

Bond Case Briefs

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BONDS - NEW JERSEY

Bondholder Committee on behalf of Owners of Quad Cities Regional Economic Development Authority First Mortgage Revenue Bonds Series 2013A v. Sauk Valley Student Housing, LLC

United States District Court, D. New Jersey - July 11, 2018 - Slip Copy - 2018 WL 3405263

Plaintiff filed action arising out of the allegedly fraudulent sale and improper management of Series A bonds used to fund a student housing project in Illinois.

Defendants were alleged to have participated in the creation of a fraudulent offering statement and to have violated the terms of a Trust Indenture and Continuing Disclosure Agreement while carrying out their duties as trustee.

Plaintiff was identified in the action as “The Bondholder Committee, on behalf of the Bondholders.” The Complaint only mentioned the committee in one paragraph, simply providing the Committee’s principal place of business. The attached verification identified a Victor Polakoff as the head of the committee but never stated that he is a bondholder.

Defendants argued that Plaintiff lacked standing because it failed to plead that an identified member of the committee would have standing to sue in his own right.

The District Court agreed, holding that it could not consider Plaintiff’s claims until the Complaint’s facial deficiencies were cured.

“The Complaint reveals no information about the committee and is devoid of references to any committee member other than Victor Polakoff, “Head of the Bondholder Committee.” Even if Plaintiff’s Complaint sufficiently pled a claim, which the Court need not reach here, it does not allege that Polakoff – or any committee member – purchased the Bonds in question. Absent an allegation that bonds were purchased by a party in suit, damages stemming from their fraudulent sale and improper management are impossible. A plaintiff’s lack of standing prevents a court from adjudicating the underlying claims and presents a practical problem, i.e., without knowing who has been injured, a court cannot provide relief. Because Plaintiff has failed to establish that it has standing to sue, the Court must dismiss Plaintiff’s Complaint.”

The Court granted Plaintiff’s request for leave to amend.