

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10839 / September 14, 2020

SECURITIES EXCHANGE ACT OF 1934
Release No. 89856 / September 14, 2020

INVESTMENT COMPANY ACT OF 1940
Release No. 34009 / September 14, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19998

In the Matter of

WILLIAM W. WELSH,

Respondent.

**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”), and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against William W. Welsh (“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, and except as provided herein in Section V, Respondent

consents to the entry of this 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 (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds¹ that:

Summary

This matter involves negligent conduct by Respondent, a registered representative with Roosevelt & Cross, Inc. (“Roosevelt”), in connection with the purchase and sale of new issue municipal bonds. Between March 2014 and May 2017, Respondent violated retail order period priority provisions in certain new issue municipal bond offerings by selling bonds intended for retail customers to two unregistered brokers that were known in the industry as “flippers.” The flippers obtained bonds from Roosevelt, and then immediately resold, or “flipped,” the bonds to other broker-dealers typically at a profit. Although the flippers did not meet the issuer’s eligibility criteria for participation in the retail order periods, Respondent sold bonds to the flippers on a retail basis.

In addition, between January 2014 and September 2016, Respondent obtained certain new issue municipal bonds for Roosevelt’s account by using the two flippers to place customer orders – as opposed to dealer orders – on Roosevelt’s behalf with the syndicate in certain primary offerings. These transactions circumvented the priority of orders and gave Roosevelt’s orders higher priority in the bond allocation process.

As a result of the conduct described herein, Respondent violated Section 17(a)(3) of the Securities Act, and MSRB Rules G-11(k) and G-17, and caused violations of Sections 15(a)(1) and 15B(c)(1) of the Exchange Act.

Respondent

1. **William Welsh**, age 57, resides in Ramsey, New Jersey and is a registered representative with Roosevelt. Since 1986, he has been a salesperson at Roosevelt, buying and selling municipal securities. Since 2013, he has been a member of Roosevelt’s Board of Directors. In January 2017, he became Roosevelt’s Manager of Sales and, in April 2019, he became Roosevelt’s President. He currently holds these positions and has Series 7, 53 and 63 licenses.

¹ 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.

Other Relevant Entities

2. **Roosevelt & Cross, Inc.**, incorporated in New York and headquartered in New York, New York, is registered with the Commission as a broker-dealer and municipal advisor.

3. **Core Performance Management, LLC, aka Dockside Asset Management (“Dockside”)** was a Florida limited liability company located in Boca Raton, Florida that dissolved as of July 27, 2016. Dockside primarily bought and sold new issue municipal bonds. Dockside was never registered with the Commission. The Commission filed an enforcement action against Dockside and its associates in August 2018.²

4. **RMR Asset Management Company (“RMR”)** is a California corporation with its principal place of business in Chula Vista, California. RMR primarily bought and sold new issue municipal bonds. It was never registered with the Commission. The Commission filed an enforcement action against RMR and its associates in August 2018.³

5. **The Murphy Companies LLC (“Murphy”)** is a Colorado limited liability company located in Denver, Colorado. During the relevant period, it was affiliated with RMR and its business was primarily to buy and sell new issue municipal bonds. Murphy was never registered with the Commission. The Commission’s enforcement action against RMR (referenced above) included charges against Murphy’s two principals.

Background on Municipal Underwriting Process

6. Municipalities often raise money by issuing bonds that are sold to the public through an underwriting process. In what is known as a “negotiated” offering, the municipal issuer chooses a broker-dealer to act either as sole underwriter or as the senior manager of an underwriting syndicate. An underwriting syndicate is a group of broker-dealers that joins together to purchase new issue municipal bonds from the issuer to distribute to the public.

7. Bonds in negotiated offerings are offered for sale during designated “order periods,” which are windows of time during which the underwriters solicit orders from potential investors. Underwriters market offerings by distributing electronic “pricing wires” to their own customers, as well as to other broker-dealers, who may be interested in purchasing bonds for their inventory. The pricing wires describe the bonds being offered and applicable rules for the offering, including the “priority of orders,” which establishes the sequence in which bonds will be allocated to specific types of customers. The priority of orders is important to potential purchasers because orders for bonds in a primary offering often exceed the amount of bonds available.

² *SEC v. Core Performance Management, LLC, et al.*, 18-CV-81081-BB (S.D. Fla., filed Aug. 14, 2018) (settled action against Dockside and five associated individuals for acting as unregistered brokers and for engaging in fraudulent practices in connection with flipping new issue municipal bonds).

