# Bond Case Briefs

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## Ballard Spahr: SEC Charges Charter School Operator with Disclosure Violations, Suggests It May Charge Individuals.

This publication was written by members of Ballard Spahr's Municipal Securities Regulation and Enforcement Group.

The U.S. Securities and Exchange Commission recently charged a Chicago charter school operator with defrauding investors in a $37.5 million bond offering by failing to disclose transactions that presented conflicts of interest. According to the SEC's complaint, UNO Charter School Network, Inc. (UNO) failed to disclose a multimillion-dollar construction subcontract with a company owned by a brother of UNO's Chief Operations Officer, as well as the potential impact of this transaction on UNO's ability to repay its bond obligations. This announcement is notable both in itself and for what may be forthcoming: SEC officials have stated that the agency may bring charges against individuals in the ongoing investigation.

UNO has settled the complaint without admitting to or denying the charges. The settlement can be instructive for issuers and underwriters determining whether to self-report under the SEC's Municipalities Continuing Disclosure Cooperation Initiative (MCDC).

The MCDC, spearheaded and publicized by the SEC's Chicago Regional Office, which is handling the case against UNO, allows issuers and underwriters to voluntarily report materially inaccurate statements made in offering documents regarding prior continuing disclosure obligations in exchange for lesser sanctions. When determining whether to self-report, however, an issuer or underwriter must determine whether its prior disclosure lapses were material—a determination that can be difficult to make, particularly in a realm involving mostly settled actions.

In announcing its charges against UNO, however, the Chicago Regional Office demonstrated that there is a category of disclosures that it considers material—those relating to the issuer's ability to repay the bonds. As the SEC noted, "[i]nvestors had a right to know that UNO's transactions with related persons jeopardized its ability to pay its bonds because they placed the grant money that was primarily funding the projects at risk." Determinations of whether to self-report under to the MCDC still must be made on a case-by-case basis, but this case may provide a guidepost regarding the SEC's view on materiality.

A more detailed analysis of the complaint is available here.

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Ballard Spahr's Municipal Securities Regulation and Enforcement Group helps municipal market participants navigate a rapidly evolving regulatory, investigative, and enforcement environment, enabling them to anticipate and address compliance issues and respond effectively to investigations when necessary. For more information, please contact John C. Grugan at 215.864.8226 or gruganj@ballardspahr.com or Christine O'Neil at 215.864.8228 or oneilc@ballarspahr.com.