

Ruth Nettles

100094-WS

From: Greene, Angela [agreene@ngn-tally.com]
Sent: Friday, March 12, 2010 12:13 PM
To: Filings@psc.state.fl.us
Cc: Armstrong, Brian
Subject: Docket No.: 100094-WS
Attachments: letter to Bruce May.3-12-10.pdf

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Docket No.: 100094-WS

In Re: *Compass Bank v. Service Management Systems, Inc.*

Name of Document: Letter to D. Bruce May, Esq. dated March 12, 2010

No. of Pages: 2

Party: Aquarina Community Services Association

3/12/2010

DOCUMENT NUMBER-DATE
01706 MAR 12 2010
FPSC-COMMISSION CLERK

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March 12, 2010

D. Bruce May, Esq.
Holland & Knight
Bank of America Building
Suite 600
315 South Calhoun Street
Tallahassee, Florida 32301

100094 - WS

Dear Mr. May:

I am in receipt of your letter dated March 11, 2010. If you are looking for an attorney who has decades of experience representing public and private utilities to whom you should give advice concerning the need to verify information provided by a client, my advice to you is – look in a mirror. I need not go into details to respond to your letter. Suffice it to say that my client, the Customers of SMS, believes it is replete with, and I quote, “lies.”

You suggest that your client has been operating in good faith with the Customers. The Customers dispute this suggestion based, in part, on the following:

- As noted in your letter, your client provided the Customers with a draft of a purchase and sale agreement on March 4 – only days after I informed you that the Customers had retained me to represent them and on the very day that I filed my letter with the Public Service Commission. My clients had been asking for this type of document for weeks.
- My client repeatedly has requested a copy of the appraisal performed by GAI Consultants only to be told it is confidential and proprietary to Compass Bank. Yet, I am informed that the appraisal has been provided to other prospective purchasers.
- It was not until I informed you that I had been retained, and after I sent my letter dated March 4, that your client, through your letter dated March 11, has informed my client of any specific details concerning the date by which an offer for the system must be submitted.
- Yesterday, a revised draft of a purchase and sale agreement was received by my client which contains terms more onerous than the first draft. What is the purpose for the more onerous provisions?

DOCUMENT NUMBER - DATE

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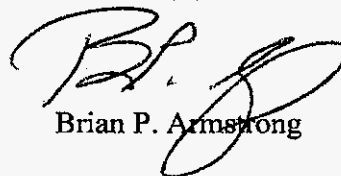
D. Bruce May, Esq.
March 12, 2010
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As to my "irresponsible" disclosure suggesting that there may be a question concerning the validity of your client's actions to date, kindly provide me with the facts demonstrating your client's compliance with applicable abandonment procedures in the Florida Statutes and Public Service Commission rules. Upon receipt and review of such facts, I will be able to advise my client whether such actions comported with legal requirements. If it is your suggestion that the satisfaction and release signed by your client does not effectively constitute an "abandonment" of the SMS system, I would be interested in receiving your legal analysis supporting such a conclusion.

Finally, while not an obligation of Customers, we are compelled to advise you that it appears that a condition hazardous to employees operating the wastewater facilities exists, and the very existence of this condition is difficult to comprehend or justify. I am sure that Compass Bank has not been advised of this safety concern or it would have been remedied by now. A girder-like structure, presumably a component of the old treatment process, measuring at least 20 feet and probably more, is laying across the walkway which spans the wastewater treatment tank. It is impossible for a worker to access the center or side of the tank opposite the stairway without navigating this girder, apparently not once but twice, and repeating such navigation on the return trip to the stairs. I myself had to perform such navigation and was uncomfortable doing so. Has the girder been laying there since the new equipment was installed? When was the new equipment installed? My client could not in good conscience fail to advise you of this hazardous condition with the distinct possibility that a worker could be gravely injured from the existence of this hazardous condition.

By this letter, and given the very recent actions of Compass Bank to provide my client with information necessary to properly participate in a sale process, the Customers request that Compass Bank delay the intended foreclosure process and extend the date for submission of purchase offers. We look forward to the Bank's reply.

Very truly yours,



Brian P. Armstrong

cc: Ann Cole, Commission Clerk
Florida Public Service Commission
Docket No. 100094-WS