

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10334 / April 5, 2017

SECURITIES EXCHANGE ACT OF 1934
Release No. 80376 / April 5, 2017

INVESTMENT COMPANY ACT OF 1940
Release No. 32591 / April 5, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17901

In the Matter of

**Lawson Financial Corporation
and Robert Lawson,**

Respondents.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTION 8A OF THE
SECURITIES ACT OF 1933, SECTIONS 15(b),
15B(c) AND 21C OF THE SECURITIES
EXCHANGE ACT OF 1934, AND SECTION
9(b) OF THE INVESTMENT COMPANY ACT
OF 1940, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS AND A
CEASE-AND-DESIST ORDER**

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 Section 8A of the Securities Act of 1933 (“Securities Act”), and Sections 15(b), 15B(c) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Lawson Financial Corporation (“LFC”), and that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act, Sections 15(b), 15B(c) and 21C of the Exchange Act, and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Robert Lawson (“Lawson”) (collectively, “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”), 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 them and the subject matter of these proceedings, which are admitted, and as to Lawson, except as provided herein in Section V, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act, Sections 15(b), 15B(c) and 21C of the Exchange Act, and Section 9(b) of the Investment Company Act, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondents’ Offers, the Commission finds¹ that:

Summary

1. This matter involves violations of certain antifraud provisions of the federal securities laws by LFC, a registered broker-dealer, as well as Lawson, its founder and CEO, in connection with LFC’s underwriting of a series of fraudulent conduit bond offerings for the benefit of Christopher Brogdon (“Brogdon”), which raised millions of dollars for Brogdon’s healthcare-related projects throughout the Southeastern and Midwestern United States. LFC, primarily through Lawson and an LFC investment banker who also was underwriter’s counsel (“Banker A”), conducted inadequate due diligence on Brogdon’s bond offerings and, as a result, failed to form a reasonable basis for believing the truthfulness of material statements in the official statements for the offerings, including statements regarding the Brogdon-controlled borrowers’ compliance with prior continuing disclosure undertakings. LFC then sold the bonds to its retail customer base and other broker-dealers.

2. From 2010 to 2014 (the “Relevant Period”), LFC served as underwriter for 13 Brogdon conduit bond offerings through which Brogdon raised more than \$87 million (the “Brogdon Bond Offerings”). In the Brogdon Bond Offerings, which were unrated, the proceeds from the sale of the bonds were to be used to undertake a particular project—the construction, acquisition, or renovation of a facility—for the benefit of a borrower controlled by Brogdon, and the borrower would undertake to provide certain continuing disclosures. In connection with these offerings, Brogdon rarely caused the borrower to provide to the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access system (“EMMA”) the annual financial information for the borrower required by the related continuing disclosure undertaking.² Nevertheless, Brogdon, through the Brogdon-controlled borrowers, represented in bond offering documents that

¹ The findings herein are made pursuant to the Offers and are not binding on any other person or entity in this or any other proceeding.

² In addition, Brogdon misappropriated offering proceeds and pledged revenues for the Facilities that were the subject of the offerings to fund his lavish lifestyle, to pay unrelated business expenses, and to pay investors in unrelated offerings. *See SEC v. Christopher Freeman Brogdon, et al.*, 15 Civ. 8173 (KM) (D.N.J.).

the Brogdon-controlled borrower for such bond offering had not failed to comply with any prior municipal securities continuing disclosure undertaking. These representations were false and misleading because they did not provide any information to investors regarding the history of persistent and material breaches of other Brogdon-controlled borrowers to comply with municipal securities continuing disclosure requirements and failed to provide investors with material facts they would need to know in order to evaluate the likelihood that a particular Brogdon-controlled entity would comply with its continuing disclosure undertaking.

3. LFC, in its role as underwriter for the Brogdon Bond Offerings, conducted inadequate due diligence on the Brogdon Bond Offerings. LFC, through Lawson and Banker A, conducted only a cursory inquiry into the information provided by Brogdon, his representatives, and other parties to the financing, and relied upon oral assurances about the performance of Brogdon-controlled borrowers' facilities subject to continuing disclosure undertakings with respect to prior bond offerings despite being aware of numerous red flags. This lack of due diligence deprived both initial purchasers and both buyers and sellers in secondary market transactions of material information related to the offerings and allowed Brogdon to perpetuate his fraud.

4. In addition, LFC entirely failed to obtain a written continuing disclosure undertaking from Brogdon for an April 2013 offering as required under Exchange Act Rule 15c2-12(b)(5)(i), despite the representation that one exists in that offering's official statement.