³ *SEC v. RMR Asset Management Company, et al.*, 18-CV-01895-AJB-JMA (S.D. Ca l. filed Aug. 14, 2018) (partially settled action against RMR and 13 associated individuals for acting as unregistered brokers and, as to 10 of them, for engaging in fraudulent practices in connection with flipping new issue municipal bonds).

8. Typically, orders from individual retail customers have the highest priority in the allocation process. Issuers prioritize retail orders to maximize the volume of bonds placed with individuals who will buy and hold the bonds, rather than quickly re-trade their bonds. Retail investors may also reside in the issuer's jurisdiction, and therefore benefit from state- or locality-specific tax advantages. Issuers often require the submission of zip codes (or less frequently account numbers) with retail orders as a way to verify that the customer is a legitimate individual retail customer and/or resident of the issuer's jurisdiction.

9. An issuer may specify separate order periods for different categories of customers, typically holding an initial retail order period for only retail customers and a subsequent institutional order period for institutional customers. In some instances, there may be only one order period, with priority given to retail customers' orders during that period. Pricing wires typically contain issuer-approved provisions stating who is eligible to participate in the retail order period and receive retail order priority. Pricing wires also usually give the issuer the right to audit retail orders during or after the retail order period in order to verify that such orders represent legitimate retail orders. In addition, pricing wires also commonly specify that dealer orders "are not permitted to be entered during the retail order period." Dealer orders from syndicate members are often permitted during subsequent institutional order periods, but priority rules generally require underwriters to give dealer orders lower priority than all customer orders. Dealer orders from non- syndicate dealers are seldom, if ever, filled. The priority afforded to retail customers means that, when an offering is oversubscribed, those retail customers have the best chance of getting their orders filled.

Flipping Activity

10. As a result of the priority provisions in municipal bond offerings, non-syndicate member broker-dealers who want to purchase new issue municipal bonds for their own inventory are often unable to obtain them. To circumvent the priority provisions, some broker-dealers used Dockside, RMR, Murphy or other flippers to place customer orders for new issue municipal bonds on their behalf, with the expectation that the flippers would then shortly thereafter resell those bonds to the purchasing broker-dealers. The flippers typically charged broker-dealers a set markup on the sale of the bonds.

11. When placing customer orders on behalf of broker-dealers, the flippers often misrepresented themselves as retail customers, or as acting on behalf of retail customers – sometimes from the same jurisdiction as the issuer – creating the misimpression that their orders were entitled to the highest priority in the allocation process, and making it more likely that they would obtain bonds. In fact, the flippers' orders were not entitled to retail priority because they were not retail customers in these transactions and were submitting orders on behalf of broker-dealers that wanted bonds for their own inventory. Dockside and Murphy also sometimes took steps to hide their misconduct from underwriting syndicates. For example, if they received a large allotment of bonds in an offering, they sometimes resold the bonds to broker-dealers in smaller lots, to disguise their immediate resale of those bonds.

Respondent Placed Retail Orders for Dockside and Murphy

12. Between March 2014 and May 2017, Respondent placed at least 36 retail orders for new issue municipal bonds on behalf of Dockside and Murphy – submitting those orders during retail order periods in some instances. In connection with 33 of these orders, Respondent submitted inaccurate zip codes and obtained bonds for the flippers. Respondent received those zip codes from Dockside or Murphy. For 30 of the 33 retail orders submitted with a zip code, the zip code used with the order was from outside the state where the flippers were located, and corresponded with the state of the issuer. Respondent submitted these inaccurate zip codes with Dockside's and Murphy's orders when he should have known that they did not correspond to their locations. Because issuers often require zip codes with retail orders to verify that the customer is an individual residing in a specific jurisdiction, the submission of inaccurate zip codes with the Dockside and Murphy orders had the effect of giving the orders retail priority, and created the misimpression that those orders were bona fide retail orders.

13. Respondent should have known that Dockside's and Murphy's orders did not qualify for retail priority because, as discussed below, he regularly placed orders for and bought new issue bonds from Dockside and Murphy for Roosevelt's own account. Respondent also understood that Roosevelt's syndicate desk communicated the retail orders with inaccurate zip codes that he submitted with Dockside's and Murphy's orders to the senior syndicate manager and issuer. He also understood that the senior syndicate manager and issuer relied on the zip codes to verify that orders submitted as retail qualified for retail priority treatment.

Respondent Placed Customer Orders with Dockside and Murphy For Roosevelt's Own Account

14. Respondent placed orders for new issue municipal bonds with Dockside and Murphy to obtain bonds for Roosevelt's inventory when he should have known that they, in turn, would place the orders as purported "customers" of the underwriting firm offering the bonds. Once Dockside or Murphy obtained the bonds that Roosevelt ordered, they sold the bonds to Roosevelt shortly thereafter.

