

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20020924

1. REQUESTED MOTION:

ACTION REQUESTED: Approved continued use of the law firm of Williams, Mullen, Clark & Dobbins through the persons of R. Stuart Broom, Esq. and William ("Tracy") Schwarzschild, Esq. for legal services relating to the Lee County Waste-to-Energy Third Boiler Unit and Covanta, Inc. Bankruptcy, up to \$200,000.00.

WHY ACTION IS NECESSARY: Expenditures for outside legal services above the County Attorney's and County Manager's authorization levels must be approved by the Board of County Commissioners.

WHAT ACTION ACCOMPLISHES: Allows for continued use of outside legal services for two essential matters involving Covanta, Inc. that require outside legal representation in foreign ("out-of-state") venues.

2. DEPARTMENTAL CATEGORY: COMMISSION DISTRICT # CW C12A

3. MEETING DATE: 08-27-2002

4. AGENDA:

CONSENT

ADMINISTRATIVE

APPEALS

PUBLIC

WALK ON

TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

STATUTE

ORDINANCE

ADMIN. CODE

OTHER Atty. Engagement

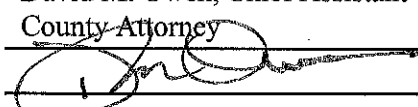
6. REQUESTOR OF INFORMATION:

A. COMMISSIONER

B. DEPARTMENT County Attorney

C. DIVISION General Services

BY: David M. Owen, Chief Assistant County Attorney



7. BACKGROUND: In January, 2002, James Jackson, Esq. and Stuart Broom, Esq., both left the Verner, Liipfert law firm in Washington, D.C.. Both have worked for Lee County on County Waste-to-Energy and Utilities issues since 1990. Mr. Jackson has retired to Nags Head, North Carolina and Mr. Broom has joined the law firm of Williams, Mullen, Clark & Dobbins, with principal offices in Washington, D.C. and Fairfax, Virginia. Mr. Broom is continuing to provide outside legal

(BACKGROUND CONTINUED - NEXT PAGE)

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	8/8/02	OA 8/12/02	OM 8/14/02	RISK 8/13/02	GC 8/12/02	8/14/02

10. COMMISSION ACTION:

APPROVED

DENIED

DEFERRED

OTHER

REC. C. 8-9-02 CA

1:40

COUNTY ADMIN. FORWARDED TO:

8/14 GP

CO. ATTY. 8/14/02

FORWARDED TO CO. ADMIN.

11:33 AM

services to the Department of Solid Waste concerning Covanta, Inc. matters, to include the development of the Third Boiler Unit for the Waste-to-Energy facility.

Mr. Broom was retained by the Lee County Attorney's office on January 30, 2002, by Letter of Engagement.

Following the April 1, 2002 filing of the Chapter 11 Bankruptcy by Covanta, Inc. (New York) and Covanta of Lee, Inc. (Florida), the County Attorney's office retained Mr. William ("Tracy") Schwarzschild, Esq. of the Williams, Mullen law firm through Stuart Broom. The Williams Mullen law firm also secured New York representation in the Covanta Bankruptcy due to its filing in the Southern District of New York, through the firm of Robinson, Silverman, Pearce, Aronsohn & Berman (New York, New York). Their representation is limited, however, to the filing of documents and appearances on behalf of the County. Mr. Schwarzschild is handling all of the substantive matters.

The invoices for the services of the Williams Mullen law firm have now reached \$46,650.00 for services performed since January, 2002.

Request is being made to authorize and increase to the firms' purchase order for expenditures up to \$200,000.00 at this time. Should this amount be reached, staff will revisit the engagement of Williams Mullen with the Board of County Commissioners in the same manner as this request.

Copies of the engagement letters for Mr. Broom and Mr. Schwarzschild are attached, as well as background information on both the Williams Mullen and Robinson, Silverman (New York) law firms for record and audit purposes.

From: Tracey Cerchie
To: Owen, David
Date: 8/7/02 3:42PM
Subject: WILLIAM, MULLENS, CLARK, AND DOBBINS

David,
Fiscal has informed me that we have paid to the above vendor \$46,650. We need a blue sheet to continue to use/pay Williams, Mullen, Clark, and Dobbins.

Thanks

CC: Parker, Rosemarie; Sampson, Lindsey

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 335-2236

Facsimile (239) 335-2606

Bob Janes
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing
Examiner

June 25, 2002

William H. Schwarzschild, III, Esq.
Williams Mullen Clark & Dobbins
Two James Center
1021 East Cary Street
Richmond, Virginia 23219

RE: COVANTA BANKRUPTCY REPRESENTATION

Dear Mr. Schwarzschild:

Thank you for your letter of May 22, 2002 concerning the above, and let me apologize for the time that has passed since it was received.

As discussed, Lee County, through this office, is desirous of continuing to secure your representation on behalf of the County in the Covanta bankruptcy.

I will continue to be in touch with both you and Mr. Stuart Broom, as the matters of the Covanta bankruptcy and the development of the County's third boiler unit for its waste-to-energy facility proceed.

Your service, and that of the firm in New York, are appreciated.

If you have any questions or comments following your receipt of this letter, please feel free to call me at your convenience.

