Bond Case Briefs

Municipal Finance Law Since 1971

SEC, City of Miami Lay Out Final Arguments in Bond Case.

MIAMI — The U.S. Securities and Exchange Commission and the city of Miami squared off in Florida federal court on Tuesday, with the regulator accusing city officials of playing a financial shell game to cut costs on a $150 million municipal bond sale in 2009.

In a 2013 complaint, the SEC alleged that the city and Miami's former budget director, Michael Boudreaux, violated the anti-fraud provisions of federal securities law.

Both the city and Boudreaux denied any wrongdoing in their closing arguments. The SEC is seeking an injunction against both parties as well as unspecified financial penalties.

The lawsuit alleges both the city and Boudreaux failed to tell credit rating agencies and investors they had churned money through various city accounts in an attempt to keep its general fund above a minimum, city-mandated, $100 million mark.

"They were playing a shell game of such epic proportions that years later, to unwind this, the city had to take money from people who serve, firemen, policemen, in order to replenish those capital projects," Amie Riggle Berlin, senior trial counsel for the SEC said in her closing argument.

"They failed to disclose anywhere in their financial statements that the projects from which they had taken money were operating at a deficit," Berlin said.

According to the SEC's complaint, in 2007 Boudreaux wrongly told city officials that certain money he planned to transfer into the city's general fund were unused.

"The city was told the transfer was from unused funds that could be transferred back to the general fund," said Scott Cole, a lawyer representing the city of Miami.

"The money was in plain sight not in some offshore bank account. He attached his work papers to his recommendation, that's not fraud," Cole told said.

Boudreax was fired in 2010.

His lawyer, Benedict Kuehne, said he was made a scapegoat.

"He's not a CPA. He relied on city personnel. He relied on CPAs. He used the information they had, that he obtained and did his level-headed analysis," Kuehne said, adding: "He put nothing in his pocket other than the city salary he earned."

Among the transfers redirected from capital projects into the city's general fund as its overall finances were deteriorating were $13.1 million in fiscal 2007 followed by a similar, $24.4 million-transfer the following fiscal year, according to court documents.

The SEC also implicated the city itself after elected leaders voted to approve Boudreaux's transfers and administrators signed off on audited financial reports that were later presented to ratings

agencies.

This is not the first time the SEC has sought legal recourse against Miami. The city is still under a 2003 cease-and-desist order tied to a series of 1995 bond issues that also violated anti-fraud provisions of the federal securities laws.

Municipalities across the nation are watching closely as this trial is among the first where a public employee is being personally charged for actions taken in their professional positions.

By REUTERS

SEPT. 13, 2016, 5:57 P.M. E.D.T.

(Reporting By Zachary Fagenson in Miami; Editing by Daniel Bases, Bernard Orr)

Copyright © 2024 Bond Case Briefs | bondcasebriefs.com