

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 58689 / September 30, 2008**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-13263**

**In the Matter of**

**STEPHEN R. MOYNAHAN,**

**Respondent.**

**ORDER INSTITUTING  
ADMINISTRATIVE AND CEASE-AND-  
DESIST PROCEEDINGS, MAKING  
FINDINGS, AND IMPOSING REMEDIAL  
SANCTIONS PURSUANT TO SECTIONS  
15(b), 15B(c)(4), AND 21C OF THE  
SECURITIES EXCHANGE ACT OF 1934**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15(b), 15B(c)(4), and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Stephen R. Moynahan (“Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions Pursuant to Sections 15(b), 15B(c)(4), and 21C of the Securities Exchange Act of 1934 (“Order”), as set forth below.

### III.

On the basis of this Order and Respondent's Offer, the Commission finds<sup>1</sup> that:

#### **Respondent**

1. Stephen R. Moynahan, age 61, resides in Villanova, Pennsylvania. From 1994 through 2004, Moynahan was president and chief executive officer of Dolphin & Bradbury, Incorporated. During the years Moynahan served as president, his ownership interest in the firm ranged from 33% to 50%. He held Series 7, 24, 52, 53 and 63 licenses. During the fall of 2004, after Bradbury's conduct described below came to light, Moynahan resigned from the firm.

#### **Other Relevant Entity and Individual**

2. Dolphin & Bradbury, Incorporated ("Dolphin & Bradbury") was a registered broker-dealer based in Philadelphia that specialized in the underwriting of municipal securities. Originally founded in 1940 as a partnership, Dolphin & Bradbury ceased doing business in 2006.

3. Robert J. Bradbury ("Bradbury"), age 62, resides in Chadds Ford, Pennsylvania. During the relevant time period, Bradbury was chairman, treasurer, and chief operating officer of Dolphin & Bradbury, and acted as an investment banker for the firm. From 1994 through 2004, Bradbury's ownership interest in the firm ranged from 33% to 50%, and was always equal to Moynahan's ownership interest. He held a Series 53 (municipal securities principal) license. Bradbury has approximately 40 years of experience in the underwriting of municipal bonds and related broker-dealer activities.<sup>2</sup>

#### **Summary**

4. This matter involves Moynahan's failure reasonably to supervise Bradbury, who engaged in a fraudulent scheme in which Bradbury offered and sold primarily to various Pennsylvania school districts a series of risky, short-term, tax-exempt notes underwritten by Dolphin & Bradbury to finance a speculative golf course project. Moynahan had no knowledge of Bradbury's fraudulent scheme. However, as president of Dolphin & Bradbury, Moynahan was generally responsible for firm supervision, and the firm's procedures expressly assigned certain supervisory duties to him. Moynahan failed to review the firm's written supervisory procedures, failed to establish, or delegate to anyone else responsibility for establishing, reasonable

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<sup>1</sup> The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

<sup>2</sup> In August 2006, the Commission filed a civil injunctive action against Bradbury and others in the U.S. District Court for the Eastern District of Pennsylvania with respect to his conduct in this matter. United States Securities and Exchange Commission v. Robert J. Bradbury, Dolphin & Bradbury, Incorporated, and Margaret B. Bradbury, relief defendant, Civil Action No. 06-CV-3435 (JF) (August 3, 2006).

supervisory procedures with respect to the firm's underwriting business, failed to adequately comply with many of the provisions of the written supervisory procedures that were in place, and failed to affirmatively delegate to anyone else responsibility for supervising Bradbury. Moreover, Moynahan failed to supervise the conduct of the municipal securities activities of Dolphin & Bradbury and Bradbury, in violation of Municipal Securities Rulemaking Board ("MSRB") Rule G-27.