Cordially,



David M. Owen
Chief Assistant County Attorney

DMO/dm

Enclosure (signed May 22, 2002 Letter of Engagement)

xc: James G. Yaeger, County Attorney
R. Stuart Broom, Esq., Williams Mullen
James Lavender, Director, Public Works Administration
Lindsey Sampson, P.E., Director, Solid Waste Management



WILLIAMS MULLEN

Direct Dial: 804.783.6489
tschwarz@williamsmullen.com

02 MAY 23 PM 12:42
LEE CO. ATTORNEY

May 22, 2002

Mr. Mark Jinks, Assistant City Manager
City of Alexandria, Virginia
301 King St.
Room 3500
Alexandria, VA 22314

Arlington Solid Waste Authority
c/o Ms. Barbara Liechti, Comptroller
County of Arlington, Virginia
2100 Clarendon Blvd. - Suite 501
Arlington, VA 22201

Alexandria Sanitation Authority
c/o Mr. Mark Jinks, Assistant City Manager
City of Alexandria, Virginia
301 King St.
Room 3500
Alexandria, VA 22314

David Owen, Esq.
Senior Assistant County Attorney
Lee County, Florida
Lee County Courthouse
2115 Second Street - 6th Floor
Fort Myers, FL 33901

Ms. Barbara Liechti, Comptroller
County of Arlington, Virginia
2100 Clarendon Blvd. - Suite 501
Arlington, VA 22201

Re: Covanta Bankruptcy Cases (Ogden New York Services, Inc., et al.)

Dear Lady and Gentlemen:

In the interest of economy, each of you has requested that this firm represent your interest in connection with the Covanta bankruptcy proceedings (Ogden New York Services, Inc., et al.- Case No. 02 B 40826) pending in the United States Bankruptcy Court for the Southern District of New York. The legal ethics rules governing lawyers oblige us to inform you of the nature of our representation of your interests in common in the bankruptcy. The matters described below simply memorialize our prior discussions concerning our engagement.

First, we will not be an advocate for any client against another client. We will act impartially to assist each client. We will consult with and provide guidance to each client regarding decisions to be made and the factors to be considered to enable each client to make informed decisions compatible with each client's best interests in the bankruptcy case.

Williams Mullen Clark & Dobbins

MICHIGAN • VIRGINIA • WASHINGTON, D.C. • LONDON

Two James Center 1021 East Cary Street (23219) P.O. Box 1320 Richmond, VA 23218-1320 Tel: 804.643.1991 Fax: 804.783.6507
www.williamsmullen.com



WILLIAMS MULLEN

May 22, 2002

Page 2

Second, the ordinary rules of confidentiality of information gained from each client in the bankruptcy representation are tempered by the duty of loyalty we owe each client. Unless the clients otherwise jointly instruct us in writing, the information each client provides us in our bankruptcy representation will be available to the other clients to the extent such information is relevant to the decisions the clients are to make regarding their interests in the bankruptcy. Confidentiality will be maintained, however, with respect to information we gain from any client, in our joint representation or otherwise, that is not implicated in or relevant to the bankruptcy representation.

Third, if the interests of our clients in the bankruptcy case were to become adversarial or antagonistic, our representation of the adverse clients would no longer be permissible. In that situation, we would withdraw from representation and present an order to the court granting us leave to withdraw. As we have discussed, we do not anticipate that your respective interests in the bankruptcy case will become adversarial.

Fourth, if an adversarial dispute were to arise between clients in our bankruptcy representation that resulted in litigation between them, the prevailing rule is that those clients could not assert the attorney-client privilege of confidentiality to protect communications made to us or by us relevant to our bankruptcy representation of them.

Please let me know if you have any questions. If not, I ask that you signify your consent to our representation by signing and returning the enclosed copy of this letter.

Sincerely,

William H. Schwarzschild, III

WHSIII/pc

cc: R. Stuart Broom, Esq.
R. Hart Lee, Esq.
Stanley Franklin, Esq.



WILLIAMS MULLEN

May 22, 2002
Page 3

Each of the undersigned consents to Williams Mullen's representation in the Covanta bankruptcy cases pending in the United States Bankruptcy Court for the Southern District of New York in accordance with the terms stated above.

City of Alexandria, Virginia

By _____

Alexandria Sanitation Authority

By _____


County of Arlington, Virginia

By _____

Arlington Solid Waste Authority

By _____

Lee County, Florida

By  _____
James G. Yaeger, Lee County Attorney
June 25, 2002



WILLIAMS MULLEN

02 APR 30 AM 9:10
LEE COUNTY ATTORNEY

Direct Dial: 202.293-8110
sbroom@williamsmullen.com

April 29, 2002

VIA FEDERAL EXPRESS

David Owen, Esq.
Assistant County Attorney
Lee County Courthouse
2115 Second Street, 6th Floor
Fort Myers, FL 33901

Dear David:

Per our discussions in your office last week, enclosed please find the credentials of Robinson, Silverman, et. al. The attorneys to be assigned from the Robinson firm to the Covanta Chapter 11 filing and their rates are as follows:

Ira Herman	\$450.00 per hour
Mark Lichtenstein	\$325.00 per hour
Cari Buxbaum	\$195.00 per hour
Eric Ragot	\$235.00 per hour
Susan Almasi	\$125.00 per hour
Mair Tomas	\$140.00 per hour
Alice Walter	\$ 95.00 per hour

As we have discussed, we intend to limit the Robinson firm's involvement, but it is always prudent to have a local firm with excellent ties to the court be available to attend procedural hearings, make filings, discuss strategy, etc.

