I want to express our concern over provisions that specifically apply to registration of appointed board members as municipal advisors. We know that our concerns are shared by the Washington Health Care Facilities Authority and the Washington Economic Development Finance Authority, who we understand will be separately responding to the proposed rule.

The definition of “municipal advisor” in the Dodd-Frank Act expressly excludes “a municipal entity or an employee of a municipal entity.” However, in Release No. 34-63576; File No. S7-45-10 (the “Proposing Release”), the SEC chose to apply the employee exclusion only to elected members of a governing body and not to non-elected members.

We believe this is a serious over-reach of the Commission’s authority. If the proposed rules are approved, they would have a chilling effect on the ability of state agencies to find volunteers willing to serve on the boards of bond-issuing authorities, particularly those with relevant experience and most suited to serve. This would severely impair our ability to provide tax-exempt financing for affordable housing, 501(c)(3) nonprofit facilities, economic development projects, energy production facilities and other facilities in the State of Washington.

As Executive Director of the Washington State Housing Finance Commission, the Washington Higher Education Facilities Authority, and the Tobacco Settlement Authority, I can speak to the process we use to select and contract with financial advisors. They are selected based upon a competitive Request for Proposal process that is conducted every two years. Our board members make the final decision and hire the financial advisor or advisors. Board members are the clients of advisors, they are not the advisors. It makes no sense to treat them as municipal advisors.

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Furthermore, putting the onus on volunteer board members to determine whether they are “municipal advisors” is a misguided approach to regulating the municipal industry. Not only is the proposal objectionable, creating an unclear standard is far worse.

We understand that the Commission is concerned that appointed board members, unlike elected officials and elected *ex officio* members, are not directly accountable for their performance to the citizens of the municipal entity. The State of Washington has enacted many guidelines and already has statutory provisions that provide for transparency and create a high degree of accountability for such appointees. The Commission should not regulate matters that are within the jurisdiction of the states.

Further, the bond issuing authorities in the State of Washington have a long history of the sound use of tax-exempt financing. I am not aware of any incidents where board members, appointed or otherwise, have violated statutory guidelines.

We respectfully request that you amend the proposed rule to exclude appointed board members from the definition of municipal advisor.

If you wish to discuss this in more detail, feel free to contact me

Sincerely,



Kim Herman,
Executive Director
Washington State Housing Finance Commission,
Washington Higher Education Facilities Authority,
Tobacco Settlement Authority

cc: The Honorable Christine Gregoire, Governor of Washington
Marty Loesch, Director of External Affairs and Senior Counsel, Governor’s Office
The Honorable James McIntire, Washington State Treasurer
Karen Miller, Chair, Washington State Housing Finance Commission
Manford Simcock, Secretary, Washington Higher Education Facilities Authority
Carla Dewberry, Chair, Tobacco Settlement Authority
Rodney Wendt, Washington Economic Development Finance Authority
Donna Fincke, Washington Health Care Facilities Authority
Faith Pettis – K&L Gates LLP