5. As a result of the conduct described above, LFC willfully violated Sections 17(a)(2) and (3) of the Securities Act and Section 15(c)(2) of the Exchange Act and Rule 15c2-12 thereunder, and Lawson willfully violated Sections 17(a)(2) and (3) of the Securities Act and willfully aided and abetted and caused LFC's violation of Section 15(c)(2) of the Exchange Act and Rule 15c2-12 thereunder.

Respondents

6. **LFC** is a broker-dealer headquartered in Phoenix, Arizona. LFC has been registered with the Commission as a broker-dealer since 1984. LFC was also a member of the Financial Industry Regulatory Authority ("FINRA") until it was expelled on February 2, 2017. LFC remains registered with the Commission and the Municipal Securities Rulemaking Board ("MSRB") as a municipal adviser, though it no longer registered as a municipal securities dealer and is no longer operating. LFC is wholly-owned by Pamela Lawson, Lawson's wife. LFC conducted a general securities business with an emphasis on the underwriting and sale of municipal securities. During the Relevant Period, LFC served as the primary underwriter for the Brogdon Bond Offerings.

7. **Lawson**, age 69, resides in Paradise Valley, Arizona. Lawson is the Founder, President, Chief Executive Officer, and Chief Compliance Officer of LFC. Lawson has known Brogdon for more than 30 years and worked on underwriting offerings for Brogdon-controlled borrowers since at least 1992. Lawson held Series 7, 40, and 63 licenses. Lawson was barred from associating with any FINRA member on February 2, 2017.

Other Relevant Individuals

8. **Brogdon**, age 67, resides in Atlanta, Georgia. Brogdon has been in the nursing home, assisted living, and retirement community business for more than 25 years. In 1986, Brogdon was censured, fined, and barred from association by the National Association of Securities Dealers after he was found to have effected transactions in securities while failing to maintain adequate net capital and, while in net capital deficiency, withdrawing cash and securities investments from the broker-dealer's accounts. Prior to 1986, Brogdon held Series 1, 24, and 53 licenses. Pursuant to his settlement with the Commission and the judgment entered in *SEC v. Christopher Freeman Brogdon, et al.*, No. 15 Civ. 8173 (KM) (D.N.J.), Brogdon is in the process of repaying more than \$86 million to investors, including the investors in the Brogdon Bond Offerings that remain outstanding.

9. **BOKF, NA** ("BOKF"), doing business as Bank of Oklahoma, N.A., is a national banking association established in 1910 with its principal place of business in Tulsa, Oklahoma. BOKF is a registered municipal securities dealer and was a registered municipal advisor until September 2015. BOKF served as indenture trustee for all 13 of the Brogdon Bond Offerings. On September 9, 2016, the Commission instituted settled cease-and-desist proceedings against BOKF related to the Brogdon Bond Offerings. *See* BOKF, NA, Securities Act Release No. 10204, Exchange Act Release No. 78794, A.P. File No. 3-17533 (Sept. 9, 2016).

Respondents' Underwriting of the Brogdon Bond Offerings

10. Lawson has been in the business of underwriting conduit municipal bonds for nursing home and assisted living facilities since 1972. Since 1984, when Lawson founded LFC, LFC has underwritten more than 200 conduit municipal bond offerings related to nursing home and assisted living facilities.

11. Lawson was the head of underwriting at LFC for the Brogdon Bond Offerings. Banker A, an investment banker at LFC who worked alongside Lawson, served as a banker and LFC's underwriter's counsel for 12 of the 13 Brogdon Bond Offerings, including every offering from 2010 through 2013. Lawson was Brogdon's primary point of contact at LFC, and Lawson signed all of the bond purchase agreements on behalf of LFC.

12. For over 25 years, Brogdon had been in the business of purchasing, constructing, renovating, leasing, managing, and selling nursing homes, assisted living facilities, and retirement housing ("Facilities") in the Southeastern and Midwestern United States. Brogdon financed these projects through the issuance of securities—conduit municipal bond offerings, certificates of participation in prior bond offerings, and private placements—as well as bank loans. From 1992 to 2014, Brogdon acquired or renovated at least 61 Facilities through 55 separate securities offerings totaling more than \$190 million. Generally speaking, Brogdon's business model was to buy distressed properties, renovate them, and sell them within four to five years.

13. In a conduit municipal revenue bond offering, a municipal entity technically serves as the issuer but issues the bonds on behalf of a “conduit” borrower such as a private college, hospital, or nursing home. The conduit borrower then agrees to make payments to bondholders from the revenues generated by the underlying facility.