The rates of the attorneys assigned to this matter from our firm and their rates are as follows:

R. Stuart Broom	\$225.00 per hour
Tracy Schwarzschild	\$265.00 per hour
Hart Lee	\$265.00 per hour
Andrew Baxbaum	\$150.00 per hour
Leslie Randolph	\$105.00 per hour

Williams Mullen Clark & Dobbins



WILLIAMS MULLEN

April 29, 2002
Page 2

If you need additional information, please give me a call.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Stuart Broom". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

R. Stuart Broom

RSB/mdb
Enclosure

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ROBINSON SILVERMAN PEARCE ARONSOHN & BERMAN LLP

1290 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10104
(212) 541-2000

FACSIMILE: (212) 541-4630
WEB: www.robinsonsilverman.com

WRITER'S DIRECT NUMBER:
212-541-1101

WRITER'S DIRECT FACSIMILE:
212-541-1399

WRITER'S E-MAIL ADDRESS:
hermani@rspab.com

April 24, 2002

By Federal Express

R. Stuart Broom
Williams Mullen
1666 K Street, NW
Suite 1200
Washington, DC 20006

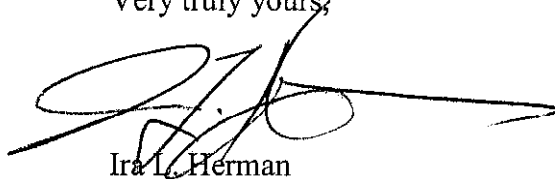
Re: In re Ogden New York Services, Inc., et al/ Covanta

Dear Stuart:

Enclosed are four copies of our firm brochure that I am forwarding to you as requested by Tracy Schwarzschild. I have also forwarded a copy to Tracy.

I look forward to working with you on this matter.

Very truly yours,



Ira L. Herman

Enclosures

cc: William H. Schwarzschild, III (w/enclosure)

ROBINSON SILVERMAN PEARCE ARONSOHN & BERMAN LLP

1290 Avenue of the Americas
New York, NY 10104
(212) 541-2000
www.robinsonsilverman.com

I. HISTORY

Founded in 1950, Robinson Silverman Pearce Aronsohn & Berman LLP serves clients in a variety of industries, including financial services, manufacturing, publishing and real estate. The firm maintains significant practices in the areas of corporate and securities law, real estate, litigation and environmental and land use. We also have practice groups in intellectual property, immigration, tax, individual client services, bankruptcy law and creditor's rights, and labor and ERISA.

Members of the firm include past presidents of the Federal Bar Council and the American Immigration Lawyers Association, the present Chairman of the Doris Duke Foundation and the Battery Park City Authority and a former Mayor of New York City. Descriptions of our individual practice groups follow.

II. PRACTICE GROUPS

Corporate and Securities Practice Group

The firm's corporate and securities practice includes general corporate counseling work for a variety of public and private companies involved in the finance, retailing, entertainment, publishing, insurance, manufacturing, asset management, technology and service sectors of the economy. Corporate clients also include foreign and domestic banks, investment banking and brokerage firms and other financial services businesses and numerous nonprofit institutions in the health care and related fields. The firm also plays a prominent role in the business activities of real estate investment trusts, including organization, financing and public offerings.

Our transactional practice ranges from mergers, acquisitions, leveraged buyouts and divestitures involving public and private companies, to all types of financings, including debt and equity public offerings and private placements, asset-based, tax-exempt bond, corporate trust work and other institutional financings. We have substantial expertise in private equity transactions including creating private partnerships and other unincorporated business forms, representing asset managers

and investment funds (both domestic and off-shore) structuring a wide variety of venture capital and merchant banking transactions, and various types of syndications, joint ventures and direct investment programs. Our expertise also includes structuring and implementing workouts, turnarounds and financial restructurings of businesses in a variety of industries. We also have experience representing institutional and other lenders, as well as borrowers, in a variety of industries. Certain of our lawyers specialize in the purchase and sale of radio stations.

Representative transactions handled by the firm's corporate and securities practice group include the following:

- The firm is representing Energy East Corporation in its acquisition of RGS Energy Group, Inc., a NYSE company that provides energy service, for stock and cash valued at approximately \$1.4 billion.
- We represent GameStop Corp., one of the nation's leading video game retailers, in its initial public offering of Class A common stock, expected to be consummated in early 2002.
- As general counsel to Barnes & Noble, Inc., we represented the company in its private placement of \$300 million of 5.25% Convertible Subordinated Notes due 2009, as well as in the subsequent filing of the Form S-3 registration statement for those notes.
- The firm represents Terex Corporation, a NYSE listed global manufacturer of equipment for the construction, infrastructure and mining industries, in connection with a variety of merger and acquisition and financing transactions. Recently, we represented Terex Corporation in a \$300 million 144A private placement of senior debt and in connection with the acquisition of CMI, a NYSE listed manufacturer of mobile equipment and materials processing equipment for the road building and heavy construction industry. We also most recently represented Terex Corporation in a \$100 million underwritten common stock offering and a \$200 million 144A private placement of senior debt.
- When Kranzco Realty Trust merged with CV REIT, Inc., both NYSE listed companies, we represented Kranzco Realty Trust.
- We represented Barnes & Noble College Bookstores, Inc. in its \$240 million syndicated revolving credit facility and \$60 million private placement of 6.18% Guaranteed Senior Notes due 2008.

- The firm acted as US counsel to Ntex Incorporated, a Canadian public company that manufactures textile products, in a \$75 million 144A placement of high yield debt. CIBC Oppenheimer was the lead initial purchaser in the transaction.
- We represented Mount Sinai-NYU Health in their \$700 million Obligated Group taxable and tax-exempt bond financing with the Dormitory Authority of the State of New York.
- We also represented Mount Sinai School of Medicine in the establishment of its \$60 million tax-exempt commercial paper facility with the Dormitory Authority of the State of New York, and The Mount Sinai Hospital and NYU Hospitals Center in their \$50 million accounts receivable financing with HBCS.
- Activision, Inc., a leading entertainment software publisher with worldwide operations, has been pursuing an active acquisition strategy. Over the past few years, the firm has represented the company in connection with six acquisitions, a \$125 million secured credit facility and a series of securities act registrations.

