



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

June 12, 2013

Honorable Members
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: Comptroller Financial Advisor Contract

Dear Honorable Members:

I am writing in response to a letter transmitted to your Honorable Body this morning by Deputy Comptroller Gregory G. Gach concerning Comptroller Stefan Mychajliw's request that you approve his retention of Capital Markets Advisors, LLC ("CMA") as the County's new financial advisor ("FA").

Yesterday at 10:00 am, my staff clocked in a letter at the Legislature objecting to this contract. For several reasons, as I stated in the letter, my administration and the Department of Law objected to the contract and retention of CMA due to a significant conflict of interest. In this regard, Erie County Fiscal Stability Authority ("ECFSA") Chairman James Sampson informed my office that he too, had concerns about a potential conflict of interest and he was going to send a letter to your Honorable Body today, expressing said reservations.

At 2:40 pm on June 11th, via a voicemail message left by Deputy Comptroller Gregory Gach with Deputy Budget Director Timothy Callan, my administration learned that CMA had withdrawn its proposal and would not accept the appointment as FA. Mr. Gach's voicemail message stated that the Comptroller had received my letter and that his office would move to request Legislature approval to enter into a FA contract with the next lowest responsible bidder (who was not named). It is noteworthy that the Comptroller did not withdraw his request – CMA withdrew from consideration, and thus, the Comptroller was compelled to request that his resolution be received and filed.

Today, in a letter signed by Mr. Gach, the Comptroller's Office has chosen to make several comments attacking me, while deflecting attention from their creation of a conflict of interest situation with CMA.

The Comptroller's Office attempts to distract your Honorable Body by stating that because the Erie County Medical Center Corporation ("ECMCC") retained CMA as a FA in 2011 for bonds sold by ECFSA for the hospital, there is no conflict of interest problem now in 2013 for the County. This is a classic deflection technique, a "Red Herring" so to speak, and it ignores the fact that ECMCC – an independent New York State public benefit corporation – chose CMA, and not the County. ECMCC's actions in choosing to hire CMA in 2011 have nothing to do with the County and the present situation.

In fact, the County was represented by First Southwest Company during all bond and note transactions in 2011. If ECMCC chose not to consider CMA's retention as a conflict of interest or to waive the conflict, that is their prerogative as an independent entity that is not part of Erie County government. Mr. Gach's attempt to draw an analogy is bogus and merely attempts to deflect your attention from the Comptroller's failure to retain a truly independent advisor.

In regard to this situation, the Comptroller's retention of CMA to serve as FA for Erie County government is a conflict of interest and improper, and as chief executive officer, it was my duty to comment as the FA represents not just the Comptroller's Office but all of County Government. I would suggest that CMA's own actions in withdrawing from consideration after my administration started asking questions and raising concerns and Chairman Sampson determined that he would comment in writing, aptly demonstrates the conflict and predicament which Comptroller Mychajliw created by his own actions.

Unfortunately, as demonstrated by Mr. Gach's comments at the end of his letter, Comptroller Mychajliw and his senior staff are more interested in deflecting attention from the Comptroller's own behavior and engaging in boorish rhetoric, than in having substantive discussions about the issues facing the County. That is truly unfortunate and does not serve the residents of our community.

Sincerely,



Mark C. Poloncarz, Esq.
Erie County Executive

MCP/mt

cc: County Comptroller Stefan Mychajliw
Deputy Comptroller Gregory G. Gach
County Attorney Michael Siragusa
Erie County Fiscal Stability Authority