



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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**CASE
CLOSED**

3-27-19

K 19-20

AGENDA ITEM COVER MEMORANDUM

TO: Miami-Dade Board of County Commissioners

FROM: Jose J. Arrojo
Executive Director 

SUBJECT: County Contract Lobbyist Waiver Request of Dean Cannon, Gray Robinson, on behalf of "Walt Disney Parks and Resorts, U.S.; Uber Technologies, Inc. and Affiliates; and various local governments."

DATE: March 28, 2019

Pursuant to Resolution R-1017-10, the attached County contract Lobbyist Conflict Waiver Request* received from Dean Cannon of the Gray Robinson firm, together with the Commission on Ethics recommendation, investigative report and attachments, are forwarded to the Board for its consideration.

It is the recommendation of the Commission on Ethics that the waiver be denied.

The basis of the recommendation is that Senate Bill 432 and House Bill 847 are local government preemption bills that seek to limit local governments from regulating terms of employment, including but not limited to raising the minimum wage, addressing discrimination against members of protected classes, and wage theft. Gray Robinson's support of these bills on behalf of Walt Disney Parks and Resorts, U.S., would require the firm to take a position that is opposite to a position of the County as contrary to the Board of County Commissioners' Guiding Principles for all County Lobbyists to defend the County against legislative acts of "preemption."

Also, the Board of County Commissioners has adopted Resolution R-800-18, urging the legislature to enact laws that would designate cancer as a "presumptive condition" for firefighters with respect to disability and death benefits, as well as calling for the provision of free cancer care for impacted firefighters. The Miami-Dade County League of Cities and other individual local governments represented by Gray Robinson are in opposition to

these types of bills. Gray Robinson's opposition to of these firefighter cancer benefit bills on behalf of other local governments would require the firm to take a position that is opposite to a position of the County as contrary to the Board of County Commissioners adopted Resolution R-800-18.

* Mr. Cannon does not specifically ask for a lobbying conflict waiver but rather notices the County Attorney's Office that the Gray Robinson firm's representation of the listed clients may create a conflict of policy goals between the firm clients and the County.



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Karl Ross

Case: K19-20	Case Name: Law firm of Gray Robinson lobbyist conflict notice/ waiver	<u>Date Open:</u>	<u>Date Closed:</u>
Complainant(s): Self-reported, N/A	Subject(s): Miami-Dade County contract lobbyists Roy Dean Cannon Jr., Kim McDougal, and Joseph Salzverg	March 25, 2019	March 27, 2018

Allegation(s):

On or about March 21, 2019, Dean Cannon, statewide Chairman of Government Affairs and Executive Vice President for the law firm Gray Robinson, advised the Miami-Dade County Attorney's Office that "potential conflicts that may require a conflict waiver" existed between Gray Robinson's assigned duties as County contract lobbyists and several non-County clients, including Walt Disney Parks and Resorts and Uber Technologies, among others.

The potential conflicts involved the County's support of a Miami-Dade County resolution (R-800-18) calling for the provision of certain benefits to firefighters diagnosed with cancer; as well as the County's opposition to legislation viewed as preempting the rights of Miami-Dade County and other local government's ability to regulate employment and transportation.

This legislation was identified as Senate Bill 421 and its House companion bill, HB 847, regarding "Employment Conditions", and also Senate Bill 308 and its House companion, HB 411, regarding "Nonemergency Medical Transportation Services.

Gray Robinson (hereinafter "Gray") has been assigned by the County to lobby on behalf of the County's position on all three items – R-800-18, SB 421/HB 847 and SB 308/ HB 411.

COE was notified of this potential conflict by the Clerk of the Board on March 25, 2019, and a review was commenced, pursuant to Miami-Dade County ordinance.

Relevant Ordinances:

As required by Miami-Dade County Ordinance No. 00-64, "... no person or entity that received compensation from the County for lobbying on behalf of the County or any of its agencies or instrumentalities at either the state, national or municipal level shall represent any entity in any forum to support a position in opposition to a position of the County unless the Board (of County Commissioners) grants a specific waiver for specific lobbying activity."