Among our areas of expertise are the following practice specialties: Financial Services, REITS, Private Equities and Managed Funds, Internet Law and Electronic Commerce and Latin American Practice.

Financial Services

Our experience in financial services involves both transactional work and counseling with regard to a wide range of general business, regulatory and capital structure issues. Our transactional work involves representing issuers and purchasers of public and private debt, tax-exempt structured finance, and financing and securitization of real estate and related assets. The firm has represented investment banking, investment advisory and brokerage firms on an ongoing basis with regard to compliance with the various SEC, exchange and self-regulatory organization rules and regulations, capital compliance, expansion and contraction of business operations and the establishment of new operations, employment matters and financing needs and requirements. In addition, our attorneys also structure and organize investment partnerships and offshore funds, including general equity funds, arbitrage funds, global investment and emerging market funds, private equity and LBO funds as well as distressed property funds.

REITS

We have represented several NYSE-listed REITs in connection with their initial public offerings, including the structuring, financing, securities, real estate, regulatory and tax aspects of the

transactions. The firm has also represented REIT clients in connection with secondary offerings and private placements of common and preferred shares (including convertible and redeemable preferred shares), depository shares and debt securities (including establishing medium term note programs), as well as securitized debt. We also handle mergers, acquisitions and spin-offs of REITs.

Private Equities and Managed Funds

Our Private Equities and Managed Funds Group has extensive experience in advising investors worldwide in connection with offerings of and investments in privately placed securities of public companies and venture stage concerns. We also have substantial experience structuring and organizing all types of private investment partnerships and offshore funds.

Private Placement Transactions:

The Private Equities and Managed Funds Group represents a variety of domestic and offshore investment funds, hedge funds, investment bankers and broker-dealers in connection with acquisitions and placements of privately placed securities of publicly traded companies worldwide. Transactions include purchases and placements of common equity, secured and unsecured convertible debt and convertible preferred stock; bridge loan transactions with equity components; and mezzanine financings. Typically, these securities carry registration rights, and we are actively involved in the registration process, including assisting in responses to SEC comments and structuring the registration process to comply with the latest positions expressed by the SEC staff. We are considered a leader in this field and have extensive experience in all stages of the financing transaction, from structuring the relationships between bankers, the issuer and the investors, to negotiating engagement letters and term sheets, and preparing and negotiating the securities purchase agreements and registration rights agreements governing the investment. We also have extensive experience in advising investors and issuers in connection with securities registration, listing and trading regulation matters arising in connection with such financings.

Private Pooled Investment Vehicles:

The Private Equities and Managed Funds Group also represents hedge funds, fund of funds, investment funds and other pooled investment vehicles, both domestic and offshore, including general equity funds, arbitrage funds, global investment and emerging market funds, mutual fund market timers, commodity pools and distressed company funds. This experience has provided us with a depth of knowledge of the marketing and legal issues relating to the preparation of the required capital raising offering and regulatory documents. Working with our Tax, Employment Law and Employee Benefits groups, we have extensive experience in advising clients seeking to structure and form private pooled investment vehicles throughout the world. Accordingly, we are able to present creative, tax efficient

solutions to a variety of fluid and complex tax and regulatory concerns. We also advise clients in connection with the day-to-day regulatory management of such funds, including compliance with the Investment Company Act, the Investment Advisers Act, commodities regulations and blue sky laws.

Venture Capital:

The Private Equities and Managed Funds Group assists clients in structuring venture capital transactions and, working with our Tax Group, identifies and addresses issues relating to the formation of the venture capital entity. We represent venture capitalists in all stages of venture capital financings and are fully familiar with the issues that relate to the relationships between the venture stage company and its investors and among the various venture capitalists who have invested in the entity. Our experience in administering these relationships allows us to offer creative and practical solutions to the variety of complicated issues potential in any venture capital transaction. Our work in this area has included preparing and negotiating transaction documents, including engagement letters and stock purchase and investor rights agreements, preparation of private placement memoranda and providing guidance in the relationship with underwriters and other financial intermediaries.

Latin American/International Practice

Our Latin American Practice includes four attorneys whose experience includes periods of government service both within the United States and in Latin America, and as in-house and outside counsel for multinational corporations. The Group has counseled major United States corporations in connection with their business and investment activities in numerous countries overseas, consulates and missions of other countries in the United States, major financial institutions, and small and medium sized foreign companies doing business, raising capital and investing in the United States.

The Group's practice covers a broad range of commercial, financial, banking and investment activities, offshore operations and international estate planning. Services are provided to United States companies and individuals doing business outside the United States and to individuals and firms from other countries investing and doing business in the United States.

Among the languages spoken by members of the Group are Spanish, Portuguese and French. The Group maintains long-standing and close working relationships with law firms throughout Latin America, as well as in Europe and Asia.

ROBINSON SILVERMAN PEARCE ARONSOHN & BERMAN LLP

1290 AVENUE OF THE AMERICAS

NEW YORK, NEW YORK 10104

(212) 541-2000

FACSIMILE: (212) 541-4630

WEB: www.robinsonsilverman.com

Creditors' Rights and Bankruptcy

The Creditors' Rights and Bankruptcy Practice Group counsels clients regarding bankruptcy cases, out of court workouts, restructuring transactions and litigation matters. We have extensive experience counseling debtors-in-possession, official and unofficial committees of creditors and equity security holders, secured lenders, equipment lessors, labor unions, landlords, trustees, examiners, indenture trustees and other constituencies in bankruptcy cases. Additionally, we advise purchasers of financially distressed entities and assets owned by such entities.

