



MIAMI-DADE COUNTY
COMMISSION ON ETHICS & PUBLIC TRUST

March 20, 2013

Benedict P. Kuehne, Esq.
Miami Tower, Suite 3550
100 S.E. 2nd Street
Miami, FL 33131-2154

Re: RQO 13-03
Request for Advisory Opinion on behalf of
Ovations Food Services LP

Dear Mr. Kuehne:

You have requested an advisory opinion from the Miami-Dade Commission on Ethics and Public Trust (COE) in connection with the bid of your client, Ovations Food Services LP ("Ovations"), to City of Miami Beach Invitation to Negotiate the Food and Beverage Services contract for the Miami Beach Convention Center (ITN-059-2013-ME). This request has been made upon the suggestion of the City of Miami Beach Attorney's Office to Ovations in connection with its intent to bid on the aforesaid contract. The basis of the request is to seek an advisory opinion from the COE concerning whether your client may participate in this contract considering that its sister company, Global Spectrum LP ("Global"), is the holder of the existing contract for the management of the Convention Center.

We have reviewed your letter and supporting documentation submitted on behalf of your client's position that there is no prohibited conflict of interest. You have taken the position that the two companies, while sharing a substantially common ownership, are separate corporations with separate management, and, therefore, there should not be any prohibited conflict of interest in connection with their involvement in the two contracts in question.

The City of Miami Beach Attorney's Office has opined that there is an inherent conflict of interest inasmuch as Global is charged, pursuant to its duties under its existing management contract with the City, with "administering, managing, and assuring compliance with the Convention Center food and beverage contract," which "includes, without limitation, making periodic reports and recommendations to the City with regard to the food and beverage contractor's performance and quality standards."

In support of its position, the City has relied upon a prior COE opinion (RQO 08-19), which cited prior COE opinions for the proposition that “a firm may not provide services where an affiliate, parent or subsidiary firm will provide oversight, management or selection services related to the contract.”

It is clear that Ovations is an affiliate of Global because of the common ownership they share. Based upon the organizational chart provided in materials submitted by you on behalf of Ovations, Comcast Spectacor Ventures, LLC (PA) owns 81.76% of Ovations and 94.0625% of Global. Additionally, two other subsidiaries of Comcast Spectacor Ventures -- Ovations Food Services, Inc. (PA) and Global Spectrum, Inc. (PA) -- each have a minor share in one of the two subsidiaries involved in this scenario. Comcast Spectacor Ventures, LLC (PA) is itself the subsidiary of the parent company, Comcast Spectacor, L.P. (PA) to the extent of 95% of its value.

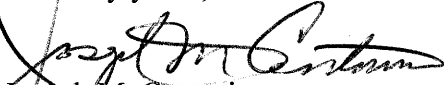
It is evident from the aforesaid facts that, based upon prior opinions issued by the COE, that there is an inherent conflict of interest where Global would be supervising, evaluating and overseeing the performance of its sister affiliate, Ovations.

This opinion is a non-binding advisory opinion issued in response to your request and that of the City of Miami Beach. For the COE to exercise binding authority over the issue of whether your client, a private contractor, may be awarded this contract, one of three conditions would have to be present: 1) the issue involving the private contractor or subcontractor is explicitly subject to the Miami-Dade Conflict of Interest and Code of Ethics Ordinance (“the Ordinance”); 2) the ITN(or RFP or RFQ), or the terms of the proposed contract or subcontract explicitly provide the COE with the authority to make a binding determination of the issue presented; or 3) pursuant to Section 2-11.1(13) of the Ordinance, the contract staff of the private contractor or subcontractor has been designated by the Manager or the Manager’s designee as being required to comply with the provisions of the Ordinance denoted in the latter section. Inasmuch as none of the aforesaid conditions is applicable in this instance, the COE is unable to provide a binding opinion on this matter.

This opinion does not address whether any conflict exists under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned or Senior Staff Attorney Victoria Frigo at 305-579-2594.

Sincerely yours,



Joseph M. Centorino
Executive Director and General Counsel

cc: Raul Aguila, Esq., Assistant City Attorney, City of Miami Beach