

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

DAVID WEBB, JR.,

Defendant.

C.A. No.: 17-8685

Jury Trial Demanded

COMPLAINT

Plaintiff U.S. Securities and Exchange Commission (the “Commission”) alleges as follows:

NATURE OF THE ACTION

1. This matter involves violations of the antifraud provisions of the federal securities laws by David Webb, Jr. (“Webb” or “Defendant”), the former Mayor of the City of Markham, Illinois (“Markham”), in connection with Markham’s municipal bond offering in 2012, the purported purpose of which was to provide funding for certain Markham capital projects.

2. Unbeknownst to Markham’s bond investors and Markham’s City Council, Webb engaged in a pay-to-play scheme with a construction contractor (“Contractor A”) by soliciting and receiving a bribe from Contractor A. In exchange, Webb promised Contractor A that he would steer a multi-million dollar construction project to Contractor A, to be paid for with bond proceeds.

3. Markham’s City Council would have considered information regarding Webb’s pay-to-play scheme as important in its deliberations surrounding the authorization of Markham’s

2012 bond offering. Further, reasonable investors would also have considered this information as important in their investment decision-making process.

4. Through the activities alleged in this Complaint, Defendant, directly or indirectly, has engaged in transactions, acts, practices and courses of business which constitute violations of Section 17(a)(1) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)(1)] and Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] promulgated thereunder.

5. The Commission brings this lawsuit to prevent further harm to investors.

JURISDICTION AND VENUE

6. The Commission brings this action pursuant to the authority conferred by Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)] seeking a final judgment to restrain and enjoin permanently Defendant from engaging in the acts, practices, transactions and courses of business alleged herein.

7. The Commission also seeks a final judgment prohibiting Defendant from participating in an offering of municipal securities, as defined in Section 3(a)(29) of the Exchange Act [15 U.S.C. § 78c(a)(29)], including engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of any municipal security; *provided, however*, that the Commission does not seek an injunction that would prevent Defendant from purchasing or selling municipal securities for his own personal account.

8. The Commission also seeks a final judgment ordering Defendant to disgorge his ill-gotten gains and pay prejudgment interest thereon, and ordering Defendant to pay civil money

penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

9. This Court has jurisdiction over this action, and venue lies in this District, pursuant to Sections 20(d) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(d), 77v(a)] and Sections 21(d) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78aa]. Defendant, directly or indirectly, has made use of the means or instruments of transportation or communication in, and the means or instrumentalities of, interstate commerce, or of the mails, in connection with the transactions, acts, practices, and courses of business alleged herein. These transactions, acts, practices and courses of business occurred in the Northern District of Illinois, where the City of Markham is located and where Defendant resides.

10. There is a reasonable likelihood that Defendant will, unless enjoined, continue to engage in the transactions, acts, practices and courses of business set forth herein, and transactions, acts, practices and courses of business of similar purport and object.

FACTS

Defendant

11. David Webb, Jr., age 69, resides in Markham, Illinois, where he was Mayor from 2001 until May 3, 2017. As Mayor, Webb was the chief executive officer of the City of Markham and also served on the city council.

Related Parties

12. City of Markham, Illinois is located in southern Cook County, Illinois, about 24 miles south of downtown Chicago. Markham was incorporated as a Village in 1925 and as a City in 1967. Markham is governed by a City Council, comprised of a mayor and four aldermen elected from separate wards for four-year terms.

Markham's 2012 Bond Offering and Roesner Park Development Project

13. At a March 21, 2012 Markham City Council meeting, the City Council discussed Ordinance 12-O-2014, which would authorize the issuance of \$5,500,000 of General Obligation Bonds (the "Bond(s)") to provide funding for certain capital projects within the boundaries of Markham, including (1) the acquisition of a roller rink and (2) the development of Roesner Park.

14. During the discussion of the anticipated Bond offering, a woman present at the City Council meeting stated that she heard that Markham's city attorney, whose mother was the seller of the roller rink, would improperly benefit from Markham's contemplated purchase of the roller rink with Bond proceeds. In response, Webb stated, among other things, "when it was brought to me . . . I said I want an appraisal [of the roller rink] to make certain because I don't want no one plastering my name saying that I made a deal. I don't make deals." Later at the same meeting, the City Council voted to approve the ordinance by a vote of 3-1. In May 2012, Markham issued the Bonds.

