

ORANGE COUNTY HEALTH FACILITIES AUTHORITY
c/o LOWNDES, DROSDICK, DOSTER,
KANTOR & REED, P.A.
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Orlando, FL 32801
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John J. Coffey,
Chairman

February 2, 2011

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

Re: File No. S7-45-10

Secretary Murphy:

I am the Chairman of the Orange County Health Facilities Authority (the "Authority") located in Orlando, Florida. The Authority has asked me to respond to the Commission's solicitation for comments relating to whether appointed board members of the Authority (none of whom are elected ex-officio members) should be excluded from the definition of "municipal advisors."

The Authority consists of five (5) board members who are appointed by the Orange County Board of County Commissioners. They are clearly members of a governing body of a "municipal entity" as defined in the Proposed Rule. Each of them are unpaid, appointed volunteers; none of them are elected ex-officio members. By Florida law, any appointed member of the Authority may be removed by the Board of County Commissioners for misfeasance, malfeasance or willful neglect of duty. The Authority's primary function is to issue, at the request of an Orange County hospital (or other health facility) borrower, tax exempt bonds as a conduit issuer, the proceeds of which are loaned to the requesting hospital or health facility.

The Authority members do not view themselves as "municipal advisors," and would respectfully request that the Commission issue a Rule which would clearly exclude the appointed members of the Authority from that definition.

In its discussion of the Proposed Rule, the Commission expressed an intent to exclude employees and elected ex officio members from the definition of "municipal advisors," but to not exclude appointed members who are not elected ex officio members. The expressed reason for this distinction is that employees are accountable to the municipality, and elected officials are directly accountable for their performance to the citizens of the municipal entity. The implication is that appointed members are not accountable. However, in the case of the Authority, the Authority members can be immediately removed from their office by the Orange County Board of County Commissioners for misfeasance, malfeasance or willful misconduct. Because of this, the appointed Authority members are as much if not more accountable than employees or ex officio elected members.

The Authority would encourage the Commission to take a practical view of the nature of any “advice” which the Authority members actually give to the Authority. Florida has a very strong “Government in the Sunshine” law which prohibits any conversation between Authority members regarding Authority business outside the context of a public meeting. At each public meeting where a proposed bond issue is considered by the Authority, Authority members are presented with a bond structure that is typically developed by the conduit borrower and its underwriter and incorporated into bond documents prepared by bond counsel, all of whom are typically retained by the borrower health facility and not by the Authority. The structure and the documents reflecting the structure are carefully reviewed by the Authority’s financial advisor and general counsel, who then provide advice to the Authority on the financial and legal structure of the bonds. The Authority members are the receivers of advice from the underwriter, the conduit borrower, bond counsel, its financial advisor, and its general counsel, and NOT givers of advice. The questioning by Authority members of their advisors leads to findings and eventually a decision as to whether to approve or not approve the bond issue as presented. Any input of the Authority members is a requisite part of the exercise of the Authority’s judicial and legislative function as a municipal entity, and should not be considered in the nature of “municipal advice.”

It is important to note that the Authority has been operating in this manner for over thirty years, issuing billions of dollars of tax exempt bonds to help satisfy the capital needs of our Central Florida health facilities. During that entire time, no hint of “pay-for-play” or any other scandal has tainted the Authority. There is no need to impose on this Authority the burden of requiring its members to register as municipal advisors.

The Orange County Board of County Commissioners has had difficulty in the past finding good, qualified Authority members to volunteer for an Authority position. As a volunteer Authority member I do not welcome the additional time, expense, disclosure and record-keeping obligations, and exposure to potential liability that will accompany the proposed Commission Rule requiring me to register as a municipal advisor. The Commission should recognize that a further burden on me and my fellow volunteer Authority members will only make it less likely, if not impossible, to find well-meaning, community minded, non-self-interested volunteers to fill these positions.

I hope that these comments have been helpful, and that the Commission will adopt a Rule that will exclude the Authority members from having to register as municipal advisors.

Sincerely,



John J. Coffey,

Chairman,

Orange County Health Facilities Authority

Cc: Senator Bill Nelson
Congressman John Mica
Mayor Teresa Jacobs, Orange County
Congressman Lou Frey (Ret)