14. As described above, in the typical Brogdon Bond Offering, which was unrated, the proceeds from the sale of the bonds were to be used to undertake a particular project—the construction, acquisition, or renovation of a Facility—for the benefit of a Brogdon-controlled borrower. The Brogdon-controlled borrower, not the issuer, was obligated to make debt service payments to bondholders. To do so, the Brogdon-controlled borrower pledged the Facility and its revenues as security. Certain Brogdon Bond Offerings also included a personal guarantee from Brogdon, his wife, or a family limited liability company. The Brogdon-controlled borrower also entered into the continuing disclosure undertaking for the benefit of bondholders to provide continuing disclosures to EMMA.

15. The Brogdon Bond Offerings were brought to market through negotiated underwritings where LFC acted as the sole underwriter. As underwriter, LFC assisted in designing the plan of finance and bond structure, drafting the bond documents, conducting due diligence, and marketing the bonds to investors. As compensation for its underwriting services, LFC bought the bonds at a discount to the price at which the bonds were offered and sold to investors. LFC also received a separate “marketing fee” for its efforts to sell the bonds to its customers.

The Continuing Disclosure Agreements for the Brogdon Bond Offerings

16. Pursuant to Exchange Act Rule 15c2-12, before purchasing or selling municipal securities in connection with an underwriting, an underwriter is required to reasonably determine that an issuer or obligated person has undertaken in a written agreement for the benefit of the holders of the securities to provide certain annual financial information and event notices to the MSRB. *See* 17 C.F.R. § 240.15c2-12(b)(5)(i). The written agreement to provide annual financial information and event notices is generally referred to as a “Continuing Disclosure Agreement” (“CDA”). The purpose of the CDA is to assist brokers, dealers, and municipal securities dealers with satisfying both their obligations under federal securities laws to have a reasonable basis on which to recommend securities in the secondary market and their obligations under MSRB rules. *See* Securities Exchange Act Release No. 34-34961 (Nov. 10, 1994), 59 FR 59590 at 59591 (Nov. 17, 1994).

17. The CDAs for the Brogdon Bond Offerings were generally written agreements between BOKF and the Brogdon-controlled borrowers. The CDAs typically required the Brogdon-controlled borrower or BOKF, to the extent instructed by the Brogdon-controlled borrower, to provide certain continuing disclosure documents to EMMA. These required documents include: (a) annual financial statements of the Brogdon-controlled borrower; (b) other annual financial information or operating data related to the Brogdon-controlled borrower or the Facility; and (c) specified event notices related to the Facility or the offering required by Exchange Act Rule 15c2-12.

18. If the Brogdon-controlled borrower failed to provide annual financial statements or the other required annual financial information by the date specified in the CDA, and the Brogdon-controlled borrower had also not provided BOKF with notice that the documents had otherwise been provided to EMMA, the CDAs required BOKF to provide a notice of the failure to EMMA “without further direction or instruction” from the Brogdon-controlled borrower and “in a timely manner.”

19. All of the CDAs prepared for the Brogdon Bond Offerings were signed by Brogdon on behalf of the Brogdon-controlled borrower, except for three CDAs from offerings that closed in late 2013, which were signed by another individual on behalf of the Brogdon-controlled borrower in those offerings, Gordon Jensen Healthcare Association, Inc. (“Gordon Jensen”).³ As Lawson, Banker A, and LFC knew, however, Gordon Jensen was controlled by Brogdon. For the three Gordon Jensen offerings for which another individual signed the CDA, Brogdon served as the primary representative of Gordon Jensen in communications with LFC regarding the structuring and terms of the offerings.

20. Though the CDAs were not provided to investors, the official statement for each offering contained what purported to be a summary of the terms of the offering’s CDA.⁴

LFC and Lawson Failed to Conduct Reasonable Due Diligence, Did Not Comply with Rule 15c2-12, and Ignored Red Flags Related to the Brogdon Bond Offerings

21. During the Relevant Period, LFC underwrote 13 new conduit bond offerings for Brogdon-controlled borrowers. Brogdon was typically the manager of and held a membership interest in the LLCs that served as the Brogdon-controlled borrowers. For all 13 of these offerings, Brogdon served as the primary point of contact for LFC on behalf of the Brogdon-controlled borrowers, and Lawson and Banker A knew that Brogdon was behind each borrowing entity and was the borrower-in-fact for each offering.

22. In connection with underwriting this series of offerings over almost four years, LFC, through Lawson and Banker A, failed to conduct reasonable due diligence on Brogdon, the Brogdon-controlled borrowers, and the Brogdon Bond Offerings, despite becoming aware of

³ Gordon Jensen is named as a relief defendant in *SEC v. Christopher Freeman Brogdon, et al.*, No. 15 Civ. 8173 (KM) (D.N.J.).

