

Office of Superintendent of Schools  
Board Meeting of August 4, 2010

July 28, 2010

Office of School Board Attorney  
Walter J. Harvey, Board Attorney

**SUBJECT: APPROVAL TO RETAIN OUTSIDE LEGAL COUNSEL TO REPRESENT THE BOARD IN ITS EFFORTS TO RECOVER PROPERTY AND FUNDS OWED TO THE DISTRICT FROM TERMINATED CONTRACTS**

**COMMITTEE: INNOVATION, EFFICIENCY AND GOVERNMENTAL RELATIONS**

**LINK TO STRATEGIC FRAMEWORK: FINANCIAL EFFICIENCY/STABILITY**

The School Board Attorney requests that the School Board authorize the Board Attorney to enter into a contract for creditor collection and asset recovery services with Blaxberg Grayson & Kukoff, P.A., excerpts from the resume are attached, to collect funds and/or property from charter schools, School Board creditors, and indispensable, necessary or related parties. The firm of Blaxberg Grayson & Kukoff, P.A., will be compensated at the rate of \$200 per hour for partners, \$150 per hour for associates and \$75 per hour for paralegals.

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To date, the Board has over 90 contracts with charter schools. Pursuant to the charter school contracts with the School Board, upon immediate termination the charter schools are required to relinquish to the School Board "all educational and administrative records of the School...and ...within two business days, the School shall turn over all records and information regarding the accounts of all of the public funds to the School Board." Furthermore, Section 1002.33(8)(e), Fla. Stat. (2010), also states that upon termination, public funds and property shall revert to the School Board immediately. Despite the clear language of both the contract and Florida law, some charter school officials and other related, necessary or indispensable parties do not relinquish property belonging to the District. In addition, other contract disputes often arise necessitating immediate and prompt action in the recovery of School Board funds and assets.

To protect the School Board's property and funds, the Board Attorney seeks authorization to enter into a contract for creditor collection and asset recovery services with Blaxberg Grayson & Kukoff, P.A. to collect funds and/or property from charter schools, School Board creditors, and indispensable necessary or related parties to recover School Board property.

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**RECOMMENDATION:**

The School Board Attorney requests that the School Board authorize the Board Attorney to enter into a contract for creditor collection and asset recovery services with Blaxberg Grayson & Kukoff, P.A., excerpts from the resume are attached, to collect funds and/or property from charter schools, School Board creditors, and indispensable, necessary or related parties. The firm of Blaxberg Grayson & Kukoff, P.A., will be compensated at the rate of \$200 per hour for partners, \$150 per hour for associates and \$75 per hour for paralegals.

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**Question A. Attorneys and Legal Staff/Experience with Education Law and Government Entities**

Because we take a prudent, practical approach to every case, and are always mindful of the client's bottom line and Our client-first philosophy and experience with handling challenging cases enables us to offer the highest level of legal representation while providing the personal service our clients deserve.

The following attorneys may be assigned to projects that are assigned to us by the School Board:

**I. Barry Blaxberg, Esq.,**



Mr. Blaxberg attended University of Miami School of Law where he graduated cum laude in 1977. Mr. Blaxberg has been a member of the Panel of Arbitrators for the American Arbitration Association, and is a member of the Florida Bar Real Estate and Debtor/Creditor Law Committee. He served for eight years as Councilman and Vice Mayor for the Village of Pinecrest, Florida. As one of the founding members of the firm which he formed in 1985, Mr. Blaxberg has represented financial institutions, corporate clients and high net worth individuals, concentrating his practice in the areas of Commercial Law; Banking; Real Estate and Transactions; Landlord and Tenant Law; Condominium Law; Receiverships; Commercial Litigation; and Real Estate Litigation. Mr. Blaxberg is a member of the Florida Bar (1977); the U.S. District Court, Southern District of Florida; the U.S. Court of Appeals for the Fifth and Eleventh Circuits, and the Miami-Dade County and American Bar Associations. **Mr. Blaxberg has represented various bidders in contests with the school board and construction contracts, subcontractor issues and bid specifications and has appeared before the School Board on numerous occasions.**

**Question A. Attorneys and Legal Staff/Experience with Education Law and Government Entities**

Moises T. Grayson, Esq.,



Mr. Grayson is a graduate of Columbia College (A.B., 1977) and of Brooklyn Law School (J.D., 1982), where he was the recipient of the American Jurisprudence Award in Corporation Law. Mr. Grayson worked in the Tax Department of Coopers and Lybrand (now Price Waterhouse Cooper).received his LLM in Taxation in 1984 from New York University. As one of the founding members of the firm, Mr. Grayson has represented financial institutions, corporate clients and high net worth individuals, concentrating his practice in the areas of Civil Trial Practice; Commercial Litigation; Financial Institutions; Contract Litigation; Arbitrations; health care involving Medicare and Medicaid compliance issues and audits, and Tax Litigation. Mr. Grayson is a member of the New York Bar (1982); the Florida Bar (1984), the U.S. Tax Court and U.S. District Court for the Southern and Middle Districts of Florida including their Trial Bars, and the American Bar Association.

