

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 83901 / August 22, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18658

In the Matter of

JAMES P. SCHERR,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO SECTION
15(b) OF THE SECURITIES EXCHANGE
ACT OF 1934, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against James P. Scherr (“Scherr” 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, and the findings contained in paragraph III.2 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

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

1. Scherr, age 61, resides in Boca Raton, Florida. From at least 2009 to 2016, he was majority owner and managing director of Core Performance Management, LLC, a defunct Florida entity that bought and sold new issue municipal bonds. During that time, Scherr was not an associated person of a registered broker-dealer.

2. On August 16, 2018, a final judgment was entered by consent against Scherr, permanently enjoining him from future violations of Section 17(a) of the Securities Act, Sections 10(b) and 15(a)(1) of the Exchange Act and Rule 10b-5 thereunder, and Rule G-17 of the Municipal Securities Rulemaking Board, in the civil action entitled Securities and Exchange Commission v. James P. Scherr, et al., Civil Action Number 18-cv-81081-BB, in the United States District Court for the Southern District of Florida.

3. The Commission's complaint alleged that, from at least 2009 to 2016, Scherr directed the purchase of new issue municipal bonds in primary offerings from underwriters, which were then immediately sold, or "flipped" to broker-dealer customers for a profit. Scherr directed, supervised, and funded his employees and independent contractors to function as unregistered brokers by taking orders for bonds from broker-dealers who were unable to obtain those bonds directly, filling those orders with bonds they obtained from underwriters in new offerings, and charging transaction-based compensation. Scherr also received a portion of the transaction-based compensation his employees and contractors earned on their trades. In many cases, Scherr's employees obtained the bonds by misrepresenting themselves to underwriters and/or municipal issuers as retail investors or representatives of retail investors, thereby creating the misleading impression that their orders were entitled to a higher priority. Scherr also paid kickbacks to a municipal underwriter in exchange for his purchase of municipal bonds.

IV.

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

Accordingly, it is hereby ORDERED pursuant to Section 15(b) of the Exchange Act that Respondent Scherr 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.

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, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) 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 (d) any restitution order by a self-regulatory organization, whether or not related to the conduct
that served as the basis for the Commission order.

By the Commission.

Brent J. Fields
Secretary