### **Bradbury's Violations**

5. From February 1998 through August 2001, Bradbury through Dolphin & Bradbury underwrote a series of risky, short-term, tax-exempt notes issued to finance a speculative golf course project known as Whitetail located in central Pennsylvania (the "Whitetail Notes"). Unable to find sufficient suitable investors, from March 1999 through at least June 2004, Bradbury through Dolphin & Bradbury repeatedly sold the Whitetail Notes almost exclusively to four Pennsylvania school districts.

6. Under Pennsylvania law, the school districts were restricted to investing public funds solely in categories of conservative investments that did not include the Whitetail Notes. Each of the school district's account opening documents at Dolphin & Bradbury indicated that its investment goals fell within the most conservative category. Thus, the Whitetail Notes were both an impermissible and unsuitable investment for the school districts.

7. At no point did Bradbury or Dolphin & Bradbury ever disclose to the school districts the material risks associated with the Whitetail Notes, or obtain or review any official statement or other disclosure document with respect to the Whitetail Notes, as mandated by Exchange Act Rule 15c2-12.

8. Each of the relevant school district accounts was labeled non-discretionary, such that Bradbury needed to get explicit authorization from a school district representative before executing a trade. In fact, it was Dolphin & Bradbury's policy not to accept discretionary accounts. Nevertheless, Bradbury developed a practice of buying and selling securities on behalf of the school districts without first discussing the transactions with any school district representatives.

9. Hummelstown General Authority ("HGA"), as the issuer of the Whitetail Notes since December 1999, required Bradbury and Dolphin & Bradbury to sell the Whitetail Notes only to sophisticated investors that possessed such knowledge and experience in financial and business matters that they were capable of evaluating the merits and risks of the prospective investment. In August 2001, HGA tightened these restrictions further, obligating Bradbury and Dolphin & Bradbury to sell \$14.165 million of 2001 Whitetail Notes only to accredited investors. To conceal his fraudulent scheme, Bradbury repeatedly executed and delivered false and misleading documents to HGA and others claiming that the purchasers of the Whitetail Notes were sophisticated and/or accredited investors, such that the offer and sale of the Whitetail Notes

purportedly complied with the “limited placement” exemption to the general requirement for a disclosure document, as set forth in subsection (d)(1)(i) of the Exchange Act Rule 15c2-12.

10. In December 2002, as part of a larger effort to terminate the manager of the golf course, Bradbury executed a false and misleading letter addressed to the trustee for the Whitetail Notes to the effect that Dolphin & Bradbury was the registered owner of at least twenty-five percent of the 2001 Whitetail Notes. This letter directed the trustee to declare a technical default of the 2001 Whitetail Notes, which the trustee dutifully did by January 2003. From March 2003 through May 2004, Bradbury repeatedly provided the trustee with false and misleading documents to the effect that Dolphin & Bradbury either owned, or was the owner’s representative of, precisely \$12.045 million of the 2001 Whitetail Notes. These false and misleading documents were sent to the Trustee from Dolphin & Bradbury by Bradbury via various facsimile and electronic mail messages.

11. In late August 2003 Bradbury, through Dolphin & Bradbury, underwrote \$850,000 of subordinated notes issued by HGA so that HGA could make interest payments on the Whitetail Notes due on September 1, 2003 and March 1, 2004. These 2003 subordinated notes were held in Dolphin & Bradbury’s inventory.

12. In September 2004, the \$14.165 million of 2001 Whitetail Notes became due, together with \$424,950 of interest. The Whitetail Notes defaulted, generating net losses of over \$10 million.

13. Bradbury’s conduct, as described above, violated Section 17(a) of the Securities Act of 1933 (the “Securities Act”), Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and MSRB Rule G-17, and aided and abetted violations by Dolphin & Bradbury of Sections 15(c)(2), 15B(c)(1) and 17(a) of the Exchange Act and Rules 15c2-12, 17a-3, and 17a-4 thereunder.