⁴ The boilerplate summaries of the CDAs in the official statements for the Brogdon Bond Offerings inaccurately represent the actual terms of the prepared CDAs. For example, for all but one of the offerings, the summaries of the CDAs contain incorrect due dates for the filing of required annual financial information on EMMA; the due dates in the summaries do not match the due dates contained in the actual CDAs. These discrepancies were not detected by LFC.

numerous red flags relating to the repeated failures of the Brogdon-controlled borrowers to meet their continuing disclosure obligations.

23. In addition, LFC, primarily through Lawson and Banker A, failed to make a reasonable determination that the issuer or obligated person with respect to a certain April 2013 Brogdon Bond Offering had undertaken to provide required continuing disclosures as required under Rule 15c2-12, as discussed *infra* paragraphs 42-46.

A. Underwriting Due Diligence for the Brogdon Bond Offerings

24. Responsibility for underwriting due diligence resided in LFC's Underwriting Department, based in LFC's Phoenix headquarters. Lawson was the head of the Underwriting Department at LFC, and Banker A assisted Lawson as an investment banker and underwriter's counsel.

25. LFC's written supervisory procedures ("WSPs") provided minimal guidance regarding the required due diligence for conduit municipal bond underwritings. Unlike standard industry practice, LFC did not employ a due diligence checklist in underwriting the Brogdon Bond Offerings. Instead, the WSPs state that members of the Underwriting Department were required to "review a near final official statement" for an offering and that LFC must "obtain and file with EMMA information about continuing disclosure undertakings by the issuer," including whether the obligated parties agreed to provide continuing disclosure. The specific, itemized due diligence tasks listed in the WSPs only include obtaining various covenants from the issuer, as required by Exchange Act Rule 15c2-12, and to "[r]eview the public record of filings with EMMA."

26. In the course of underwriting a new Brogdon Bond Offering, Lawson and Banker A reviewed drafts of the offering documents and provided comments by e-mail or telephone to Brogdon, his representatives, and other members of the financing team.⁵ The documents that were prepared for an offering include, among other things, the official statement, the CDA, and the bond purchase agreement. Lawson and Banker A also regularly e-mailed and spoke with Brogdon, his representatives, and other members of the financing team regarding the structure of the offering and any due diligence issues.

B. Continuing Disclosure Failures for the Brogdon Bond Offerings

27. In 2010, LFC underwrote two Brogdon Bond Offerings. Brogdon signed CDAs on behalf of the Brogdon-controlled borrowers in each offering. As underwriter for these offerings, LFC, through Lawson and Banker A, assisted in preparing the draft official statements, conducted due diligence, and reviewed drafts of both the preliminary and final official statements. The final

⁵ The same financing team, consisting of BOKF as the indenture trustee, bond counsel, disclosure counsel, a CPA firm, and others, was initially assembled by Brogdon and generally worked together on the Brogdon Bond Offerings.

official statements included a summary description of the provisions of the CDAs for each offering. After the closing of each offering, LFC sold the bonds and disseminated the official statements to its customers.

28. In the CDAs for the two 2010 Brogdon Bond Offerings, the Brogdon-controlled borrower covenanted and agreed to, among other things, provide to on EMMA: (a) annual financial information; (b) audited financial statements, if any; and (c) event notices.⁶

29. The Brogdon-controlled borrowers failed to comply with their respective undertakings in the CDAs for the 2010 Brogdon Bond Offerings in all material respects. For example, for 2010, no annual financial information was filed on EMMA for one of the offerings and only partial information was filed late for the other offering. For 2011, only partial annual financial information was filed late for both offerings.

30. By at least October 2011, Lawson was made aware of Brogdon's failure to cause certain Brogdon-controlled borrowers to provide required annual financial information to EMMA. On October 25, 2011, an employee of BOKF emailed Brogdon, copying Lawson, to request that Brogdon provide "updated financials" for certain offerings, including the one of the 2010 offerings underwritten by LFC, because BOKF in its capacity as indenture trustee was "being bombarded by Financial Advisors and administrators."

31. Nevertheless, in 2012, LFC underwrote an additional five Brogdon Bond Offerings. As underwriter for these offerings, LFC, through Lawson and Banker A, assisted in preparing the draft official statements, conducted due diligence, and reviewed drafts of both the preliminary and final official statements. For each of these offerings, Brogdon was LFC's principal point of contact on behalf of the borrower, and Brogdon signed each of the CDAs on behalf of the Brogdon-controlled borrower.

