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SEC Sues Muni Advisers in First Case Over Bank Fee Splitting.

- **Advisers failed to disclose deal to charter school clients**
- **Regulator charged Choice Advisors and two principals**

A firm that advises charter schools on bond issues was sued by the Securities and Exchange Commission for allegedly making an undisclosed fee-splitting agreement with an underwriter, in what the agency said was its first case of enforcing code-of-conduct rules ushered in after the 2008 financial crisis.

Choice Advisors LLC and its two principals, Matthias O'Meara and Paula Permenter, failed to disclose to their clients the conflicts of interest associated with "the illicit arrangement or their relationship" with an investment bank where they previously worked, the SEC said in a statement. Fee-splitting arrangements are prohibited in any bond deal where the municipal adviser provides advice to clients of the underwriter.

O'Meara and Permenter started the Texas- and Colorado-based Choice in 2018 to advise clients on bond sales. The two were employed by BB&T Securities LLC until that year, according to financial registration records. BB&T, which merged with SunTrust Bank in 2019 to form Truist Financial, wasn't charged by the SEC.

The SEC also alleged that O'Meara, while still employed at the investment bank, simultaneously served as a banker and as an adviser for two clients, a conflict that is at odds with an adviser's fiduciary duty. O'Meara allegedly took steps to increase the overall fees paid by the clients to enrich himself and Choice, costing one school about \$40,000 in additional fees, according to the SEC.

Conflicting Interests

"Schools and other municipal entities should be able to trust that municipal advisers are serving their clients' interests and not their own," LeeAnn Gaunt, chief of the SEC Enforcement Division's Public Finance Abuse unit, said in a statement.

Such financial advisory firms act on behalf of governments and nonprofits that are raising money in the bond market, seeking to ensure the clients get the best possible borrowing costs. That can put them in opposition to underwriters, which have an incentive to set the yields on bonds high enough so that they can easily be sold. The advisory business was subject to regulations under the Dodd-Frank law after states and governments were hammered by losses on risky bond deals that went haywire during the credit crash.

The SEC said that Choice and its principals also failed to register with the agency or Municipal Securities Rulemaking Board, as required under the law.

Permenter agreed to settle with the SEC without admitting or denying the allegations. She was censured and ordered to pay a \$26,000 penalty.

O'Meara and Choice, who didn't settle, were charged with violating the municipal adviser fiduciary duty, deceptive practices, fair dealing and registration provisions of the federal securities law. Paul Maco, an attorney at Bracewell who is representing O'Meara and Choice, didn't immediately respond to a request for comment. Kyle Tarrance, a spokesperson for Truist, declined to comment.

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By Martin Z Braun

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