Our group works closely with our Corporate and Securities Practice Group and our Real Estate Practice Group. We have extensive experience crafting the "true sale" and "non-consolidation" opinions necessary for sophisticated corporate and real estate transactions. Additionally, regularly we advise owners and managers of retail, commercial and residential space, regarding bankruptcy law and litigation issues. Finally, we often are called upon to provide advice to our corporate and commercial clients regarding myriad creditors' rights issues.



 **FILE**

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number (941) 335-2236

Bob Janes
District One

Facsimile (941) 335-2606

Douglas R. St. Cerny
District Two

January 30, 2002

Ray Judah
District Three

Andrew W. Coy
District Four

R. Stuart Broom, Esq.
Williams, Mullen, Clark & Dobbins
1666 K Street, N.W., Suite 1200
Washington, D.C. 20006

John E. Albion
District Five

Donald D. Stillwell
County Manager

James G. Yaeger
County Attorney

BY: FEDERAL EXPRESS

Diana M. Parker
County Hearing
Examiner

RE: AGREEMENT FOR LEGAL CONSULTING SERVICES

Dear Stuart:

Thank you for your letter of January 29, 2002. Per your request, I am providing you with one (1) fully executed original of the above referenced Agreement for your files.

I look forward to continuing our excellent working relationship in our upcoming matters of mutual interest.

I wish you great success in your new association with Williams, Mullen and am confident you will be a major asset to the firm.

Cordially,



David M. Owen
Chief Assistant County Attorney

DMO:dm

Enclosure

xc: James G. Yaeger, County Attorney
Lindsey Sampson, P.E., Director, Solid Waste Management
Tracey Cerchie, Solid Waste Management



WILLIAMS MULLEN

Direct Dial: 202.293-8110
sbroom@williamsmullen.com

January 29, 2002

David Owen, Esq.
Senior Assistant Attorney
Lee County
Lee County Courthouse
2115 Second Street, 6th Floor
Fort Myers, FL 33901

Dear David

Please find enclosed 3 originals of the Agreement for Legal Consulting Services executed by me. Upon Jim's execution, please forward one original to me for my files.

As always, I thank you for the opportunity to continue to represent Lee County, Florida and look forward to working closing with your staff.

Sincerely,

R. Stuart Broom

RSB/mdb
Enclosures

E:\WMCDLIB\SBROOM\0795260 01

Williams Mullen Clark & Dobbins

MICHIGAN • VIRGINIA • WASHINGTON, D.C. • LONDON

1666 K Street, N.W., Suite 1200 Washington, D.C. 20006 Tel: 202.833.9200 Fax: 804.783.6507 or 202.293.5939
www.williamsmullen.com

AGREEMENT FOR LEGAL CONSULTING SERVICES

BY AND BETWEEN

LEE COUNTY, FLORIDA

AND

WILLIAMS, MULLEN, CLARK & DOBBINS

THIS AGREEMENT entered into as of this 30th day of JANUARY, 2002 by and between Williams, Mullen, Clark & Dobbins (hereinafter called the "Consultant") and Lee County, Florida, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners pursuant to Florida Statutes, (hereinafter called "County").

WITNESSETH:

WHEREAS, County desires to engage Consultant to serve as legal counsel in connection with its solid waste management and water and wastewater projects and programs, associated energy, environmental and financing matters and, upon, request, other related utility issues;

WHEREAS, County is desirous of engaging the Consultant for the purposes hereinafter described in paragraph 1, the Scope of Services;

WHEREAS, Consultant has agreed to provide such scope of Services and other legal services to the County and is qualified and experienced in this area of law and practice;

NOW, THEREFORE, the parties hereto, each intending to be legally bound hereby, do mutually agree as follows:

1. **SCOPE OF SERVICES**

Consultant hereby agrees to perform, at County's express direction, legal and consulting services relative to the County's (1) solid waste management programs and projects, (2) water and wastewater programs and projects and (3) other utility programs. Such services shall include, but not be limited to, planning, procuring, contracting, financing and permitting. Particular areas of expertise and legal consultation may include contracts, environment, tax, insurance, energy, corporate, litigation and finance. County may direct Consultant to perform such additional services as the County or its authorized representatives specifically requests and authorizes.

2. **PERSONNEL**

a. Consultant represents that it has all personnel required to perform the services under this Agreement. Personnel specifically shall include R. Stuart Broom, Esq. and backup, as necessary, from other members, of-counsel and associates of Consultant upon prior approval of the County or its authorized representatives. R. Stuart Broom, on behalf of Consultant, will be the lead attorney to the County.

b. All of the services required hereunder will be performed by Consultant under the direct supervision of R. Stuart Broom and all personnel engaged in the work shall be fully qualified to perform such services.

c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the County.

3. **TIME OF PERFORMANCE**

a. It is understood and agreed between the County and Consultant that time is of the essence and that during the period of this Agreement, Consultant agrees to perform its services in such sequence as to assure their expeditious completion in the light of the purpose of this Agreement; including, but not limited to, those services specified in paragraph 1.

Consultant's responsibilities are, however, subject to the provisions of this Agreement with regard to termination, as hereinafter provided.

b. Consultant shall enter upon the performance of this Agreement with all due diligence and dispatch; shall assiduously press to the Project's complete performance and shall exercise therein the highest degree of professional skill and competence. The parties hereto agree that time is of the essence for the performance of all phases of work by Consultant and all other work products required hereunder. In the event that Consultant fails to perform in a timely manner, Consultant may be considered in default of this Agreement and such default may serve as a basis for termination of Consultant by the County for cause.

