

ADMINISTRATIVE PROCEEDING
File No. 3-18139

SEC Charges Municipal Advisor for Breach of Fiduciary Duty of Care

August 24, 2017 – The Securities and Exchange Commission today charged Oklahoma-based Municipal Finance Services Inc., its president, and its vice-president for breaching their fiduciary duty to a municipal client.

According to the SEC’s order, Municipal Finance Services Inc. (“MFSOK”) served as municipal advisor to the client on a municipal bond offering in 2013, and as part of its advisory services, agreed to review legal documents related to the issuance of the bonds and to assist the client in complying with its continuing disclosure agreement requirements. According to the order, the continuing disclosure agreement for the 2013 offering contained an improper amendment to the client’s prior continuing disclosure agreements for bond offerings in 2005, 2008 and 2012, unilaterally extending the deadline by which the client was to provide annual reports to investors for those prior offerings. The order states that MFSOK president Rick A. Smith and vice-president Jon G. Wolff each had concerns about the amendment, which was drafted by a now-retired bond counsel, but took no action. According to the order, Smith and Wolff did not advise the client of their concerns, did not comment on the draft amendment provisions, did not conduct further investigation, and did not seek further information from bond counsel or otherwise attempt to determine whether the amendment complied with the terms of the client’s prior continuing disclosure agreements. The order found that Smith and Wolff also failed to advise the client of its obligation to notify prior bondholders of the amendment in a timely manner, as required by the client’s prior continuing disclosure agreements. As a result, some investors in the earlier bonds engaged in transactions without the benefit of the updated financial information contained in the annual reports that had been promised in the continuing disclosure agreements for those bonds.

The SEC’s order instituting settled cease-and-desist and administrative proceedings finds that MFSOK willfully violated Section 15B(c)(1) of the Securities Exchange Act of 1934 and that Smith and Wolff caused MFSOK’s violation. Without admitting or denying the SEC’s findings, MFSOK agreed to a censure, to cease and desist from committing or causing further violations of Section 15B(c)(1) of the Exchange Act, and to pay a \$50,000 penalty. Smith and Wolff agreed to cease and desist from committing or causing further violations of Section 15B(c)(1) of the Exchange Act and each agreed to pay an \$8,000 penalty. Under the order, MFSOK is required to establish appropriate written policies and procedures and periodic training regarding the fiduciary duty owed by municipal advisors under the federal securities laws, including the provision of advice concerning an issuer’s continuing disclosure obligations.

The SEC’s investigation was conducted by Public Finance Abuse Unit members Cori Shepherd and Warren Greth, and supervised by Ivonia Slade and Mark Zehner.

See also: [Order](#)