32. Each of the final official statements for the 2012 Brogdon Bond Offerings includes a section titled, "Continuing Disclosure Obligation." In each "Continuing Disclosure Obligation"

⁶ These CDAs define "annual financial information" to include: (a) annual financial statements of the borrower, including a statement of revenues and expenses, a balance sheet and a statement of cash flows, all in reasonable detail; (b) data as to the census and payor mix during the preceding year of the Facility; and (c) a certificate of the Chief Operating Officer of the borrower stating whether, to the best knowledge of such Officer, the borrower, during the preceding year, complied, in all material respects, with all of its obligations set forth in the offering's loan agreement. Though the CDAs for the 2010 Brogdon Bond Offerings only provided that audited financial information had to be filed on EMMA if available, under the loan or lease agreements the Brogdon-controlled borrower was required to provide audited annual financial statements, as well as monthly unaudited financial statements, an operating budget for the project, and evidence of continued state licensing directly to BOKF, the indenture trustee, with a copy to LFC.

section, there is a representation that: “The [Brogdon-controlled borrower] has not failed to comply with any prior Undertaking under [Exchange Act Rule 15c2-12].”⁷

33. Brogdon’s assertion of the Brogdon-controlled borrower’s compliance with previous continuing disclosure undertakings in the official statements for the five 2012 Brogdon Bond Offerings was materially misleading. Specifically, Brogdon’s representations omitted material facts investors would need to know in order to evaluate the likelihood that a particular Brogdon-controlled entity would comply with its CDA. The Brogdon-controlled borrowers failed to comply with municipal securities continuing disclosure requirements and Lawson was made aware of these past failures. At the time of each of the offerings, Brogdon had not filed on EMMA all of the required annual financial information pursuant to the CDAs for the two 2010 Brogdon Bond Offerings, both of which were underwritten by LFC.

34. In or around 2013, Lawson became aware of increased regulatory scrutiny on issuers’ and obligated persons’ compliance with CDA obligations. For example, in June 2013, Lawson emailed Brogdon an article from an industry publication entitled, “SEC, FINRA Probing Dealers Over Issuers’ Continuing Disclosure Compliance.” In his cover email to Brogdon, Lawson wrote: “Thought you might like to review the industry pressure on continuing disclosure that continues to emerge.” The article sent by Lawson states, in part: “Underwriters are required to determine themselves if an issuer has a history of failing to comply with its disclosure obligations,” and “dealers are required to have a reasonable basis for recommending the sale of an issuer’s bonds and that includes checking its compliance with its continuing disclosure obligations.”

35. On numerous occasions throughout 2013, Lawson was made aware that Brogdon was causing certain Brogdon-controlled entities to fail to comply with respect to their CDA undertakings. For example:

- i. In July 2013, issuer’s counsel for a 2012 Brogdon Bond Offering underwritten by LFC emailed Lawson, Brogdon, and others regarding the failure of the Brogdon-controlled borrower to file required annual financial information on EMMA.
- ii. In October 2013, the head of the LFC Trading Department emailed Lawson to request that Lawson obtain “the updated financials from Brogdon on [a Brogdon Bond Offering] we did in 2010,” and “[t]he only Financials on record are from 2010 and I cannot bid this without updated financials.”

⁷ Exchange Act Rule 15c2-12(f)(3) requires that a final official statement set forth any instances in the previous five years in which an issuer of municipal securities, or obligated person, failed to comply in all material respects with any previous undertakings in CDAs. The official statement for each of the Brogdon Bond Offerings represents that the Brogdon-controlled borrower has not failed to comply with *any* prior undertaking under Exchange Act Rule 15c2-12.

Lawson forwarded this request to Brogdon and wrote: “[W]e need this updated asap.”

- iii. Also in October 2013, the head of the LFC Trading Department emailed Lawson: “Please have the financials for [two 2012 Brogdon Bond Offerings underwritten by LFC] posted to EMMA. According to EMMA, they were due in June [2013].” Lawson forwarded this request to Brogdon and wrote: “HELP...pls.”

36. Nevertheless, in 2013 and 2014, LFC underwrote an additional six Brogdon Bond Offerings. As underwriter, LFC, through Lawson and Banker A, again assisted in preparing the draft official statements, conducted due diligence, and reviewed drafts of both the preliminary and final official statements. For each of the 2013 and 2014 Brogdon Bond Offerings, Brogdon was LFC’s principal point of contact on behalf of the Brogdon-controlled borrower.

37. Each of the final official statements for the 2013 and 2014 Brogdon Bond Offerings includes a section titled “Continuing Disclosure Obligation.” In each “Continuing Disclosure Obligation” section, there is a representation that: “The [Brogdon-controlled borrower] has not failed to comply with any prior Undertaking under [Exchange Act Rule 15c2-12].”