15. Between January 2014 and September 2016, Respondent purchased new issue municipal bonds through Dockside and Murphy 531 times – 106 times when Roosevelt was also in the underwriting syndicate offering the bonds. By placing orders through Dockside and Murphy for new issue municipal bonds, Respondent circumvented the priority provisions in those municipal offerings and obtained a higher priority for Roosevelt dealer orders. In some cases, Respondent submitted Roosevelt's orders to Dockside and Murphy during retail order periods, with the understanding that those orders may be submitted to the lead underwriter as retail orders. In such circumstances, some legitimate retail customers were denied the opportunity to purchase new issue bonds at the initial offering price.

16. When Roosevelt was in the syndicate or sole underwriter, Respondent understood that Roosevelt's dealer orders would ordinarily receive lowest priority in the allocation process. He also understood that Roosevelt had a higher likelihood of obtaining bonds through Dockside and Murphy, which would place customer orders, rather than through

Roosevelt directly placing its dealer orders.

Legal Discussion

Respondent Violated Section 17(a)(3) of the Securities Act

17. Section 17(a)(3) of the Securities Act prohibits any person, in the offer or sale of a security, from directly or indirectly, engaging 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 Section 17(a)(3); no finding of scienter is required. Aaron v. SEC, 446 U.S. 680, 696-97 (1980).

18. Respondent willfully⁴ violated Section 17(a)(3) of the Securities Act by placing orders from Dockside and Murphy as eligible retail orders when he knew, or should have known, that they were not eligible for retail priority, and by including inaccurate zip codes with most of those orders. This practice, in some instances, resulted in legitimate retail purchasers being crowded out of the offering.

Respondent Violated MSRB Rule G-17

19. MSRB Rule G-17 provides that, in the conduct of its municipal securities business, every broker, dealer, municipal securities dealer, and municipal advisor shall deal fairly with all persons and shall not engage in any deceptive, dishonest, or unfair practice.⁵ Negligence is sufficient to establish a violation of MSRB Rule G-17; no finding of scienter is required. See Wheat, First Securities, Inc., 2003 WL 21990950, at *10.

20. As discussed above, Respondent submitted orders on behalf of Dockside and Murphy to the Roosevelt syndicate desk as eligible retail orders when he knew, or should have known, that those orders were not eligible for retail priority, and included inaccurate zip codes with most of those orders. In addition, Respondent circumvented the priority provisions of certain new issue municipal bond offerings by placing orders with Dockside and Murphy for Roosevelt's inventory, when he knew, or should have known, that they would place customer orders with the underwriter in order to improperly obtain a higher priority for Roosevelt.

21. By this conduct, Respondent willfully violated MSRB Rule G-17.

⁴ "Willfully," for purposes of imposing relief under Sections 15(b) and 15B of the Exchange Act and Section 9(b) of the Investment Company Act "means no more than 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)).

⁵ Subject to certain exceptions not relevant here, MSRB Rule D-11 includes "associated persons" within the definitions of brokers, dealers, and municipal securities dealers for purposes of all other MSRB rules. See Wheat, First Securities, Inc., Exch. Act Release No. 48378, 2003 WL 21990950, at *8 n. 29 (Aug. 20, 2003).

Respondent Violated MSRB Rule G-11(k)

22. MSRB Rule G-11(k) provides that each broker, dealer, or municipal securities dealer that submits an order during a retail order period to the senior syndicate manager or sole underwriter, as applicable, shall provide in writing the following information relating to each order designated as retail submitted during a retail order period: (i) whether the order is from a customer that meets the issuer's eligibility criteria for participation in the retail order period; (ii) whether the order is one for which a customer is already conditionally committed; (iii) whether the broker, dealer, or municipal securities dealer has received more than one order from such retail customer for a security for which the same CUSIP number has been assigned; (iv) any identifying information required by the issuer, or the senior syndicate manager on the issuer's behalf, in connection with such retail order (but not including customer names or social security numbers); and (v) the par amount of the order.⁶ Negligence is sufficient to establish a violation of MSRB Rule G-11(k); no finding of scienter is required.

23. Respondent submitted orders for new issue municipal bonds to the Roosevelt syndicate desk (and ultimately to the senior syndicate manager or sole underwriter) during retail order periods for Dockside and Murphy that were improperly designated as retail orders because they did not meet the issuers' eligibility criteria. In addition, Respondent included inaccurate identifying information (zip codes) required by the issuer, or the senior syndicate manager on the issuer's behalf, in connection with some of those orders.