4. **COMPENSATION**

County agrees to pay, and Consultant agrees to accept, as compensation for Consultant's services performed by Consultant, fees as specified in subsection 4.b. of this Agreement, plus out-of-pocket expenses incurred by Consultant, including cost of duplication, word processing, meals, if appropriate, long distance phone calls, travel and reasonable living expenses, all such payments subject to the limitations as set out in Florida Law. The Consultant shall provide itemized monthly invoices, commencing immediately, which shall include the nature of work performed, personnel involved and the number of hours worked, the hourly rate for each member

of Consultant and Consultant's out-of-pocket expenses. Consultant shall be paid within sixty (60) days from County's receipt of invoice, the value of the cumulative hourly charges and the out-of-pocket expenses.

b. The hourly rates of Consultant shall be as set forth below:

R. Stuart Broom	\$225.00
Members of Firm and Of Counsel	\$225.00
Associates	\$190.00

5. **DOCUMENTS**

a. All services rendered and documents prepared by Consultant shall conform to all applicable laws, statutes and ordinances, and rules and regulations relating thereto, as well as the methods and procedures of the County and all governmental boards, bureaus, offices, commissions or other agencies.

b. All plans, specifications, survey notes, calculations, contracts, legal memoranda, and all other documents pertaining to the work required hereunder prepared by Consultant in the performance of this Agreement, shall become the property of the County.

c. Consultant covenants and agrees to make available in Lee County, Florida, upon request by County, its books and records for inspection by appropriate County officials concerning charges, fees and costs under this Agreement.

6. **TERMINATION**

a. If Consultant fails to fulfill in a timely and proper manner, its obligations under this Agreement, or if Consultant violates any of the covenants, agreements or stipulations of this Agreement, County shall thereupon have the right to terminate this Agreement by giving written notice to Consultant of such termination and specifying the effective date therefor, at least ten (10) days prior to the effective date of such termination. In such event, and upon any

other termination of this Agreement, all finished or unfinished documents, contracts, data, studies, agreements and reports prepared by Consultant under this Agreement shall become the property of County and Consultant shall be paid in full for all services rendered by it to the effective date of termination plus all out-of-pocket costs incurred to that date. Payment shall be made in accordance with Paragraph 4 above.

b. County reserves the right to terminate this Agreement at any time, at its sole discretion, by giving Consultant ten (10) days prior written notice thereof; provided, however, that Consultant shall be entitled to compensation for any services rendered and expenses incurred prior to the effective date of termination in accordance with paragraph a. of this Section 6.

7. **ASSIGNMENT**

This Agreement shall not be assigned or assignable, either by action of Consultant or by law. However, Consultant agrees that if it is terminated under the terms of this Agreement, it shall assign this Agreement, if requested by the County, to any other legal consultant designated by the County.

8. **INDEMNIFICATION**

Consultant shall indemnify, defend and hold harmless the County, its officers, directors and employees from and against any and all losses, claims, actions, damages, liability and expenses, including, but not limited to, those in connection with loss of life, bodily and personal injury or damage to property to the extent they are occasioned by Consultant's negligent act of omission or the negligent act or omission by Consultant agents, subconsultants, employees or servants, in the performance of this Agreement.

9. **FURTHER SUPPORT**

In the event that County becomes involved in any litigation with third parties concerning or relating in any way to Consultant's services, whether such litigation occurs during or after the term of the Project, or any other litigation with respect to the Project, Consultant agrees to make its officers and employees available to County to consult, assist and cooperate in any such litigation, to the extent such consultation, assistance and cooperation may be required by County, at reasonable fees to be agreed upon by the parties hereto.

10. **NO DISCRIMINATION**

Consultant shall not discriminate nor permit discrimination against any employee because of sex, race, color, religion or national origin. In the event of such discrimination, County may terminate this Agreement forthwith.

11. **ENFORCEABILITY**

County represents that this Agreement has been duly authorized and executed by the County by and through its County Attorney and constitutes a legally valid and binding obligation of the County, fully enforceable against the County in accordance with its terms.

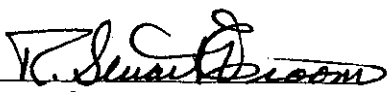
12. **FLORIDA LAW**

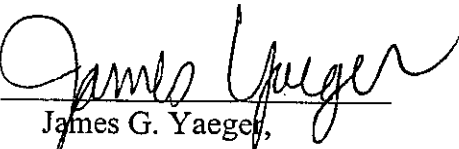
This Agreement shall be interpreted, enforced, governed and construed pursuant to the Laws of the State of Florida.

IN WITNESS WHEREOF, County has caused these presents to be duly executed and
Consultant has caused these presents to be duly executed as of the day and year first above
written.

WILLIAMS, MULLEN CLARK &
DOBBINS

LEE COUNTY, FLORIDA

BY: 
R. Stuart Broom
Member of Firm

BY: 
James G. Yaeger,
Lee County Attorney



WILLIAMS MULLEN

FIRM PROFILE

Williams Mullen provides comprehensive legal services to regional, national and international business clients. With 230 attorneys and offices in Virginia, Washington D.C., Michigan and London, we deliver innovative solutions to support our clients' diverse business activities. Attention to clients' individualized needs and an extensive application of new technology and legal information services have been the foundation of Williams Mullen's progressive approach to law practice since the firm was founded more than 90 years ago.

The firm's attorneys are available to assist clients with banking and finance, bankruptcy, communications, corporate, e-commerce, employee benefits, energy, entertainment, environmental, family law, government contracts, governmental affairs, health care, immigration, international business and trade, labor and employment, land use, litigation, loan workouts, maritime, mergers and acquisitions, real estate, securities, tax, technology and intellectual property, and trusts and estates matters.