38. As with the 2012 Brogdon Bond Offerings, Brogdon’s assertion of the Brogdon-controlled borrower’s compliance with prior continuing disclosure undertakings in the official statements for the 2013 and 2014 Brogdon Bond Offerings was materially misleading. At the time of each of the 2013 and 2014 Brogdon Bond Offerings, certain Brogdon-controlled borrowers had failed to provide to EMMA the required annual financial information for certain of the 2010 and 2012 Brogdon Bond Offerings that LFC had underwritten.

39. No LFC employee conducted a review of EMMA of any of the Brogdon-controlled borrowers in connection with these underwritings, despite the numerous red flags associated with the Brogdon Bond Offerings. Instead, LFC, Lawson, and Banker A relied solely on the representations of Brogdon, his representatives, BOKF, and other parties to the transactions.

40. In fact, for 12 out of the 13 Brogdon Bond Offerings underwritten by LFC, Banker A was listed as underwriter’s counsel in the official statements. For 11 of these offerings, Banker A prepared an underwriter’s counsel legal opinion letter or a Blue Sky survey letter. These letters represented that Banker A was an “Attorney at Law” with offices in Phoenix, Arizona, and Banker A acted as counsel to LFC in connection with the offering. Banker A, however, was not authorized to practice law in the State of Arizona or elsewhere during the time he served as LFC’s underwriter’s counsel. Banker A has not been an active member of any state bar since at least 1983.

41. Where Brogdon did cause the Brogdon-controlled borrower to provide required annual financial information to EMMA for the Brogdon Bond Offerings, these financial statements were typically not audited and were provided after the dates required by the related CDA. They

also did not include the other required annual financial information consisting of the census and payor mix for the Facilities or the certificate from the Chief Operating Officer regarding compliance with the lease agreement.

C. The Clayton V Offering

42. In April 2013, LFC underwrote a Brogdon Bond Offering for \$2,750,000.00 of certificates of participation in previously issued revenue bonds by Clayton County, Georgia, and the Savannah Economic Development Authority (the “Clayton V Offering”). Lawson and Banker A were the LFC employees who worked on the underwriting of the Clayton V Offering. The Clayton V Offering was structured as certificates of participation in previously-issued conduit municipal revenue bonds that were owned by a Brogdon-controlled entity.

43. The official statement for the Clayton V Offering, like the other official statements for the Brogdon Bond Offerings, was based off of a model official statement provided to the financing team by Brogdon’s representatives. During the drafting process, the parties to the transaction provided written comments on the official statement and the draft was discussed with Brogdon and other members of the financing team on numerous conference calls in which Lawson and Banker A participated.⁸

44. According to the official statement, the debt service payments for the certificate of participation bonds were to be paid, in part, from revenues generated by Facilities owned by two additional Brogdon-controlled entities. The official statement lists each of these Brogdon-controlled entities as an “obligated party” for the Clayton V Offering.

45. In the “Continuing Disclosure Obligation” section of the official statement for the Clayton V Offering, it is represented that these Brogdon-controlled entities “covenanted in the Continuing Disclosure Agreement to provide certain financial information and other operating data” to EMMA.⁹ Among other things, the official statement represents: (a) the obligors agreed to file annual financial information and other operating data to EMMA not more than 180 days after the end of each fiscal year; (b) if a “material event” occurs while the bonds were outstanding, the obligors agreed to file a material event notice on EMMA; and (c) neither obligor had failed to comply with any prior undertaking under the Exchange Act Rule 15c2-12.

⁸ Though the official statement for the Clayton V Offering represents that legal matters will be passed upon for LFC by Banker A, Banker A did not prepare an underwriter’s counsel legal opinion letter for the Clayton V Offering.

⁹ Exchange Act Rule 15c2-12(b)(5)(i) requires that an underwriter, prior to purchasing or selling bonds in connection with a covered offering, determine that the obligated persons have undertaken in writing to provide certain required materials to the MSRB on an ongoing basis.

46. The representation that a CDA had been executed for the Clayton V Offering was false. In fact, no CDA was executed. Neither Brogdon-controlled entity had covenanted to file annual financial information and other operating data on EMMA or to file material event notices on EMMA upon the occurrence of a material event in connection with the Clayton V Offering.

47. The official statement also contains sections that describe the obligated parties for the Clayton V Offering, including the Brogdon-controlled National Assistance Bureau, Inc. (“NAB”).¹⁰ The official statement provides information about NAB’s corporate structure, statement of purpose, prior bankruptcies and existing judgments, and officers and board of directors. In the statement of purpose section, the official statement represents that NAB “currently owns nursing homes of 82 beds and 68 beds in Sumner, Illinois.”

