

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11069 / June 2, 2022

SECURITIES EXCHANGE ACT OF 1934
Release No. 95024 / June 2, 2022

ADMINISTRATIVE PROCEEDING
File No. 3 - 20873

In the Matter of

**TOWN OF STERLINGTON,
LOUISIANA**

Respondent.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933 AND SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against the Town of Sterlington, Louisiana (“Sterlington,” the “Town” or “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 it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-And-Desist Proceedings Pursuant To Section 8A of the Securities Act Of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, And Imposing 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

1. This matter involves misconduct in the issuance of municipal bonds by Sterlington in 2017 and 2018.

2. On April 27, 2017, Sterlington sold \$4 million of water and sewer utility revenue bonds ("2017 Bonds"), and on September 28, 2018, it sold a \$1.8 million refunding bond ("2018 Bonds") (collectively, the "Bonds"). The Bonds, which were sold in private placements to investors, were intended to finance development of a water system for the Town and improvements to its existing sewer system. As required by Louisiana law, the Town applied to the Louisiana State Bond Commission ("Bond Commission") for approval of these bond offerings. The Town submitted applications for the 2017 Bonds and 2018 Bonds to the Bond Commission on January 18, 2017 and July 18, 2018, respectively. In support of each application, the Town included false financial projections about the anticipated revenue of the Town's sewer system. The false projections were created by the Town's municipal advisor with the participation and approval of the Town's then-Mayor. The false projections misled the Bond Commission as to the Town's ability to cover its debt service for the proposed Bonds. Bond investors were not informed that the Town had obtained Bond Commission approval of the Bonds based on false projections, and were not informed of the associated risk that the Bonds may not have been duly authorized. In addition, the Town did not disclose to investors in the 2017 Bonds and 2018 Bonds that it had misused over \$3 million from earlier bond offerings.

3. Through this conduct, Sterlington violated Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

Respondent

4. **Sterlington, Louisiana** is a town with a population of approximately 2600 citizens located in the central northeastern part of the State of Louisiana. It is governed by an elected mayor and a five member board of aldermen.

Other Related Individuals and Entity

5. **Vern A. Breland** ("Breland") is a resident of Columbia, LA. Breland was elected the Town's Mayor in 2006 and resigned from office on October 1, 2018.

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.

6. **Aaron B. Fletcher** (“Fletcher”) is a resident of Frisco, TX. He wholly owns Twin Spires and is its sole employee and director.

7. **Twin Spires Financial LLC** (“Twin Spires”) is a Texas company formed in July 2015, with its principal place of business in Frisco, TX. During the relevant period, Twin Spires conducted business as a municipal advisor but was not registered with the Commission.

Facts

8. Beginning in approximately 2015, Sterlington began municipal projects to upgrade its sewer system, purchase the water distribution system for its residents from a third-party, and build a water treatment facility. To fund these projects, Sterlington decided to pursue municipal bond offerings to raise the necessary funds. In June 2015, the Town executed a financial advisory agreement with Twin Spires pursuant to which Twin Spires agreed to provide, among other municipal advisory services for the Town, advice on various forms of debt financing.

9. In April 2017, the Town sold the 2017 Bonds (\$4 million Utility Revenue Bonds, which included \$3.5 million Utility Revenue Bonds, Series 2017A (Tax Exempt) and \$500,000 Taxable Utility Revenue Bonds, Series 2017B). In September 2018, the Town sold the 2018 Bonds (\$1.845 million of Wastewater, Water and Sewer Treatment Utilities Revenue Bonds, Series 2018).

Overstatement of Sewer Customer and Revenue Projections In Application to Louisiana State Bond Commission

10. The Louisiana Constitution² and state law³ require political subdivisions, such as Sterlington, to obtain the Bond Commission’s written approval before issuing or selling bonds or other obligations. As part of the application, prospective issuers must submit an application to the Bond Commission, which includes certain financial and other information. Certain Bond Commission applications for government units or local political subdivisions require revenue and expense projections through the maturity of the issuer’s bond debt obligations.

² Louisiana Constitution Article VII, Section 8(B) states, “Approval of Bonds. No bonds or other obligations shall be issued or sold by the state, directly or through any state board, agency, or commission, or by any political subdivision of the state, unless prior written approval of the bond commission is obtained.”

³ La. R.S. 39:1410.60(A) states:

No parish, municipality, public board, political or public corporation, subdivision, or taxing district, and no road or subroad district, school district, sewerage district, drainage or subdrainage district, levee district, waterworks or subwaterworks district, irrigation district, road lighting district, harbor and terminal district, or any other political subdivision, taxing district, political or public corporation, created under or by the constitution and laws of the state shall have authority to borrow money, incur debt, or to issue bonds, or other evidences of debt, or to levy taxes, or to pledge uncollected taxes or revenues for the payment thereof, where they are authorized by the constitution or laws of the state so to do, without the consent and approval of the State Bond Commission.

