

Client Alert

Current Issues Relevant to Our Clients

July 22, 2013

SEC Charges City of Miami and Its Former Budget Director with Securities Fraud

On July 19, 2013, the Securities and Exchange Commission filed a Complaint in the U.S. District Court for the Southern District of Florida, charging the City of Miami and its former Budget Director with violations of the anti-fraud provisions of the federal securities laws.¹ The SEC also charged the Budget Director with aiding and abetting violations.²

The SEC had previously entered a cease and desist order against the City for violations of the same securities laws in connection with bonds issued in 1995. The SEC's Complaint also charges the City with violating this 2003 order, and its injunction against future violations of the anti-fraud provisions, in connection with bonds issued in 2009.

During the years 2007 through 2009, the Complaint alleges that the City transferred balances from its Capital Projects Funds to its General Fund in order to mask losses in the General Fund and maintain the City's bond ratings. The Complaint alleges that the City's former Budget Director (whose employment was terminated in March 2010) misrepresented the nature of the transfers to the City Commission and concealed the transfers on the City's internal financial records. The Budget Director had oversight of the Budget Department, which prepared the City's budget, and these transfers were included in the City's annual financial information and audited financial statements that were distributed to the public as required by the City's continuing disclosure undertakings. In addition, this financial information was used in the offering documents for three separate bond issues by the City in 2009.

For additional information, see the SEC Order available [here](#).

Items to Note

- This Complaint is the first time the SEC has alleged further wrongdoing by a municipality that is subject to an existing cease and desist order.
- The Complaint holds the Budget Director personally accountable for the alleged fraudulent disclosures, stating that he "was the architect of the scheme to defraud."
- In the Complaint, the SEC requests that the City and the Budget Director be ordered to pay unspecified civil money damages.
- The Complaint is the fifth municipal enforcement action by the SEC during 2013.

For other recent client alerts relating to SEC enforcement actions against municipalities, please follow the links to either of the client alerts listed below:

- Securities and Exchange Commission Cease-and-Desist Order Against the City of Harrisburg, Pennsylvania
- Securities and Exchange Commission Cease-and-Desist Order Against the City of South Miami, Florida

For More Information

To discuss any of the issues covered in this client alert, please contact a member of our Public Finance Department or visit us online at chapman.com

This document has been prepared by Chapman and Cutler LLP attorneys for informational purposes only. It is general in nature and based on authorities that are subject to change. It is not intended as legal advice. Accordingly, readers should consult with, and seek the advice of, their own counsel with respect to any individual situation that involves the material contained in this document, the application of such material to their specific circumstances, or any questions relating to their own affairs that may be raised by such material.

© 2013 Chapman and Cutler LLP. All rights reserved. Attorney Advertising Material.

¹ Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5

² Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5