48. This statement was false. In fact, the 82-bed and 68-bed Facilities in Sumner, Illinois, had served as collateral for another fraudulent Brogdon bond offering. Though originally owned by NAB, these Facilities had closed and were no longer generating revenue to pay bondholders by 2006, and were sold at a tax sale in December 2008. This was not detected by LFC’s due diligence in connection with underwriting the Clayton V Offering.

49. Had LFC actually conducted due diligence on the material representations contained in the official statement, including conducting EMMA checks, LFC would have detected that no required annual financial information had been filed for the 82-bed and 68-bed Facilities in Sumner, Illinois, since the inception of EMMA in 2009.

Legal Discussion

50. Section 17(a)(2) of the Securities Act makes it unlawful “in the offer or sale of any securities . . . directly or indirectly . . . to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.” 15 U.S.C. § 77q(a)(2). Section 17(a)(3) of the Securities Act makes it unlawful “in the offer or sale of any securities . . . directly or indirectly . . . to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.” 15 U.S.C. § 77q(a)(3). Negligence is sufficient to establish violations of Sections 17(a)(2) and 17(a)(3). *See Aaron v. SEC*, 446 U.S. 680, 696-97 (1980). A misrepresentation or omission is material if there is a substantial likelihood that a reasonable investor would consider it important in making an investment decision. *See Basic Inc. v. Levinson*, 485 U.S. 224, 231-32 (1988).

51. An underwriter may violate the antifraud provisions of the federal securities laws if it does not have a reasonable basis for believing the truthfulness of material statements in the offer

¹⁰ NAB is also named as a relief defendant in *SEC v. Christopher Freeman Brogdon, et al.*, No. 15 Civ. 8173 (KM) (D.N.J.).

or sale of securities as a result of inadequate due diligence. “By participating in an offering, an underwriter makes an implied recommendation about the securities [that it] . . . has a reasonable basis for belief in the truthfulness and completeness of the key representations made in any disclosure documents used in the offerings.” *Dolphin & Bradbury, Inc. v. SEC*, 512 F.3d 634, 641 (D.C. Cir. 2008) (quoting Municipal Securities Disclosure, Exchange Act Release No. 26100, 53 Fed. Reg. 37778, 37787 (Sept. 28, 1988) (“1988 Proposing Release”)); *see also City Securities Corp.*, Exchange Act Release No. 70056, 2013 WL 3874855, at *1-*2 (July 29, 2013) (finding underwriter violated anti-fraud provisions by failing to conduct due diligence related to issuer’s statements regarding its compliance with previous continuing disclosure undertakings).

52. “An underwriter ‘occupies a vital position’ in a securities offering because investors rely on its reputation, integrity, independence, and expertise.” *Dolphin & Bradbury*, 512 F.3d at 641 (quoting 1988 Proposing Release, 53 Fed. Reg. at 37787). Indeed, “underwriters have a ‘heightened obligation’ to ensure adequate disclosure.” *Id.* (quoting 1988 Proposing Release, 53 Fed. Reg. at 37787 n.74).

53. Municipal securities issuers and “obligated persons” are exempt from most provisions of the federal securities laws, with the exception of the anti-fraud provisions.¹¹ Exchange Act Rule 15c2-12 and subsequent amendments were adopted in an effort to improve the quality and timeliness of disclosures to investors in municipal securities. *See* Municipal Securities Disclosure, Exchange Act Release No. 34961 (Nov. 10, 1994), 59 Fed. Reg. 59590, 59591-2 (Nov. 17, 1994).

54. Pursuant to Exchange Act Rule 15c2-12, before purchasing or selling municipal securities in connection with an underwriting, an underwriter is required to reasonably determine that an issuer or obligated person has undertaken in a written agreement for the benefit of the holders of the securities to provide certain annual financial information and event notices to the MSRB. This requirement of the underwriter to reasonably determine that an obligated person has undertaken to provide continuing disclosure reflects the fact that the disclosure of sound financial information is critical to the integrity of not just the primary market, but also the secondary markets for municipal securities. *See* Municipal Securities Disclosure, Exchange Act Release No. 34961 (Nov. 10, 1994), 59 Fed. Reg. 59590, 59592 (Nov. 17, 1994). Critical to any evaluation of the CDA undertaking to make disclosures is the likelihood that the issuer or obligated person will abide by the undertaking. *See id.* at 59594. The disclosure requirements of Rule 15c2-12 provide an incentive for issuers and obligated persons to comply with their undertakings, allowing underwriters, investors, and others to assess the reliability of the disclosure representations. *See id.* at 59595.

¹¹ An “obligated person” generally means any person or entity that is committed by contract or other arrangement to support payment of all or part of the obligations on the municipal securities being offered. *See* Exchange Act Rule 15c2-12(f)(10). Brogdon-controlled entities were “obligated persons” for each of the Brogdon Bond Offerings.