For more information about our firm, or to learn how we may be of service to you, please contact us at one of our offices:

Ann Arbor	(734) 213-2700	Newport News	(757) 249-5100
Bloomfield Hills	(248) 642-4345	Norfolk	(757) 284-4000
Charlottesville	(434) 951-5700	Richmond	(804) 643-1991
Detroit	(313) 962-0643	Tysons Corner	(703) 760-5200
London	011-44-207-978-7748	Virginia Beach	(757) 499-8800
		Washington, D.C.	(202) 833-9200

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WILLIAMS MULLEN

FIRM HISTORY

Williams Mullen originated from several long-established and well-respected law firms located in Virginia. The firm of Williams & Mullen was founded in 1909 by Lewis C. Williams and James Mullen. Lewis Williams, who was known as a progressive practitioner in the Virginia legal community and served as a president of the Virginia Bar Association, enabled his firm to contribute significantly to the growth and prosperity of Richmond. James Mullen, recognizing the need for specialized tax counsel when the first federal income tax was adopted in 1913, provided sage tax advice to businesses and individuals for over 50 years. Following a 1961 merger, Stuart G. Christian joined their firm, where he counseled numerous small companies that have grown into major enterprises and remain clients of the firm today.

Virgil R. Goode and Morton L. Wallerstein became law partners in Richmond in 1919. Realizing the benefits to businesses of comprehensive legal representation, their firm successfully provided a complete range of legal services to business and commercial clients for over 65 years. In 1947, Howard W. Dobbins joined their firm and quickly became one of the most versatile business lawyers in Virginia. Serving as president of the Virginia State Bar, he developed his firm into a major statewide provider of services in the banking, finance, commercial, securities, and regulatory fields.

These two law firms were merged in 1986 and commenced practice as Williams, Mullen, Christian & Dobbins. In 1999, the firm merged again, this time with Clark & Stant, a Virginia Beach based law firm, becoming the firm of Williams, Mullen, Clark & Dobbins. To meet the expanding needs of regional, national and international clients, the firm merged with Michigan-based Wise & Marsac in 2001.

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Throughout its history, Williams Mullen continuously has employed highly ranked new law school graduates, as well as seasoned attorneys with specialized knowledge and experience, to complement the broad range of expertise available to the firm's clients.

As a result of its heritage and the continuing confidence placed in it by its clients, Williams Mullen is one of the region's largest and most respected full-service law firms with an expanding presence in business worldwide.



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ENERGY PRACTICE GROUP

Williams Mullen has an active, diversified and growing energy practice. Across the country, its clients are confronted with a very different business environment than that of just a decade ago. Restructuring of the electric power and natural gas industries continues to present challenging and complex business opportunities that demand sophisticated and experienced legal support. An interdepartmental group of attorneys, the Energy Practice Group combines the resources of a multi-disciplinary pool of professionals to address all facets of a client's requirements.

The Energy Practice Group focuses on all matters relating to the operation, regulation, structure and efficiency of the electric and natural gas industries at the national, regional and state levels. In addition to providing sophisticated and innovative legislative and regulatory solutions, the attorneys in the Energy Practice Group structure and negotiate commercial transactions that are designed to both maximize asset value and increase competitive advantage. They represent a broad range of clients, including cogenerators, commercial and industrial energy consumers, electric cooperatives, financial institutions, independent power producers, municipalities, and utilities. As a result, the group's practice encompasses all aspects of energy law, including the generation, sale, purchase and wheeling of electric power; the sale, purchase and transportation of natural gas, coal, and coal-based products; and related financing, legislation, litigation, marketing, and regulation.

With offices located in Virginia, Washington D.C., Michigan and London, the Energy Practice Group's clients may rely on its experience and sound judgment nationally and internationally. The Energy Practice Group draws upon its substantial legal expertise to provide the variety of specialized legal services required by its clients.

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- **ADMINISTRATIVE LAW, REGULATION AND GOVERNMENTAL AFFAIRS**

The Energy Practice Group takes a comprehensive, integrated approach to its clients' local and multi-jurisdictional concerns. The group offers experienced representation in matters affecting stakeholders in the electric and natural gas industries at the national, regional and state levels. At the federal level, the group's attorneys practice before such agencies as the Federal Energy Regulatory Commission, the Environmental Protection Agency, and the Internal Revenue Service. In addition, the firm has a long history of representing clients effectively in state legislative and administrative energy-related matters. The Energy Practice Group provides its clients with in-depth representation before the Virginia General Assembly and the State Corporation Commission, as well as with Virginia state agencies including the Departments of Environmental Quality, Taxation, and others.

- **CORPORATE**

Members of the Energy Practice Group have strong expertise in all areas of commercial and business law relevant to the energy industry. They regularly advise clients on such matters as the choice and structure of business entities, partnership structures, partnership interest acquisitions, and corporate mergers and acquisitions (representing both buyers and sellers). They also regularly negotiate and draft commercial contracts, commercial financing transactions, leases, and debtor/creditor arrangements.

- **ENVIRONMENTAL**

Compliance with environmental laws and regulations has grown increasingly complex and costly, and penalties for noncompliance can be high. Members of the Energy Practice Group have legal expertise in all facets of environmental law affecting energy (electricity and natural gas) production, transportation and consumption. They emphasize strategies to avoid environmental problems where possible, and take a results-oriented approach to solving them when they do arise.



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- **ENERGY PURCHASING**

The Energy Practice Group has substantial experience in negotiating and drafting a wide variety of agreements involving its commercial, industrial and municipal clients' energy-purchasing requirements. The group's attorneys have helped their clients negotiate and document numerous agreements relating to the purchase and transportation of electricity and natural gas. Additionally, they can provide coordinated representation to those clients weighing the decision to self-generate electric energy or bypass the local natural gas distribution company as an alternative to continuing to purchase from their local utilities.

