

## Press Release

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# SEC Files Charges in Municipal Bond “Flipping” and Kickback Schemes

### FOR IMMEDIATE RELEASE

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*Washington D.C., Aug. 14, 2018* — The Securities and Exchange Commission today charged two firms and 18 individuals in a scheme to improperly divert new issue municipal bonds to broker-dealers at the expense of retail investors. According to the SEC’s complaint, the defendants – known in the industry as “flippers” – purchased new issue municipal bonds, often by posing as retail investors to gain priority in bond allocations. The defendants then “flipped” the bonds to broker-dealers for a fee. The SEC also charged a municipal underwriter for accepting kickbacks from one of the flippers.

The SEC alleges that from at least 2009 to 2016, Core Performance Management LLC, RMR Asset Management Co., their principals, and certain of their associates, misrepresented their identities to gain priority in new issue municipal bond allocations. Municipal issuers typically require underwriters to give retail investor orders the highest priority when allocating new issue bonds, particularly retail investors within the municipal issuer’s jurisdiction. According to the SEC’s complaint, these defendants used fictitious business names, falsely linked their orders to ZIP codes within the issuer’s jurisdiction, and split orders among dozens of accounts. After acquiring the bonds, the SEC alleges that the defendants quickly resold them to broker-dealers, typically for a fixed, pre-arranged commission, and often sought to hide the flipping activity from issuers and underwriters by manipulating sales tickets.

“More than a dozen of the individuals charged today are alleged to have engaged in plainly deceptive conduct,” said Stephanie Avakian, Co-Director of the Enforcement Division. “We are committed to investigating and charging individuals, especially where, as here, the alleged misconduct by many of these industry professionals harmed retail investors.”

“By improperly placing retail orders on behalf of broker-dealers, we allege the flippers prevented true retail investors from receiving priority in municipal bond offerings,” said LeeAnn G. Gaunt, Chief of the Division of Enforcement’s Public Finance Abuse Unit. “We are continuing our investigation to determine whether other market professionals had a role in these improper practices.”

Core Performance and managing director James P. Scherr, RMR and its president, Ralph Riccardi, and 13 of their associates settled the SEC’s charges without admitting or denying the allegations, agreeing to injunctions, to return allegedly ill-gotten gains with interest, pay civil penalties, be subject to industry bars or suspensions, and to cooperate with the SEC’s ongoing investigation. The settlements are subject to court approval. The SEC’s charges against RMR associates Richard C. Gounaud, Jocelyn M. Murphy, and Michael S. Murphy will be litigated in U.S. District Court for the Southern District of California.

In a related action, the SEC instituted settled proceedings against Charles Kerry Morris, the former head of municipal underwriting at broker-dealer NW Capital Markets Inc. The SEC found that Morris took

kickbacks from Scherr and engaged in a parking scheme in which Morris allocated new issue bonds to Scherr with the understanding that Morris would repurchase them. As a result of this trading, the SEC found that Morris and NW Capital caused Scherr and Core Performance's improper unregistered broker activity. The SEC found that Morris's supervisor, James A. Fagan, failed reasonably to supervise Morris's activities.

Morris, NW Capital, and Fagan agreed to settle the charges without admitting or denying the SEC's findings. Morris agreed to pay a total of \$254,009 and to consent to an industry bar. NW Capital agreed to be censured and pay a total of \$87,065 and Fagan agreed to pay a \$10,000 penalty and to consent to a six-month supervisory suspension.

The investigation, which is continuing, is being conducted by the Division of Enforcement's Public Finance Abuse Unit, including Joseph Chimienti, Laura Cunningham, Warren Greth, Cori Shepherd, and Jonathan Wilcox, with assistance from Deputy Unit Chief Mark Zehner and litigation counsel Nicholas Pilgrim. Kevin Guerrero and Ivonia Slade supervised the investigation. Mr. Pilgrim will lead the litigation against Gounaud, Jocelyn Murphy, and Michael Murphy.

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## Related Materials

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- [SEC Complaint - Core Performance et al.](#)
- [SEC Complaint - RMR et al.](#)
- [SEC Order - Morris](#)
- [SEC Order - NW Capital and James Fagan](#)