15. Markham engaged Contractor A for the Roesner Park development on June 1, 2012, with Webb signing the Design-Build agreement on behalf of Markham and the President of Contractor A ("Individual A") signing the agreement on behalf of Contractor A. Webb made the decision on behalf of Markham to engage Contractor A for the Roesner Park development. The Roesner Park development project included construction of a new 9,000 square foot park district office building that included a renovated gymnasium surrounded by new trees, landscaping and sidewalks. Markham utilized over half of the proceeds from the Bonds to fund the Roesner Park development project.

Webb's Pay-to-Play Scheme

16. Webb engaged in a pay-to-play scheme with Contractor A in connection with Markham's Roesner Park development project.

17. In February 2012, Webb solicited and received \$75,000 from Individual A as a bribe. In exchange for the bribe, Webb agreed to engage Contractor A as the developer for the Roesner Park development project. Contractor A made the payment to Webb by writing a \$75,000 check to a shell company controlled by Webb ("Shell Company A"), from which Webb financially benefitted.

18. Contractor A also wrote a \$10,000 check, payable to Shell Company A, in May 2013, when the Roesner Park development was nearly complete. This payment was also made in connection with Webb's engagement of Contractor A for the Roesner Park development. Webb also financially benefitted from this bribe payment.

19. Markham's City Council would have considered information regarding Webb's pay-to-play scheme as important in its deliberations surrounding the authorization of Markham's Bond offering. Moreover, reasonable investors would also have considered such information as important in their investment decision-making process, allowing them to weigh and price the risk associated with Markham's Bonds. For example, Investor A, an investor in the Bonds, told the Commission staff that it did not know about Webb's pay-to-play scheme when it purchased the Bonds but the existence of corruption would have been an important fact for it to know prior to its purchase of the Bonds.

CLAIMS FOR RELIEF

COUNT I

Violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder

20. The Commission realleges and reincorporates by reference each and every allegation set forth above.

21. By virtue of the conduct alleged herein, Defendant, directly or indirectly, singly or in concert with others, by use of any means or instrumentality of interstate commerce, or by the use of the mails, or of the facilities of a national securities exchange, in connection with the purchase or sale of securities, has employed devices, schemes and artifices to defraud, made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and/or engaged in acts, practices and courses of business which operated or would have operated as a fraud or deceit upon purchasers of securities and upon other persons.

22. Defendant acted knowingly or recklessly when he engaged in the acts and omissions described herein.

23. By reason of the foregoing, Defendant violated, and unless enjoined will likely again violate, Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

COUNT II

Violations of Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)]

24. The Commission realleges and reincorporates by reference each and every allegation set forth above.

25. By virtue of the conduct alleged herein, Defendant, directly or indirectly, singly or in concert with others, in the offer or sale of securities, by use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, has employed devices, schemes and artifices to defraud.

26. Defendant acted knowingly or recklessly when he engaged in the acts and omissions described herein.

27. By reason of the foregoing, Defendant has violated, and unless enjoined will likely again violate, Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court:

I.

Issue findings of fact and conclusions of law that Defendant committed the violations charged and alleged herein.

II.

Enter an Order of Permanent Injunction restraining and enjoining Defendant, his officers, agents, servants, employees, attorneys and those persons in active concert or participation with Defendant who receive actual notice of the Order, by personal service or otherwise, and each of them from, directly or indirectly, engaging in the transactions, acts, practices or courses of business described above, or in conduct of similar purport and object, in violation of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] promulgated thereunder and Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

III.

Enter an Order of Permanent Injunction prohibiting Defendant from participating in an offering of municipal securities, as defined in Section 3(a)(29) of the Exchange Act [15 U.S.C. § 78c(a)(29)], including engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of any municipal security; *provided, however*, that the Commission does not seek an injunction that would prevent Defendant from purchasing or selling municipal securities for his own personal account.

IV.

Issue an Order requiring Defendant to disgorge the ill-gotten gains that he received, directly or indirectly, as a result of his wrongful conduct, including prejudgment interest.

V.

Issue an Order imposing appropriate civil penalties upon Defendant pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)] and Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)].

VI.

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

VII.

Grant such orders for further relief the Court deems appropriate.

JURY DEMAND

Pursuant to Rule 39 of the Federal Rules of Civil Procedure, the SEC demands that this case be tried before a jury.

Respectfully Submitted,

**UNITED STATES SECURITIES AND
EXCHANGE COMMISSION**

Dated: December 1, 2017

s/ Michael J. Mueller
Brian Fagel (IL #6224886)
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