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SEC Sues Muni Adviser for Undisclosed Fees Under New Rules.

The U.S. Securities and Exchange Commission for the first time acted to enforce new rules placed on state and local government financial advisers, alleging that a Kansas firm breached its fiduciary duty by reaping undisclosed fees from the underwriter of its client's bond offerings.

Central States Capital Markets failed to tell a city it was advising that it had arranged for the bonds to be underwritten by a broker where three of the firm's employees worked. Central States, which is based in Prairie Village, Kansas, received 90 percent of underwriting fees on three deals, according to the order, which named Chief Executive Officer John Stepp and two other employees.

"By failing to disclose their financial interest in the underwriting of the city's offerings, Central States — the city's municipal advisor — and its employees deprived the city of the opportunity to seek unbiased financial advice," Andrew Ceresney, the director of the SEC's enforcement division, said in a statement.

The action is the first brought under authority the SEC was given in the Dodd-Frank law to regulate the firms advising governments that borrow in the $3.7 trillion municipal market. That 2010 law was a response to the financial crisis, when some debt deals arranged by advisers saddled states and cities with billions in unexpected costs. Among other provisions, the law requires advisers to put their client's interests first.

Without admitting or denying the findings, Central States and the employees agreed not to violate similar securities laws in the future, the SEC said. The firm is disgorging $289,827.80 and paying an $85,000 penalty. The name of the city wasn't disclosed.

Prior Settlement

Stepp didn't immediately respond to a phone call seeking comment. Stepp and two employees of the firm agreed to pay $62,500 in fines.

Last year the firm agreed to another settlement with the SEC that found it failed to provide adequate due diligence to ensure "the truthfulness" for disclosure on municipal bond offerings it underwrote, according to the June 2015 order. The firm, which self reported the violations, failed to make sure the issuer had provided proper disclosure, the order said. The firm agreed to a $60,000 penalty.

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by Darrell Preston

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