Press Release

SEC Charges City of Miami and Former Budget Director With Municipal Bond Offering Fraud

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Washington D.C., July 19, 2013 — The Securities and Exchange Commission today charged the city of Miami and its former budget director with securities fraud in connection with several municipal bond offerings and other disclosures made to investors.

An SEC investigation found that beginning in 2008, Miami and Michael Boudreaux made materially false and misleading statements and omissions about certain interfund transfers in three 2009 bond offerings totaling $153.5 million. They similarly included false and misleading information in the city's fiscal year 2007 and 2008 Comprehensive Annual Financial Reports (CAFRs) that are distributed to broad segments of the investing public, including investors in previously issued city debt. Boudreaux orchestrated the transfers from the city's Capital Improvement Fund to its General Fund in order to mask increasing deficits in the General Fund, which is viewed by investors and bond rating agencies as a key indicator of financial health.

The SEC's action also charges Miami with violating an SEC cease-and-desist order that was entered against the city in 2003 based on similar misconduct. This is the first time the SEC has alleged further wrongdoing by a municipality subject to an existing SEC cease-and-desist order.

"Miami actively marketed bonds to the investing public while hiding the true reason for interfund transfers to boost the image of its primary operating fund," said George S. Canellos, Co-Director of the Division of Enforcement. "The fact that a city official would enable these false and misleading disclosures to investors merely a few years after Miami had been reprimanded by the SEC for similar misconduct makes this repeat behavior all the more appalling and unacceptable. We will hold accountable not only municipalities, but also individual municipal officials for fraudulent disclosures to investors."

Eric I. Bustillo, Director of the SEC's Miami Regional Office, added, "Miami cannot continue to play shell games with its finances. Investors and the markets deserve complete transparency in assessing the city's municipal bond offerings."

According to the SEC's complaint filed in U.S. District Court for the Southern District of Florida, Boudreaux initiated the city's transfer of approximately $37.5 million between the funds. Miami did not disclose to bondholders that the transferred funds included legally restricted dollars which, under city code, may not be commingled with any other funds or revenues of the city. Miami also failed to disclose that the transferred funds were allocated to specific capital projects that still needed those funds as of the end of the fiscal year, or in some instances already had spent that money. The transfers enabled Miami to meet or come close to meeting its own requirements relating to the General Fund's reserve levels. In the wake of the transfers, the city's bond offerings were all rated favorably by credit rating agencies.

According to the SEC's complaint, Miami was forced to reverse most of the transfers following a report by its Office of Independent Auditor General (OIAG). The city then declared a state of fiscal urgency once it failed to meet statutorily mandated fund levels in its General Fund, and bond rating agencies consequently downgraded their ratings on the city's debt.

The SEC's complaint charges Miami with violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5. It also charges the city with violating the SEC's 2003 cease-and-desist order. The complaint charges Boudreaux with violations of Section 17(a) of the Securities Act and violations and aiding and abetting violations of Section 10(b) of the Exchange Act and Rule 10b-5. The SEC's complaint seeks injunctive relief and financial penalties against Miami and Boudreaux, and an order commanding the city to comply with the SEC's 2003 order.

The SEC's investigation was conducted in the Miami Regional Office by Rachel K. Paulose, Andre J. Zamorano, and Michelle Lama under the supervision of Chedly C. Dumornay. The investigation followed an examination conducted by Paul Anderson and Carlos A. Gutierrez under the supervision of Nicholas A. Monaco and the oversight of John C. Mattimore. The SEC's litigation will be led by Christopher E. Martin and Amie Riggle Berlin.

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Related Materials

- SEC complaint