#### **Moynahan’s Failure to Supervise Bradbury**

14. In 1997, Dolphin & Bradbury’s written supervisory procedures designated Moynahan as the principal responsible for the supervision of the municipal securities activities of the firm. This designation was, in part, intended to satisfy the requirements of Rule G-27 (“Supervision”) adopted by the MSRB. According to those written supervisory procedures, although others had certain supervisory duties, Moynahan was responsible for, among other matters: (a) reviewing the procedures on an annual basis to ensure they were adequate; (b) periodically reviewing customer accounts to detect and prevent irregularities and abuses; (c) assigning for review and supervising the due diligence investigation conducted by the firm with respect to each underwriting; (d) reviewing and endorsing customer transactions and correspondence by initialing the daily trade blotter and copies of correspondence; and (e) monitoring for unauthorized trading by reviewing the daily trade blotter and new issue underwritings. These procedures were in part designed to detect unsuitable trades. Moynahan did not effectively

fulfill these supervisory duties nor did he affirmatively delegate any of these supervisory duties to other individuals at the firm.

15. Moynahan never reviewed Dolphin & Bradbury's written supervisory procedures for the purpose of determining whether they were adequate. Moreover, Moynahan failed to supervise Bradbury or assign anyone else to supervise him.

16. Notwithstanding the written supervisory procedures, Moynahan failed to periodically review customer accounts to detect and prevent irregularities and abuses, and no such reviews of the school districts' accounts ever occurred. Given that the Whitetail Notes would have been unexpected in the school districts' accounts, such review could reasonably have been expected to detect Bradbury's fraud.

17. Moynahan did routinely review the daily trade blotter (which was part of a larger printout from Dolphin & Bradbury's clearing firm known as the "morning run") to see what kind of business was being done and at what profit levels. However, the daily trade blotter portion of the morning run contained insufficient information to determine whether the transactions were either authorized or suitable. Another portion of the morning run contained an investment objective exception report that explicitly flagged the purchase of the Whitetail Notes as potentially unsuitable investments for the school districts. Although Moynahan was responsible for reviewing exception reports, he did not routinely read the investment objective exception report, and therefore did not notice these repeated indications of a potential problem with the Whitetail Notes.

18. Moynahan failed to establish any system for implementing any policies or procedures with respect to conducting due diligence investigations. He also failed to establish any policies or procedures to establish that securities offerings underwritten by the firm purporting to comply with the "private placement" exemption set forth in Rule 15c2-12(d)(1)(i) were sold only to purchasers that the firm reasonably believed had such knowledge and experience in financial and business matters that they were capable of evaluating the merits and risks of the prospective investment without a disclosure document. To the contrary, Moynahan believed that it was appropriate for each investment banker at Dolphin & Bradbury, including Bradbury, to operate independently and without supervision. Consequently, neither Moynahan nor any other individual at Dolphin & Bradbury reviewed Bradbury's due diligence investigations in connection with the underwritings of the Whitetail Notes, including any of the written representations made by Bradbury concerning the purchasers or any of Bradbury's correspondence which clearly flagged the technical default of the 2001 Whitetail Notes.

19. Moynahan failed to enforce Dolphin & Bradbury's written supervisory procedures requiring the retention of all correspondence. Consequently, some critical communications concerning the Whitetail Notes were neither retained nor available for review.

20. Moynahan failed to establish any supervisory procedures to monitor for compliance with the firm's policy of rejecting discretionary accounts. This supervisory deficiency facilitated Bradbury's scheme to conceal the discretionary nature of the school district accounts by, among other matters, falsifying the relevant order tickets. Dolphin & Bradbury's order tickets for the school district trades, prepared by Bradbury, did not accurately reflect the fact that Bradbury exercised discretion with respect to the purchase and sale of the Whitetail Notes.

### **Legal Discussion**

21. The president of a corporate broker-dealer is responsible for compliance with all of the requirements imposed on his firm unless and until he reasonably delegates particular functions to another person in that firm, and neither knows nor has reason to know that such person's performance is deficient. Donald Sheldon v. Securities and Exchange Commission, 45 F.3d 1515, 1517 (11th Cir. 1995) (internal citations omitted). Supervisors who fail to supervise the conduct of a broker-dealer's municipal securities business and the municipal securities business of its associated persons to ensure compliance with the applicable rules violate MSRB Rule G-27. Legg Mason Wood Walker Inc., Exchange Act Release No. 44407, A.P. File 3-10068, 2001 SEC LEXIS 1120 (June 11, 2001)(settled matter).

