

SEC Charges Louisiana Town, Its Former Mayor, and Unregistered Municipal Advisor with Fraud in Connection with Two Privately-Placed Bond Issues

June 15, 2022

On June 2, 2022, the Securities and Exchange Commission (the “SEC”) charged the Town of Sterlington, Louisiana (the “Town”), its former mayor, Vern A. Breland, the town’s unregistered municipal advisor, Twin Spires Financial LLC (“Twin Spires”) and its owner, Aaron B. Fletcher with fraud in connection with the sale of \$5.8 million in municipal bonds in two offerings in 2017 and 2018. The SEC alleged the Town violated Section 17(a) of the Securities Act of 1933 (the “Securities Act”) and Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) by misleading the Louisiana State Bond Commission (the “Bond Commission”) with false financial projections, inducing the Bond Commission to approve such bond offerings. The alleged misstatements were included in the Town’s applications to the Bond Commission and documents provided to investors.

Summary of Allegations

On April 27, 2017, the Town sold \$4 million of water and sewer utility revenue bonds and, on September 28, 2018, the Town sold \$1.8 million of refunding bonds (collectively, the “Bonds”). The Bonds were sold in a private placement for the purpose of financing and refinancing water and sewer system improvements. In accordance with Louisiana law, the Town submitted applications to, and received approval from, the Bond Commission prior to issuing each series of Bonds.

According to the SEC, the applications submitted by the Town to the Bond Commission included false financial projections of anticipated sewer system revenues which were designed to mislead the Bond Commission as to the Town’s ability to cover its debt service for the Bonds. The SEC alleged that Twin Spires and Fletcher “backed into” the projections included in the applications based on the number of customers the Town would need to reach a sewer revenue projection high enough to meet a debt service coverage ratio of at least 1.0. The SEC further alleged that Breland was aware of how Twin Spires and Fletcher calculated the revenue projections included in the applications.

In the view of the SEC, the use of false financial projections to obtain Bond Commission approval of the Bonds was not, and should have been, disclosed to the prospective purchasers of the Bonds. The SEC also claimed the Town did not disclose to such prospective purchasers that the Town had misused over \$3 million in bond proceeds from earlier wastewater and utility bonds by spending such bond proceeds on payroll and police cars. Finally, the SEC found that Twin Spires and Fletcher provided municipal advisory services to the Town between 2015 and 2018 without being properly registered with the SEC.

As a result of the alleged conduct, the SEC charged the Town, Breland, Twin Spires and Fletcher with violating Sections 17(a)(1) and 17(a)(3) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5(a) promulgated thereunder, which provisions make it unlawful to employ any device, scheme, or artifice to defraud in connection with the offer or sale of securities.

The Town agreed to a cease-and-desist order against future violations of federal securities laws, without admitting or denying the SEC’s findings. Breland is litigating the SEC’s allegations against him. Twin Spires and Fletcher consented to the entry of judgments enjoining them from future violations of federal securities laws and agreed to pay disgorgement, prejudgment interest, and civil penalties in amounts to be determined at a later date by the court.

Conclusion

Issuers and their finance officials should understand that material misstatements or omissions made in connection with a primary offering of municipal securities carry potential securities law antifraud liability, regardless of whether those securities are sold through public offering or on a private placement basis. Issuers and their finance officials should evaluate their current policies and procedures related to municipal securities disclosures, including disclosures made in connection with private placements.

For More Information

If you would like further information concerning the matters discussed in this article, please contact a member of our Public Finance Group or visit us online at chapman.com.

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