11. Prior to issuing the Bonds, Sterlington applied to, and obtained the approval, of the Bond Commission. As discussed below, the Town overstated sewer system customers and revenue projections in both applications. The overstatements were made so that the Town could meet the minimum debt service coverage ratio required for the Bond Commission to approve the bond issuances. Fletcher and Twin Spires prepared the projections. Breland, on behalf of the Town, reviewed and approved the projections and approved the submission of both applications to the Bond Commission. The Bond Commission was unaware of the overstatements when it approved each of the applications and would not have approved the applications if it had been aware of them.

12. In January 2017, Sterlington submitted an application to the Bond Commission, seeking approval to issue the 2017 Bonds. The application included a projection of future sewer system customers and revenues. The Town projected it would have 2,040 sewer customers in 2018 and sewer system revenue of \$864,693 in 2018. The customer projection was a 113% increase over Sterlington's actual 2016 sewer customer number and the revenue projection was a 139% increase over its 2016 revenue of \$361,772. The 2,040 customer projection for 2018 was not based on an analysis of expected additional sewer customers or sewer revenues in 2018. Fletcher and Twin Spires "backed into" the projection based on the number of customers the Town would need to reach a sewer revenue projection high enough to meet a debt service coverage ratio of at least 1.0. Breland was aware of how Twin Spires and Fletcher calculated the projections.

13. The Town also misrepresented the historical number of sewer customers for 2016 and 2017 in an attempt to smooth out the year-to-year trend of sewer customers so the 2018 projection would appear more realistic. For example, the financial projections in the Bond Commission application represented that the Town had 1,574 sewer customers for 2016. The Town's December 2016 sewer records showed that the Town actually billed only 960 sewer customers.

14. On February 16, 2017, the Bond Commission approved the Town's application to issue the 2017 Bonds. In April 2017, the Town received \$4 million in proceeds from the sale of the 2017 Bonds to three investors.

15. In July 2018, Sterlington submitted an application to the Bond Commission seeking approval to issue the 2018 Bonds. That application included similarly overstated projections. The Town projected that, in 2019, it would have 2,204 sewer customers and sewer revenues of \$933,293. However, as of December 31, 2017, Sterlington had only 1,034 actual sewer customers and sewer revenue of only \$445,107. The 2019 projections were similarly "backed into" to meet the required debt service coverage ratio and were not based on an analysis as to the number of customers or revenue the Town expected to have in 2019.

16. On August 16, 2018, the Bond Commission approved the Town's application to issue the 2018 Bonds. In September 2018, the Town received \$1.85 million in proceeds from the sale of a 2018 Bond to one investor.

17. In the closing documents provided to investors in connection with the sale of the 2017 and 2018 Bonds, the Town represented that the Bonds had been approved by the Bond Commission and that the Bonds were validly authorized and issued in accordance with the Louisiana Constitution and applicable laws. These representations were misleading because they did not disclose that the approval by the Bond Commission was based, at least in part, on intentionally overstated projections. The misrepresentations were material because the misrepresentations to the Bond Commission created the risk that the Bonds could be found not to have been validly authorized and issued, which would present a risk to repayment.

Misuse of Proceeds from Previous Bond Issuances

18. Louisiana state law provides that bond proceeds constitute a trust fund to be used exclusively for the purpose for which the bonds are authorized to be issued.⁴ Use of bond proceeds for unauthorized purposes is a violation of state law. As discussed below, the Town misused some of the proceeds from a 2015 bond offering. This misuse was not disclosed to investors in the 2017 and 2018 Bonds. Similarly, the Town also misused proceeds from the 2017 Bonds without disclosing this misuse to the 2018 Bond investor.

19. In 2015, Sterlington issued \$500,000 of water treatment and utilities revenue bonds and \$1.2 million of wastewater and utilities bonds (the “2015 Bonds”). Pursuant to the bond ordinance for the \$500,000 bond, the proceeds were to be solely used for the purpose of acquiring, constructing and installing a new water treatment facility with infrastructure improvements, extensions, modifications and additions to the wastewater and sewer treatment system of Sterlington. The bond ordinance for the \$1.2 million bonds stated that the purpose for the bond proceeds was for acquiring, constructing and installing improvements, extensions and additions to the wastewater and sewer treatment system.

20. Between January 2016 and August 2017, Breland directed Town employees to spend approximately \$432,000 of the 2015 Bond proceeds on expenditures that were contrary to the bond ordinances and other investor disclosures for those bond proceeds. These improper expenditures included over \$65,000 on police cars and \$205,000 on Sterlington’s payroll.

⁴ La. R.S. 39:577 (Public Finance: Application of Proceeds) provides, in relevant part:

The proceeds of the sale of bonds issued under the provisions of this Sub-part shall constitute a trust fund to be used exclusively for the purpose or purposes for which the bonds are authorized to be issued, but the purchaser of the bonds shall not be obliged to see to the application thereof. In the event that all or part of the proceeds of the sale of such bonds are no longer needed for the purpose for which the bonds were authorized to be issued, the governing authority of the subdivision which has issued such bonds may use the proceeds of the sale of such bonds for a purpose different from that for which the bonds were originally issued, provided that such new purpose is one for which the bonds could have been issued in the original instance and provided further that such proposed action shall have been approved by a majority in number and amount of the qualified property taxpayers voting at an election held in the manner provided by the provisions of this Chapter for authorizing bonds.