22. As a result of the conduct described above, Moynahan failed reasonably to supervise Bradbury with a view to detecting and preventing him from violating Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and MSRB Rule G-17, within the meaning of Section 15(b)(4)(E) of the Exchange Act. Moreover, as a result of the conduct described above, Moynahan also failed reasonably to supervise Bradbury with a view to detecting and preventing him from aiding and abetting Dolphin & Bradbury's violations of Sections 15(c)(2), 15B(c)(1), and 17(a) of the Exchange Act, and Rules 15c2-12, 17a-3, and 17a-4 thereunder.

23. As a result of the conduct described above, Moynahan's supervisory lapses also constituted a willful violation of MSRB Rule G-27 in that he failed to supervise the conduct of Dolphin & Bradbury's and Bradbury's municipal securities activities to ensure compliance with Section 17(a) of the Securities Act, Sections 10(b), 15(c)(2), 15B(c)(1) and 17(a) of the Exchange Act and Rules 10b-5, 15c2-12, 17a-3, and 17a-4 thereunder, and MSRB Rule G-17.<sup>3</sup>

24. In determining to accept the Offer, the Commission considered the cooperation that Moynahan afforded the Commission staff.

### **Undertaking**

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<sup>3</sup> A willful violation of the securities laws means merely "that the person charged with the duty knows what he is doing." Wonsover v. SEC, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting Hughes v. SEC, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." Id. (quoting Gearhart & Otis, Inc. v. SEC, 348 F.2d 798, 803 (D.C. Cir. 1965)).

25. Moynahan shall undertake to provide to the Commission, within ten (10) days after the end of the six month suspension period described in Section IV. below, an affidavit that he has complied fully with the sanctions described therein. Such affidavit shall be submitted under cover letter that identifies Stephen R. Moynahan as a Respondent in these proceedings, and the file number of these proceedings, and is hand-delivered or mailed to Elaine C. Greenberg, Associate Regional Director, Philadelphia Regional Office, Securities and Exchange Commission, 701 Market Street, Suite 2000, Philadelphia, PA 19106.

#### IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Moynahan's Offer.

Accordingly, pursuant to Sections 15(b), 15B(c)(4), and 21C of the Exchange Act, it is hereby ORDERED that:

A. Moynahan shall cease and desist from committing or causing any violations and any future violations of MSRB Rule G-27.

B. Moynahan be, and hereby is barred from association in a supervisory or proprietary capacity with any broker, dealer or municipal securities dealer.

C. Any reapplication for association by Moynahan will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against Moynahan, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

D. Moynahan be, and hereby is, suspended from association with any broker, dealer or municipal securities dealer for a period of six months, effective on the second Monday following the entry of this Order.

E. Moynahan shall, within ten (10) days of the entry of this Order, pay disgorgement in the amount of \$1.00 and a civil money penalty in the amount of \$140,000 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 and 31 U.S.C. 3717. Payment shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432

General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies Moynahan as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Elaine C. Greenberg, Associate Regional Director, Philadelphia Regional Office, Securities and Exchange Commission, 701 Market Street, Suite 2000, Philadelphia, PA 19106.

F. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, a Fair Fund is created for the disgorgement, interest and penalties referenced in paragraph E above. Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Moynahan agrees that he shall not, after offset or reduction in any Related Investor Action based on Moynahan's payment of disgorgement in this action, argue that he is entitled to, nor shall he further benefit by offset or reduction of any part of Moynahan's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Moynahan agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Moynahan by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

G. Moynahan shall comply with the undertaking enumerated in Section III.25 above.

By the Commission.

Florence E. Harmon,  
Acting Secretary