**Mr. Grayson has been the lead counsel in the firm and contact person for the State of Florida Risk Management that has been giving us work since the late 1980s. Mr. Grayson has successfully handled the following typical cases:**

- 1. Defamation lawsuit against a state Employee. Obtained Summary Judgment**
- 2. Wrongful cases against various Agencies:
  - a. Case dealing with electrocution against DOT. *Blackford vs Florida Power & Light and DOT* (3<sup>Rd</sup> DCA 1996).****
- 3. Numerous accident cases against DOT.**
- 4. Wrongful Prosecution case against the Sate Attorney. Obtained Dismissal**
- 5. Negligence cases against The Department of Family and Children**
- 6. Negligence cases against the Department of Natural Resources, including a burn case involving a minor.**
- 7. Presently handling a bicycle accident case against DOT, a motorcycle accident case against DOT.**
- 8. Cases dealing with Sovereign Immunity in subcontracting issues.**
- 9. Cases involving contracts and negligence against the Department of Corrections.**

Question A. Attorneys and Legal Staff/Experience with Education Law and Government Entities

10. Cases dealing with contracts and negligence against the Department of Professional Regulation.
11. Contract cases against the State of Florida
  - a. Cases dealing with Liquor License licensing
  - b. Cases dealing with Department of Children and Families Licensing.

In summary, we have handled numerous cases since the late 1980s dealing with contract and tort litigation against the State of Florida and we are still representing the State of Florida and in all the cases we have handled there has not been a single verdict against the State.

**Robert Y. Twombly, Esq.**

Mr. Twombly concentrates his practice in commercial litigation, insurance litigation and **personal injury litigation**. He has significant litigation experience both as first and second chair counsel. He has obtained numerous favorable verdicts and settlements for his clients in both state and federal courts. Robert was admitted to practice law in the State of Florida in 1995. He received his J.D. from the University of Pittsburgh in 1995 and he obtained his B.A. from Tufts University in 1992.

Prior to joining Blaxberg, Grayson & Kukoff, P.A. in 2009, Robert was a founding and managing partner of the Law Offices of Payer & Twombly, P.A. established in 1995 in Miami, Florida. Robert is active within the Florida Bar and was appointed to be a member of the Small Claims Rules Committee in 2008. He is also a former Miami-Dade County judicial candidate. Mr. Twombly has prosecuted and defended numerous personal injury cases. Robert Twombly, Esquire has been handling personal injury litigation cases since 1995. From 1995 to 2009 he was a founding partner in a law firm dedicated exclusively to personal injury and worker's compensation litigation.

Since 1995, he has litigated and resolved over a thousand personal injury cases. He has successfully represented clients in cases involving personal injury, workers' compensation, wrongful death, truck accidents, automobile accidents, negligent security, slip and fall accidents, roofing accidents, construction accidents, crane accidents, pedestrian and bicyclist accidents, motorcycle accidents, cruise ship accidents, maritime accidents, longshoreman accidents, scooter and moped accidents, boating accidents, jet ski accidents, drilling accidents, diving accidents, products liability, medical malpractice, insurance claims, burn cases, and sexual assault.

**Question A. Attorneys and Legal Staff/Experience with Education Law and Government Entities**

Specifically, he has successfully initiated and resolved cases against the Miami-Dade County School Board involving assault, negligent supervision, premises liability, sexual assault, sexual battery, and motor-vehicle negligence.

Currently, Robert is applying his personal injury experience to defend cases on behalf of our clients, including, but not limited to, the Florida Department of Transportation. Based upon his nearly 15 years of experience as victim's advocate, he has the unique ability to see our defense cases through the eyes of a Plaintiff's attorney. As such, he has been able to successfully attack and weaken opponents cases while at the same time pointing out and avoiding potential pitfalls in our own cases.

**Ian J. Kukoff,**



(Member) was born in Brooklyn, New York on December 8, 1963. Mr. Kukoff graduated from The George Washington University with a Bachelors of Accountancy in 1985 and from the University of Miami, School of Law, cum laude in 1988, where he was a member of the University of Miami Entertainment and Sports Law Journal and the Phi Alpha Delta fraternity. Mr. Kukoff began his legal career in Dallas, Texas with the law firm of Moore & Peterson, where he was hired as an associate in the firm's real estate department, and participated and assisted in handling various matters involving real estate transactions, construction law, foreclosures, corporate matters and workouts. In 1989, Mr. Kukoff returned to Miami, where he grew up, and began to focus his practice on litigation.

Mr. Kukoff joined the firm in 1994, and has represented financial institutions, corporate clients, landlords, bankruptcy trustees, business owners and high net worth individuals, concentrating his practice in the areas of Civil Trial Practice; Commercial Litigation; Bankruptcy with a focus in Trustee claims and Creditors Rights; Landlord and Tenant Law; Tort Litigation, Condominium Law; Real Estate Litigation; and Trademark Litigation and health care involving Medicare and Medicaid compliance issues and audits. Mr. Kukoff co-authored "Mortgage Foreclosures," Seminar, Foreclosure and Repossession in Florida, Sponsored by Lorman Business Center, Inc., 1989, and authored "When a Tenant Files for

**Question A. Attorneys and Legal Staff/Experience with Education Law and Government Entities**

Bankruptcy During Eviction," Commercial and Residential Evictions in Florida: How To Do Them Right, Seminar Sponsored by Sterling Education Services, LLC, 2002. Mr. Kukoff is a member of the Texas Bar (inactive)(1988); The Florida Bar (1989); U.S. District Court, Southern District of Florida (1991); U.S. Court of Federal Claims; the United States Court of Appeals, Eleventh Circuit; and the American Bar Association.