- **INDEPENDENT POWER**

Attorneys in the Energy Practice Group have extensive experience representing clients in the development, operation, management and financing of non-utility electric generation projects. The group's lawyers have been actively involved in areas such as the sale, purchase and wheeling of electric power; the sale, purchase and transportation of natural gas; the sale and purchase of fuel oil; the operation and maintenance of electric power plants; the sale and purchase of steam; and power plant turnkey construction.

- **LITIGATION**

The Energy Practice Group has substantial litigation expertise involving power purchase and sale agreements, fuel supply and transportation agreements, environmental-related issues, commercial law, tax issues, and other matters affecting the sale and purchase of energy.



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GROUP MEMBERS

For more information on the Energy Practice Group, please contact one of the following attorneys:

- **Ralph L. "Bill" Axselle, Jr.** (804) 783-6405 baxselle@williamsmullen.com
Bill Axselle, chair of the firm's Governmental Affairs practice, served in the Virginia House of Delegates for 16 years before retiring in 1990. Mr. Axselle has more than 10 years of lobbying experience to supplement his extensive legislative work. He is active in representing clients before the General Assembly and the State Corporation Commission on a wide array of energy-related issues.
- **Samuel W. Hixon, III** (804) 783-6409 shixon@williamsmullen.com
Sam Hixon chairs the Litigation Department and has extensive experience in litigating a wide variety of matters with a special focus on power purchase and sales agreement disputes.
- **Reginald N. Jones** (804) 783-6468 rjones@williamsmullen.com
Reggie Jones has 25 years of experience working with the Virginia General Assembly and agencies of state government. Mr. Jones is recognized as one of the more respected legislative counsels in Virginia. He is active in representing clients before the General Assembly on matters involving the restructuring of the electric power industry.
- **Thomas E. Knauer** (804) 783-6913 tknauer@williamsmullen.com
Tom Knauer's practice focuses on environmental, energy, administrative and utilities law. He wrote the chapter on air pollution regulation for the Virginia Law Foundation's Handbook on Administrative Law and Practice and has lectured extensively on environmental law. Mr. Knauer provides counsel to the Air Regulation Subcommittee of



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the Virginia Manufacturers Association. In addition to his law degree, he holds a doctorate in biochemistry.

- **Channing J. Martin** (804) 783-6422 cmartin@williamsmullen.com

Channing Martin counsels energy clients on a wide variety of environmental issues and practices before federal and state regulatory agencies and courts on matters such as Superfund, RCRA, the Clean Air and Water Acts, storage tanks, toxic torts, and environmental insurance coverage.

- **Thomas B. Nicholson** (804) 783-6904 tnicholson@williamsmullen.com

Prior to joining Williams Mullen, Tom Nicholson served as Senior Assistant Attorney General and Chief of the Insurance and Utilities Regulatory Section in the Virginia Office of the Attorney General and as the Deputy Consumer Counselor for Federal Affairs in the Indiana Office of Utility Consumer Counselor. He concentrates his practice on all matters related to the operation, regulation, structure and efficiency of the electric and natural gas industries at the state, regional and national levels.

- **Joelle K. Ogg** (202) 293-8115 jogg@williamsmullen.com

Joelle Ogg concentrates her practice on all matters related to the operation, regulation, structure and efficiency of the electric and natural gas industries at the state, regional and national levels, with a particular focus on assisting competitive market players such as wholesale and retail suppliers, back-office and competitive support providers, and independent power producers.

- **Robert F. Riley (Group Chair)** (202) 293-8121 rriley@williamsmullen.com

Bob Riley is chair of the Energy Practice Group. Formerly general counsel and vice president of numerous subsidiaries of a major independent power company, and a former



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trial attorney for the Federal Energy Regulatory Commission, Mr. Riley represents clients on a wide range of transactions involving the sale, purchase, transmission and transportation of energy (electric, natural gas, coal and coal-based fuels) and related corporate requirements. He also is active in representing developers and borrowers in loan transactions and a wide array of related issues.

- **Paul G. Saunders, II** (804) 783-6470 psaunders@williamsmullen.com
Paul Saunders concentrates on project finance transactions, including independent power and cogeneration facilities; leveraged lease transactions; the negotiation and amendment of contracts for fuel and fuel transportation and for electric power purchases and sales; and dispersed energy facility transactions for independent power producers and for industrial clients and other electricity consumers. Mr. Saunders also represents lenders, developers, contractors and borrowers in loan transactions and workouts, as well as purchase and sale transactions, leases, and real estate development and construction transactions.

- **C. William Waechter, Jr.** (804) 783-6492 bwaechter@williamsmullen.com
A former General Attorney for the Virginia State Corporation Commission, Bill Waechter has 24 years experience working with state government. He actively represents independent power producers before the State Corporation Commission.

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901 - 15TH STREET, N.W.
WASHINGTON, D.C. 20005-2301
(202) 371-6000
FAX: (202) 371-6279

January 7, 2002

David Owen, Esq.
Senior Assistant County Attorney
Lee County Courthouse
2115 Second Street
6th Floor
Fort Myers, FL 33901

Dear David:

As you know, I will be joining the firm of Williams, Mullen, Clark & Dobbins as a partner on January 16, 2002. My direct dial telephone number in Washington will be (202) 293-8110. If you are not familiar with the firm, I am taking the liberty of including a brochure describing the firm and a few of the practice areas that may be of interest to you.

If you have any questions, please give me a call.

Sincerely,



R. Stuart Broom

Enclosure