

Bond Case Briefs

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Miami Settlement Unlikely.

The Securities and Exchange Commission, Miami, Fla., and the city's former budget director agree they are unlikely to settle a bond-related securities fraud case and that the trial will be lengthy, according to a joint scheduling report they filed with a federal court in Miami.

The scheduling document, filed Wednesday with the U.S. District Court for the Southern District of Florida, indicates that attorneys for all parties involved agree a trial is likely to take more than 10 days.

The case stems from an SEC lawsuit filed July 19, charging Miami and its ex-budget director Michael Boudreaux with three counts of securities fraud for making "numerous material misrepresentations and omissions to investors" in 2009 bond offering documents and financial statements about interfund budget transfers that were designed to "mask" a deficit in the city's general fund.

Lawyers representing Miami have denied wrongdoing and vowed to "vigorously defend" the city against the SEC suit. Those involved see little chance the matter will be settled without a trial, according to the scheduling report.

"The parties have already had discussions regarding the resolution of this matter and will continue to discuss the likelihood of settlement," the filing states. "At this time they do not believe a settlement of this case is likely."

Bond lawyers view the case as an important precedent for SEC enforcement against municipal issuers, as it is the first time the commission has charged a municipality with violating a previous cease and desist order. Miami had agreed to a cease and desist in 2003 for similar fraudulent conduct. The case also represents a rare case of the SEC seeking a civil financial penalty against a municipality, something the commission has been historically hesitant to do because the burden of such penalties ultimately falls on taxpayers.

The fact that the SEC charged Boudreaux also signals the commission's seriousness in holding individual public officials responsible for securities law violations, something SEC commissioners have called for but which has frequently not occurred.

The proposed deadlines included in the scheduling report indicate that the matter could play out over a period of almost two years. The filing includes a Sept. 30 deadline for defendants to file responses to the SEC complaint, including motions to dismiss the case. If the scheduling holds, the SEC would then have until Nov. 1 to file its own replies to those responses and motions and the trial period would commence on June 1, 2015.

Christopher Martin and Amie Berlin signed the document as senior trial counsel for the SEC. Scott Cole of Cole, Scott, & Kissane, P.A. signed for Miami. Benedict Kuehne of Benedict P. Kuehne, P.A. represents Boudreaux.

by: KYLE GLAZIER