55. The Commission has stated that if an “issuer or obligated person has on multiple occasions during the previous five years failed to provide on a timely basis continuing disclosure documents, including event notices and failure to file notices, as required in a [CDA] for a prior offering, it would be very difficult for the underwriter to make a reasonable determination that the issuer or obligated person would provide such information under a [CDA] in connection with a subsequent offering.” Amendment to Municipal Securities Disclosure, Exchange Act Release No. 62184A (May 26, 2010), 75 Fed. Reg. 33100, 33124 (June 10, 2010). Further, the Commission has stated that it is doubtful that an underwriter could meet the reasonable belief standard without the underwriter having affirmatively inquired as to the borrower’s filing history. *See id.*

Violations

56. As a result of the conduct described above, LFC and Lawson failed to form a reasonable basis through adequate due diligence for believing the truthfulness and completeness of the key representations in the official statements for the Brogdon Bond Offerings and in doing so willfully violated Sections 17(a)(2) and (3) of the Securities Act. In addition, LFC willfully violated Section 15(c)(2) of the Exchange Act and Rule 15c2-12 thereunder, and Lawson willfully aided and abetted and caused LFC’s violation of Section 15(c)(2) of the Exchange Act and Rule 15c2-12 thereunder related to the failure to obtain a CDA for the Clayton V Offering.

IV.

In view of the foregoing, the Commission deems it appropriate, in the public interest, and for the protection of investors to impose the sanctions agreed to in Respondents’ Offers.

Accordingly, pursuant to Section 8A of the Securities Act, Sections 15(b), 15B(c) and 21C of the Exchange Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

- A. Respondents LFC and Lawson shall cease and desist from committing or causing any violations and any future violations of Section 17(a)(2) and (3) of the Securities Act and Section 15(c) of the Exchange Act and Rule 15c2-12 thereunder.
- B. LFC is censured.
- C. Lawson be, and hereby is:
 - i. barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and
 - ii. prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal

underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter;

with the right to apply for reentry after three (3) years to the appropriate self-regulatory organization, or if there is none, to the Commission.

D. Any reapplication for association by Lawson 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 Lawson, 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.

E. Respondents LFC and Lawson shall, within 10 days of the date of the entry of this Order pay, jointly and severally, disgorgement of \$178,750.00 and prejudgment interest of \$19,576.06 to the Securities and Exchange Commission. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds or, transfer them to the general fund of the United States Treasury, subject to Section 21F(g)(3). If timely payment of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600.

F. LFC shall pay a civil money penalty in the amount of \$198,326.06 to the Securities and Exchange Commission. Payment shall be made in the following installments: one installment of \$49,581.56 due within 90 days of the date of the entry of this Order, and then three installments of \$49,581.50 due within 180, 270, and 360 days of the date of the entry of this Order. The Commission may distribute civil money penalties collected in this proceeding if, in its discretion, the Commission orders the establishment of a Fair Fund pursuant to 15 U.S.C. § 7246, Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds or, subject to Exchange Act Section 21F(g)(3), transfer them to the general fund of the United States Treasury. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of civil penalties, plus any additional interest accrued pursuant to 31 U.S.C. § 3717, shall be due and payable immediately, without further application.

G. Lawson shall pay a civil money penalty in the amount of \$80,000.00 to the Securities and Exchange Commission. Payment shall be made in the following installments: \$40,000.00 due within 10 days of the date of the entry of this Order, and then four installments of \$10,000.00 due within 90, 180, 270, and 360 days of the date of the entry of this Order. The Commission may distribute civil money penalties collected in this proceeding if, in its discretion,

the Commission orders the establishment of a Fair Fund pursuant to 15 U.S.C. § 7246, Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds or, subject to Exchange Act Section 21F(g)(3), transfer them to the general fund of the United States Treasury. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of civil penalties, plus any additional interest accrued pursuant to 31 U.S.C. § 3717, shall be due and payable immediately, without further application.

H. Payment must be made in one of the following ways:

- (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondents may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondents may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying LFC and Lawson as Respondents in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Lara Shalov Mehraban, Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, 200 Vesey Street, Suite 400, New York, NY 10281.

I. Regardless of whether the Commission in its discretion orders the creation of a Fair Fund for the penalties ordered in this proceeding, 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, LFC and Lawson agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, LFC and Lawson agree that they 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 Securities and Exchange

Commission. 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 Respondent 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.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the findings in this Order are true and admitted by Lawson, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Lawson under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Lawson of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

By the Commission.

Brent J. Fields
Secretary