Resolution No. R-632-10, adopted by the Board of County Commissioners in June 2010, further authorizes COE to "conduct conflict of interest checks related to County contract lobbyists and provide to the board a report and recommendation on any ... conflict of interest."

Investigation:

Interviews

In consultation with the County Attorney's Office (CAO) it was ascertained that the County has assumed positions with respect to all the subject legislation cited by Gray.

- The Board of County Commissioners (BCC) on Oct. 23, 2018, adopted a legislative package for the 2019 State legislative session that included support for R-800-18, urging the Florida Legislature to enact laws that would designate cancer as "a presumptive condition" for firefighters with respect to disability and death benefits, as well as calling for the provision of free cancer treatment to firefighters. Such legislation has been opposed by the Miami-Dade County League of Cities and a number of local municipalities represented by Gray, according to CAO.
- With respect to SB 432/ HB 847, Employment Conditions, the County has assumed a position in opposition to said legislation as it is viewed as seeking to broadly preempt the rights of local governments to regulate the terms of employment, including but not limited to raising the minimum wage and the provision of other benefits. CAO stated that the bill would further preempt existing ordinances relating to discrimination against protected groups and worker protections against "wage theft."
- With respect to SB 308/ HB 411, Nonemergency Medical Transportation Services, CAO advises that while the legislation is viewed as preemptive of local authority, the County has not assumed a strong position on the matter at the present time. CAO advised that the legislation is being tracked by County lobbyists.

Opposing preemption considering a "Guiding Principal" for all County lobbyists

Defending the County against acts of "preemption" by special interests was listed among the "Guiding Principles" in directives issued to the County's contract lobbyists. Responsibility for identifying and opposing all such transgressions was assigned to the entire County "team." This and other "Guiding Principles" were articulated in a Jan. 11, 2019, e-mail from ACA McCarty

to all Miami-Dade County contract lobbyists. Among those copied on the e-mail were lobbyists for Gray – including Dean Cannon, Joseph Salzverg, and Kim McDougal.

Document/Audio/Video Review:

A copy of HB 411 relating to Nonemergency Medical Transportation Services was reviewed and added to the file. The bill seeks to amend Florida Statute 316.87.

A copy of Senate Bill 431 relating to Employment Conditions was reviewed and added to the file. The bill seeks to amend Florida Statute 218.077. In its introductory text, the bill notes that it prohibits “a political subdivision from establishing, mandating, or otherwise requiring an employer to offer conditions of employment not otherwise required by state or federal law” and further holds that “certain requirements related to minimum wage and other conditions of employment are expressly preempted to the state.” The bill would apply retroactively.

The County’s Tallahassee lobbying team assignments, as updated on March 14, showed Gray was assigned both the Employment Conditions and Nonemergency Medical Transportation legislation referenced above and that related items should be opposed on the grounds of “preemption.” The assignments were contained in an e-mail from Assistant County Attorney Jess McCarty, CAO’s liaison to the County’s contract lobbying team. Opposition to all legislation entailing preemption of Miami-Dad County’s home rule charter is considered a “Guiding Principal” and all County contract lobbyists are tasked with opposing this.

The County’s “master list” for lobbyist assignments dating back to Dec. 18, 2018, further identifies Gray as the firm assigned to support R-800-18 regarding Cancer as a Presumptive Condition for Firefighters. A copy of the list was added to the investigative file.

A legislative update prepared by CAO and dated March 16 was reviewed and added to the file. It includes references to SB 302/ HB 411 and SB 432/ HB 847, and cites them as examples of legislation that would entail “preemption” as it relates to Miami-Dade County.

Conclusion(s):

Based on a review of the above, it appears that Gray and its contract lobbyists have a conflict with positions supported by Miami-Dade County as it relates to the issues and legislation identified in the firm's March 21, 2019 conflict letter.

Given that Gray has been expressly tasked by CAO with defending the County's position on these matters, the firm's request for a conflict waiver should be denied.

 3/27/19

Karl Ross, COE Investigator

Approved by:



Michael Murawski, Advocate

 3/27/19

Jose Arrojo, Executive Director