

# **Bond Case Briefs**

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## **SEC Sues City of Rochester, Says Investors Not Informed of 'Serious Financial Difficulties'**

The U.S. Securities and Exchange Commission Tuesday [announced a major complaint](#) against the city of Rochester, former Finance Director Rosiland Brooks-Harris and former Rochester City School District Chief Financial Officer Everton Sewell, accusing them of misleading investors during a \$119 million bond offering in 2019.

The bond offering came after the finance officials allegedly knew of a massive budget shortfall in RCSD, but before it became public.

"We allege that the Rochester City School District's financial health was important to investors, who were counting on the district as the expected source of repayment," LeeAnn Ghazil Gaunt, chief of the Enforcement Division's Public Finance Abuse Unit, said in a statement. "These defendants failed to inform investors of the serious financial difficulties the district was experiencing at the time of the offering."

The SEC is also charging Rochester's municipal advisor, Capital Markets Advisors, LLC, and principals Richard Ganci and Richard Tortora with false statements and misleading investors.

The city immediately objected to the SEC action.

"We have made it clear the city does not have access to or authority over the finances of the Rochester City School District, and therefore cannot be responsible for the district withholding financial information," it said in a statement.

RCSD is fiscally dependent on the city, meaning the city is ultimately responsible for approving its budget and seeking loans when necessary. The question is whether Brooks-Harris or other city officials were aware of RCSD's pending budget crisis when they went out for the bond.

Sewell resigned in October 2019. According to the SEC, he has already settled the charges against him, including by paying a \$25,000 fine.

Brooks-Harris pleaded guilty to a misdemeanor campaign finance-related charge in 2021 in a case related to former mayor Lovely Warren's re-election campaign.

After the RCSD budget shortfall became public in 2019, Warren sought unsuccessfully to sever the city's financial ties from the school district.

Within the school district, the budget shortfall led ultimately to hundreds of mid-year layoffs, the abrupt resignation of Superintendent Terry Dade and the appointment of a state academic and fiscal monitor, Shelley Jallow.

### **The lawsuits**

The lawsuits from the SEC — Sewell is also sued independently — paint a picture of a city school district awash in overspending as officials tried to disguise the facts of a steadily deteriorating financial condition. In 2018, the court papers say, the district's overspending accelerated to keep pace with salaries. The costs led to a \$63 million drop in cash for the 2019 fiscal year.

The district turned to short-term loans from the city to try to establish some financial stability.

The lawsuit alleges that Sewell knew of the district's precarious financial conditions in June and July of 2019, with budget deficits estimated between \$25 million and \$50 million, but did not diligently inform others of the troubles.

"Sewell did not inform anyone outside of the District's finance department of the projected budget deficits until late August 2019, after the bonds had been issued," the lawsuit alleges.

The lawsuit also maintains that Sewell was not forthright with a credit rating agency at a June 2019 meeting.

"Sewell also misrepresented the reason for the District's \$63 million cash decline," the lawsuit states, "When the ratings analyst asked Sewell to explain how the District was predicting using only the budgeted \$15 million in fund balance when cash had declined by \$63 million, Sewell said the decline was due to accounting treatment and timing issues in the receipt of cash.

"In fact, as Sewell was aware, the cash decline was due to the District's overspending on salaries, among other things.."

by Justin Murphy & Gary Craig

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