21. Sterlington’s audited financial statements for the year ended December 31, 2016, included a finding that Sterlington improperly spent \$322,280 of the 2015 Bond proceeds. In or about July 2017, the Town’s auditor notified the Town of this finding. On August 29, 2017, Breland’s response to the finding, on behalf of the Town, was that the Town planned to repay all the funds by December 31, 2017. Sterlington’s records show that only \$39,800 was repaid by the end of the year and the remaining \$282,480 to be repaid never occurred. In addition, from January 1, 2017 through July 31, 2018, Breland directed the misuse of an additional \$110,367 from the 2015 Bond proceeds. As a result, Sterlington spent a total of \$432,647 on items inconsistent with the stated purposes for the 2015 Bonds.

22. Prior to, and after Sterlington’s response to the audit finding, Sterlington, at Breland’s direction, also used the proceeds of the 2017 Bonds contrary to the stated purpose in the bond ordinance and other investor disclosures. The stated purpose of the 2017 Bonds was to “[construct] and [acquire] utility improvements, extensions and replacements to the System, including utility improvements to the Issuer’s new sports complex and other municipality owned projects, including appurtenant equipment, accessories and additions to such works of public improvement for the Issuer....”

23. Between June 16, 2017 and September 10, 2018, Sterlington, at Breland’s direction, spent \$2,685,456 of the 2017 Bond proceeds, including \$2,176,506 on its sports complex and \$362,184 on legal fees. These uses were inconsistent with the stated purposes for the 2017 Bonds.

24. In documents provided to investors in both the 2017 and 2018 Bonds, the Town made representations as to the intended use of bond proceeds. Those representations were misleading in light of the omitted information about the Town’s misuse of proceeds from recent bond offerings. The omissions were material because the Bonds were revenue bonds, intended to improve revenue producing water and sewer systems. The revenues from these systems were intended to be the source of repayment for the Bonds. The Town’s prior misuse of proceeds presented a risk that the Town would misuse proceeds in the 2017 and 2018 Bonds. The use of proceeds for non-Bond purposes presented a risk to the successful completion and operation of the projects and a risk to repayment.

Legal Discussion

25. Section 10(b) of the Exchange Act and Rule 10b-5(a) promulgated thereunder make it unlawful to “directly or indirectly ... employ any device, scheme, or artifice to defraud ... in connection with the purchase or sale of any security.” 17 C.F.R. § 240.10b-5(a). Section 10(b) of the Exchange Act and Rule 10b-5(b) promulgated thereunder make it unlawful to “directly or indirectly ... make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading ... in connection with the purchase or sale of any security.” 17 C.F.R. § 240.10b-5(b). Section 10(b) of the Exchange Act and Rule 10b-5(c) promulgated thereunder make it unlawful to “directly or indirectly ... engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person ... in connection with the purchase or sale of any security.” 17 C.F.R. § 240.10b-5(c).

26. Section 17(a)(1) of the Securities Act makes it unlawful “in the offer or sale of any securities ... directly or indirectly ... to employ any device, scheme, or artifice to defraud.” 15 U.S.C. § 77q(a)(1). 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).

27. A statement or omission is material if there is a substantial likelihood that a reasonable investor would consider it important in making an investment decision. Basic Inc. v. Levinson, 485 U.S. 224, 231-32 (1988).

28. Violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, as well as violations of Section 17(a)(1) of the Securities Act, require proof of scienter. Aaron v. SEC, 446 U.S. 680, 701-02 (1980). Scienter can be satisfied through recklessness. SEC v. Dain Rauscher, Inc., 254 F.3d 852, 856 (9th Cir. 2001). “Reckless conduct is conduct that consists of a highly unreasonable act, or omission, that is an ‘extreme departure from the standards of ordinary care, and which presents a danger of misleading buyers or sellers that is either known to the defendant or is so obvious that the actor must have been aware of it.’” Id. Negligence is sufficient to establish violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act. See Aaron, 446 U.S. at 696-97.

29. As a result of the conduct described above, Sterlington violated Section 17(a) of the Securities Act, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

Respondent’s Remedial Efforts

30. In determining to accept the Offer, the Commission considered remedial acts undertaken by the Town relating to improvements to its internal controls and establishment of a financial oversight committee charged with, among other things, overseeing and approving any borrowing or applications for funds, and approving disbursements.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Sterlington’s Offer.

Accordingly, it is hereby ORDERED that, pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Respondent Sterlington cease and desist from committing or

causing any violations and any future violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

By the Commission.

Vanessa A. Countryman
Secretary