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BOK Financial Sued Over Municipal Bond Deals.

The cases concern bond deals, including some settled last year with the SEC

BOK Financial is now facing two lawsuits over municipal bond deals, including some of the same bond deals that led to it to pay more than $1.6 million to settle charges from the Securities and Exchange Commission in September of last year.

Two groups of municipal bond investors are suing Tulsa-based bank holding company for aiding fraud, negligence and breaching its fiduciary duty in two separate, yet similar, lawsuits after its business partners in the bond deals, which financed purchasing or renovating senior living facilities, were charged with fraud.

The second civil suit, a class-action complaint, was filed in federal court Monday and is seeking in excess of $5 million in damages. The first lawsuit was filed in September in Tulsa County District Court and is seeking $5 million in damages.

In a statement Wednesday to the World on the second lawsuit, BOKF said, “We will vigorously defend the lawsuit and are confident we will prevail.”

Regarding the first lawsuit, the bank has said in SEC filings that it feels it has a valid defense and argued in court filings that the case should be put on hold and investors, including the plaintiffs, will be paid as part of a court-ordered payment plan.

In announcing the settlement, the SEC said the company failed in its “gatekeeper role” when it didn’t notify people who invested in the bonds that the manager of the bond offerings for the senior living facilities, Christopher Brogdon, was using emergency cash and not replenishing it.

As trustee for the bonds, the bank held the invested cash and was in charge of making sure the operators of the senior living facilities complied with the obligations of the debt, filings claim.

The most recent lawsuit alleges that three men, Brogdon, Todd Barker and Dwayne Edwards, used money from the bonds for unauthorized activities such as financing other projects and personal expenses, and that BOKF was required to alert investors and failed to do so.

BOKF said of the second lawsuit: “The only connection between BOKF and the two separate matters is that Mr. Brogdon sold the underlying assets to Mr. Edwards. The bank fulfilled all of its obligations as trustee for the Dwayne Edwards bonds in a timely fashion, provided prompt notices to the market and took prompt action to protect the bondholders. The lawsuit is without merit and misrepresents the facts in the Dwayne Edwards matter.”

Court filings allege that the bank’s primary point of contact with Brogdon was a former member of the bank’s corporate trust department and that employee knew of Brogdon’s actions but instead of notifying investors, chose to protect that the fees generated by Brogdon’s business. That employee was fired in 2015.

After the SEC settlement, the bank said in a statement: “The actions of a former employee in this matter are completely contrary to our guiding principles. Our board of directors and audit committee have worked with the SEC to create policies and procedures to prevent this from happening again.”

BOKF doesn’t expect that the first lawsuit will have an impact on its financial well-being according to SEC filings.

“Management has been advised by counsel that the Bank has valid defenses to the claims. The Bank expects the Court ordered payment plan will result in the payment of the bonds by the principals,” the bank said in its latest 10-K. “Accordingly, no loss is probable at this time and no provision for loss has been made. If the payment plan does not result in payment of the bonds, a loss could become probable. A reasonable estimate cannot be made at this time though the amount could be material to the Company.”

By Samuel Hardiman | Tulsa World

Posted: Thursday, March 16, 2017 12:00 am

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