

Bond Case Briefs

Municipal Finance Law Since 1971

Port Authority Will Pay \$400,000 to Settle Federal Securities Charges.

The Port Authority of New York and New Jersey violated federal securities laws when it borrowed money to repair a bridge and roads in New Jersey that its lawyers thought were beyond its bounds, securities regulators said on Tuesday.

The agency, which operates bridges, tunnels and airports in and around New York City, agreed to pay a \$400,000 fine in a settlement with the Securities and Exchange Commission. The commission, which polices sales of stocks and bonds, said the Port Authority had admitted to wrongdoing in the matter, making it the first issuer of municipal bonds to do so.

But John J. Degnan, the chairman of the Port Authority, said the agency had not admitted to willful wrongdoing, only to negligence in its failure to disclose all of the risks faced by buyers of its bonds. "I was shocked when I saw the release," Mr. Degnan said, referring to the commission's announcement of the settlement.

A lawyer representing the Port Authority, James Sottile, sent a letter to the commission demanding a retraction of its news release.

Mr. Degnan also questioned the timing of the announcement, which came just as Gov. Chris Christie of New Jersey was delivering his State of the State address in Trenton. For Mr. Christie, it was another case of intrigue involving a bridge that could tarnish his legacy.

A spokesman for the governor referred a request for comment to the Port Authority.

The federal investigation stemmed from Mr. Christie's decision in 2010 to halt the construction of a commuter train link across the Hudson River to New York City, a project that was known as the ARC tunnel. Mr. Christie wanted \$1.8 billion of Port Authority funds redirected from the canceled tunnel to repairs on the state-owned Pulaski Skyway bridge and other road projects in northern New Jersey.

But Port Authority lawyers were leery of that proposed shift, saying the alternative projects did not fall within the agency's purview. An internal Port Authority memo at the time said, "There is no clear path to legislative authority to undertake such projects."

One big problem was that the projects involved roadways that carry vehicles to and from the Holland Tunnel, which connects New Jersey to Lower Manhattan. The Port Authority operates the tunnel, but according to one of its internal memos, there was no law that allowed it to "construct, own, maintain or operate any of the approaches to the Holland Tunnel."

However, it was permitted to work on roads leading to the Lincoln Tunnel, which connects New Jersey to Midtown Manhattan and which the agency also operates.

So, before the Port Authority's commissioners voted in March 2011 to authorize the road projects, the agency adopted the view that the roads in question also led to the Lincoln Tunnel. An internal

memo proposed a “traffic study” to bolster that position.

That was more than two years before allies of Mr. Christie at the Port Authority told tales of another traffic study. That study was the purported reason for the September 2013 closing of lanes of traffic that led to tollbooths at the George Washington Bridge.

The lane closings, which came to be known as Bridgegate, resulted in the convictions last year of Bill Baroni, who was Mr. Christie’s top executive appointee at the Port Authority, and Bridget Anne Kelly, a former deputy chief of staff to the governor. Another of Mr. Christie’s allies at the Port Authority, David Wildstein, pleaded guilty over his central role in the closings.

Neither the commissioners of the Port Authority nor investors were ever informed of the internal debate over the legality of using Port Authority money for the road projects, the securities commission said. From 2012 to 2014, the Port Authority raised \$116 million through bond sales whose proceeds were intended for the road projects, the commission added.

“The Port Authority represented to investors that it was authorized to issue bonds while not disclosing significant known risks that its actions were not legally permitted,” said Andrew M. Calamari, director of the commission’s New York office.

THE NEW YORK TIMES

By PATRICK McGEEHAN

JAN. 10, 2017