

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 97828 / June 30, 2023**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 34954 / June 30, 2023**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-21509**

**In the Matter of**

**ROBERT L. BENECKE dba**  
**BENECKE ECONOMICS**

**Respondent.**

**ORDER INSTITUTING ADMINISTRATIVE  
AND CEASE-AND-DESIST PROCEEDINGS,  
PURSUANT TO SECTIONS 15B AND 21C,  
AND RULE 15Bc4-1 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 Sections 15B and 21C of the Securities Exchange Act of 1934 (“Exchange Act”), Rule 15Bc4-1 of the Exchange Act, and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Robert L. Benecke dba Benecke Economics (“Benecke” 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 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 Sections 15B and 21C, and Rule 15Bc4-1 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 finds that:

#### Summary

This matter involves unregistered municipal advisory activity and other improper conduct by Robert L. Benecke, a Florida-based consultant to municipal entities in New Jersey, dba Benecke Economics. Between May 2019 and May 2022, Benecke provided municipal advisory services to three municipal entities in New Jersey, which issued an aggregate amount of \$178,561,000 through eight municipal bond offerings. These services included providing advice to the municipal entities on the structure, timing, and terms of the issuances. During this period, Benecke was not registered as a municipal advisor. By conducting municipal advisory activities without registering with the Commission and the Municipal Securities Rulemaking Board ("MSRB"), Benecke violated the registration requirements of Section 15B(a)(1)(B) of the Exchange Act and MSRB Rule A-12. By failing to disclose material facts related to his registration status to his clients, Benecke did not deal fairly with his clients in violation of MSRB Rule G-17. By violating MSRB Rules A-12 and G-17, he also violated Exchange Act Section 15B(c)(1).

#### Respondent

1. **Robert L. Benecke**, 66 years old, is a resident of Lakewood Ranch, Florida. Benecke is the sole proprietor of Benecke Economics. In October 2014, Benecke registered with the Commission as a sole proprietor municipal advisor under the name "Benecke Robert," dba Benecke Economics. In December 2014, Benecke registered with the MSRB as a municipal advisor under the same name. In December 2015, Benecke withdrew his MSRB registration, and attempted to withdraw his SEC registration but failed to file the required withdrawal form, Form MA-W, due to a user error. In April 2019, the Commission issued an order cancelling Benecke's registration. See Order Cancelling Registrations of Certain Municipal Advisors Pursuant to Section 15B(c)(3) of the Securities Exchange Act of 1934, SEC Rel. No. 34-85538 (April 5, 2019).

#### Background

2. Prior to founding Benecke Economics, Benecke worked as the city manager and chief financial officer of a New Jersey municipality. In 2004, Benecke founded Benecke Economics, a sole proprietorship, to provide financial consulting services to New Jersey municipalities.

3. Benecke's consulting services included assistance with budget matters, preparation of financial statements, and redevelopment projects. On certain occasions, Benecke provided his clients with advice regarding the issuance of municipal securities. At issue in this matter is Benecke's municipal advisory activity between May 2019 and May 2022 (the "relevant period").

4. During the relevant period, Benecke engaged in municipal advisory activity when he provided advice to three municipal entities in connection with eight bond offerings. The advice that Benecke provided to the municipal entities included: (a) advice on the structure, timing, and

terms of the offerings; (b) preparing debt service and maturity schedules; (c) coordinating the credit rating process; (d) reviewing and revising official statements, including preparing sections of the official statements, providing his written approval of the official statements and being listed in the official statements as the financial consultant to the issuer “in connection with the issuance of the [b]onds”; and (e) providing advice with respect to what the issuer should disclose in its continuing disclosure filings, including whether the issuer should disclose reasons for late filings. The municipal entities issued an aggregate amount of \$178,561,000 of municipal securities in the eight offerings.

5. Benecke was aware of the municipal advisor registration requirements because he was previously registered with the SEC and the MSRB and had personally signed municipal advisor registration forms filed with the Commission, including a Form MA, Form MA-I, and Form MA-A, and MSRB registration Form A-12. In October 2014, Benecke registered with the Commission as a “sole proprietor” municipal advisor d/b/a Benecke Economics. In December 2014, Benecke registered with the MSRB as a municipal advisor under the same name. The staff of the Commission’s Division of Examinations conducted an examination of Benecke in May 2015. In September 2015, that Division sent Benecke a letter identifying certain regulatory deficiencies in his operation of Benecke Economics as a municipal advisor. In December 2015, Benecke withdrew his MSRB registration, and in January 2016, he indicated his intent to withdraw his SEC registration. In 2016 and 2017, he also represented to Commission staff that he was no longer engaging in municipal advisory activity. In August 2018 and March 2019, the Commission staff provided notice to Benecke of the Commission’s intent to cancel his municipal advisor registration because he had ceased doing business as a municipal advisor and because he had not made any required municipal advisor form submissions since January 2016. In April 2019, the Commission issued an order cancelling Benecke’s municipal advisor registration pursuant to Section 15B(c)(3) of the Exchange Act, and Commission staff provided notice to Benecke of the cancellation. Benecke did not re-register as a municipal advisor with the Commission or the MSRB after the registration was cancelled.

