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**MUNICIPAL ADVISORS - CALIFORNIA**

## Securities and Exchange Commission v. Choice Advisors, LLC

**United States District Court, S.D. California - October 7, 2024 - Slip Copy - 2024 WL 4469095**

Securities and Exchange Commission (SEC) brought a civil law enforcement action against municipal advisors Choice Advisors, LLC (Choice) and Matthias O'Meara (together, Defendants) and obtained a judgment that they violated securities laws and breached their fiduciary duties in providing services to their charter school clients.

The SEC then moved for final entry of judgment seeking injunctive relief, disgorgement, and penalties against Defendants.

The District Court held that:

- Defendants knew that they had entered into an agreement to split fees with the underwriter and that O'Meara was employed by both the underwriter and his school clients. Defendants were well aware that they lacked registration status while representing their charter school clients.
- Defendants acted with a culpable degree of scienter in their dealings with their two charter school clients and this factor weighed in favor of an injunction.
- In weighing the need to issue an injunction in this case, the Court would consider whether Defendants' violations were isolated or recurrent in nature.
- The Isolated or Recurrent Nature of the Violations – the second Murphy and Fehn factor – was either split evenly or weighed slightly in favor of a need for an injunction.
- As to the Recognition of the Wrongfulness of Conduct, Defendants continued to advance arguments that minimized their wrongful conduct and still did not fully appreciate the problematic nature of their actions and their disservice to their clients.
- Defendants' failure to appreciate the wrongfulness of their conduct also weighed in favor of an injunction
- As to Defendants' Continued Employment in Securities Industry, Defendants' planned to continue to provide municipal advisory services to school clients.
- The Court found that an injunction against Choice and O'Meara individually was appropriate and needful given their past disregard of their obligations and their continued failure to appreciate the full wrongful nature of their conduct.
- The Court granted the SEC's requests for disgorgement in the amount of $79,899 plus $27,559 in prejudgment interest from Choice and disgorgement in the amount of $133,149 plus $45,932 in prejudgment interest from O'Meara.
- The Court imposed civil penalties against Choice in the amount of $79,899 and against O'Meara in the amount of $133,149.

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