24. By this conduct, Respondent willfully violated MSRB Rule G-11(k).

Respondent Caused Violations of Section 15(a)(1) of the Exchange Act

25. To establish causing liability, the Commission must find: (1) a primary violation; (2) the respondent's act or omission contributed to the violation; and (3) the respondent knew or should have known that its act or omission would contribute to the violation. See 15 U.S.C. § 78u- 3(a); Robert M. Fuller, 80 SEC Docket 3539, 3545, Exch. Act Release No. 48406 (Aug. 25, 2003) (Commission Opinion).

26. Under Section 15(a)(1) of the Exchange Act, it is unlawful for a broker or dealer "to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security... unless such broker or dealer is registered" with the Commission pursuant to Section 15(b) of the Exchange Act. Under Section 3(a)(4)(A) of the Exchange Act, a "broker" is "any person engaged in the business of effecting transactions in securities for the account of others." The Exchange Act's definition of "broker" "connote[s] a certain regularity of participation in securities transactions at key points in the chain of distribution." Mass. Fin. Serv., Inc. v. Sec. Inv. Prot. Corp., 411 F. Supp. 411, 415 (D. Mass. 1976), aff'd, 545 F.2d 754 (1st Cir. 1976); see also SEC v. Martino, 255 F. Supp. 2d 268, 283 (S.D.N.Y. 2003).

⁶ Rule G-11(k) further provides that the senior syndicate manager may rely on the information furnished by each broker, dealer, or municipal securities dealer that provided the information required by (i) - (v) unless the senior syndicate manager knows, or has reason to know, that the information is not true, accurate, or complete.

27. Negligence is sufficient to establish liability for causing a primary violation that does not require scienter, such as Section 15(a)(1) of the Exchange Act; no proof of scienter is required. See VanCook, Exch. Act Release No. 61039A, 2009 WL 4005083, at *14 n.65 (Nov. 20, 2009) (Commission Opinion) (quoting KPMG Peat Marwick LLP, 54 SEC 1135, 1175 (2001)).

28. Dockside and Murphy violated Section 15(a)(1) of the Exchange Act because they acted as brokers without being registered with the Commission. Respondent's purchases of bonds through Dockside and Murphy and Roosevelt's payment of transaction-based compensation to Dockside and Murphy in connection with those transactions contributed to their violations. Respondent knew, or should have known, that Dockside and Murphy were not registered with the Commission. As a result, Respondent caused their direct violations of Section 15(a)(1) of the Exchange Act.

Respondent Caused Violations of Section 15B(c)(1) of the Exchange Act

29. Section 15B(c)(1) of the Exchange Act prohibits a broker, dealer or municipal securities dealer from effecting interstate transactions in, or inducing or attempting to induce the purchase or sale of, any municipal security in contravention of any rule of the MSRB.

30. Roosevelt violated Section 15B(c)(1) of the Exchange Act because it violated MSRB Rules G-11 and G-17. Respondent knew, or should have known, that his conduct described above would contribute to Roosevelt's violations of these MSRB rules. As a result, Respondent caused Roosevelt's direct violations of Section 15B(c)(1) of the Exchange Act.

IV.

On the basis of the foregoing, the Commission deems it appropriate, in the public interest, to impose the sanctions agreed to in Respondent's Offer.

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. Respondent is censured.

B. Respondent cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act and Sections 15(a)(1) and 15B(c)(1) of the Exchange Act and MSRB Rules G-11 and G-17.

C. Respondent be, and hereby is:

suspended from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, 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, and suspended from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock,

for a period of six (6) months, effective immediately upon the entry of this Order.

D. Respondent shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$25,000 to the Securities and Exchange Commission, of which a total of \$5,000 shall be transferred to the MSRB in accordance with Section 15B(c)(9)(A) of the Exchange Act, and of which the remaining \$20,000 shall be transferred to the general fund of the United States Treasury in accordance with Section 21F(g)(3) of the Exchange Act. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

E. Payments must be made in one of the following ways:

- (1) Respondent may transmit payments electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent 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) Respondent 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 William Welsh as a Respondent 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 Assistant Regional Director Kevin B. Currid, Division of Enforcement, Securities and Exchange Commission, 33 Arch Street, 24th Floor, Boston, MA 02110.

F. 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, Respondent agrees that in any Related Investor

Action, Respondent shall not argue that he is entitled to, nor shall Respondent 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, Respondent 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 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 Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent 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 Respondent 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.

Vanessa A. Countryman
Secretary