6. As a result, Benecke was not registered as a municipal advisor when he engaged in municipal advisory activity during the relevant period. Benecke also did not disclose to his clients that he was not a registered municipal advisor, despite knowing that he was required to be registered and that he was not, in fact, registered.

### **Violations**

7. Municipal advisors include financial advisors who provide advice to municipal entities with respect to the issuance of municipal securities, including advice with respect to the structure, timing, terms and other similar matters concerning such issuances. See Exchange Act Section 15B(e)(4)(A) and (B). In 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which amended Section 15B of the Exchange Act to provide for the registration and regulation of municipal advisors. The adopting release for the registration rules notes that the municipal advisor registration requirements and regulatory standards were intended to mitigate some of the issues observed with the conduct of some municipal advisors, including “pay to play” practices, undisclosed conflicts of interest, advice rendered by financial advisors without adequate training or qualifications, and failure to place the duty of loyalty to their clients

ahead of their own interests. See Registration of Municipal Advisors, SEC Rel. No. 34-70462 (Sept. 20, 2013), 78 Fed. Reg. 67468, 67469 (Nov. 12, 2013). Section 15B(a)(1)(B) of the Exchange Act makes it unlawful for “a municipal advisor to provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities” without being registered under the Commission’s final municipal advisor rules.

8. MSRB Rule A-12 requires that “each municipal advisor prior to engaging in municipal advisory activities must register with the [MSRB].”

9. MSRB Rule G-17 requires that, in the conduct of its municipal advisory activities, each municipal advisor shall deal fairly with all persons and shall not engage in any deceptive, dishonest, or unfair practice. Negligence is sufficient to establish a violation of MSRB Rule G-17. See In the Matter of Merrill Lynch, Pierce, Fenner & Smith, Inc., Exchange Act Release No. 40352, 1998 WL 518489, at \*13 (Aug. 24, 1998).

10. Section 15B(c)(1) of the Exchange Act requires that municipal advisors shall not engage in any act, practice, or course of business that is in contravention of any MSRB rule.

11. By conducting municipal advisory activities when he was not registered as a municipal advisor with the Commission or the MSRB, Benecke willfully<sup>1</sup> violated the registration requirements of Section 15B(a)(1)(B) of the Exchange Act and MSRB Rule A-12.

12. By failing to disclose material facts related to his registration status to his municipal entity clients, Benecke did not deal fairly with his clients in willful violation of MSRB Rule G-17.

13. By violating MSRB Rules A-12 and G-17, Benecke willfully violated Section 15B(c)(1) of the Exchange Act.

#### IV.

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

Accordingly, pursuant to Sections 15B and 21C, and Rule 15Bc4-1 of the Exchange Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Benecke cease and desist from committing or causing any violations and any future violations of Sections 15B(a)(1)(B) and 15B(c)(1) of the Exchange Act, and MSRB Rules A-12 and G-17.

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<sup>1</sup> “Willfully,” for purposes of imposing relief under Section 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)). There is no requirement that the actor “also be aware that he is violating one of the Rules or Acts.” Tager v. SEC, 344 F.2d 5, 8 (2d Cir. 1965).

B. Respondent Benecke be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and

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.

C. Any reapplication for association by the Respondent 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, compliance with the Commission's order and payment of any or all of the following: (a) any disgorgement or civil penalties ordered by a Court against the Respondent in any action brought by the Commission; (b) any disgorgement amounts ordered against the Respondent for which the Commission waived payment; (c) any arbitration award related to the conduct that served as the basis for the Commission order; (d) 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 (e) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

D. Respondent Benecke shall pay a civil money penalty in the amount of \$60,000 to the Securities and Exchange Commission of which \$15,000 shall be transferred to the MSRB in accordance with Section 15B(c)(9)(A) of the Exchange Act, and of which the remaining \$45,000 shall be transferred to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). Payments shall be made in the following installments:

- (1) \$15,000 within 10 days of the entry of this Order;
- (2) \$15,000 within 120 days of the entry of this Order;
- (3) \$15,000 within 240 days of the entry of this Order; and
- (4) \$15,000 within 360 days of the entry of this Order (see below).

Payments shall be applied first to post order interest, which accrues pursuant to 31 U.S.C. §3717. Prior to making the final payment set forth herein, Respondent shall contact the staff of the Commission for the amount due. If Respondent fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to

the Commission. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

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

- (1) Respondent may transmit payment 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 Benecke 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 LeeAnn Ghazil Gaunt, Chief, Public Finance Abuse Unit, Division of Enforcement, Securities and Exchange Commission, 33 Arch Street, 23<sup>rd</sup> Floor, Boston, MA 02110-1424.

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, he shall not argue that he is entitled to, nor shall he 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