

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 84224 / September 20, 2018

INVESTMENT COMPANY ACT OF 1940
Release No. 33241 / September 20, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18803

In the Matter of

**ERIC HALL & ASSOCIATES,
LLC and ERIC HALL**

Respondents.

**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 Respondents Eric Hall & Associates, LLC (“EHA”) and Eric Hall (“Hall”).

II.

In anticipation of the institution of these proceedings, Respondents EHA and Hall (together “Respondents”) have submitted Offers of Settlement (the “Offers”) 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 the Respondents and the subject matter of these proceedings, which are admitted, and except as

provided herein in Section V, Respondents consent 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 Respondents’ Offers, the Commission finds that:

Summary

1. This matter involves a failure to register as a municipal advisor and other improper conduct by Eric Hall & Associates, LLC (“EHA”) and its principal, Eric Hall.
2. EHA provides school facilities and fiscal management consulting services for school districts. As part of its consulting services, EHA served as a municipal advisor to a California school district (the “School District”) in 2015 and 2016. During the School District’s process of selecting EHA as its municipal advisor, EHA and Hall represented that EHA was eligible and properly qualified to serve in this role. In fact, EHA was not because it was not properly registered as a municipal advisor with the Commission.
3. Even after EHA was contacted by the Commission staff about its failure to properly register with the Commission, EHA and Hall failed to register with the Commission and failed to disclose to the School District that they were not registered as municipal advisors with the Commission.
4. By conducting municipal advisory activities without properly registering with the Commission, EHA and Hall violated the registration requirements of Section 15B(a)(1)(B) of the Exchange Act.
5. By failing to disclose material facts related to their registration status to their client, EHA and Hall breached their fiduciary duty and did not deal fairly with their client, in violation of Section 15B(c)(1) of the Exchange Act and Rule G-17 of the Municipal Securities Rulemaking Board (“MSRB”).

Respondents

6. Eric Hall & Associates, LLC is a California limited liability company formed in 2006 and located in Carlsbad, California. EHA provides consulting services to school districts, with a specialization in school facilities and fiscal program management. In April 2011, EHA registered with the Commission as a municipal advisor under the temporary registration rules. That same month, EHA also registered with the MSRB as a municipal advisor. However, EHA did not register with the Commission under the final municipal advisor registration rule, which was effective July 1, 2014.

7. Eric Hall, age 67, of Carlsbad, California, has been the CEO and President of EHA since its formation. Hall is not registered with the Commission in any capacity.

Other Relevant Entity

8. The School District is located in California. In 2015 the School District conducted a municipal bond offering, and in 2016 the School District took steps toward, but ultimately did not pursue, another bond offering. EHA served as the municipal advisor for both the 2015 bond offering and the proposed 2016 bond offering.

Facts

9. Prior to founding EHA, Eric Hall worked for over thirty years as an administrator at California public schools. After retiring from school administration, Hall formed EHA in 2006 to provide business consulting services for school districts.

10. The consulting services EHA provides to school districts includes assistance with facilities management, finance and budget matters. On certain occasions, EHA provided its school district clients with advice regarding municipal securities offerings. At issue in this matter is EHA's and Hall's provision of municipal advisory services in 2015 and 2016.

11. In April 2011, Hall registered EHA as a municipal advisor with the MSRB and with the Commission under the temporary registration rules applicable at the time. However, Hall failed to register EHA with the Commission under the final registration rule, which became effective on July 1, 2014.

12. Throughout the remainder of 2014 and into 2015, the MSRB and the Commission repeatedly informed temporary registrants, including EHA and Hall, that, in order to conduct municipal advisory activities lawfully, municipal advisors were required to register with the Commission under the Commission's final registration rules. Despite this, EHA did not register with the Commission under the final rules.

13. Starting in or about July 2015, Hall and a representative of the School District began discussions for EHA and Hall to act as the "financial advisor" on an anticipated bond offering by the district. As part of these discussions, a representative for the district asked Hall whether EHA was eligible to act as a financial advisor. Despite not having registered under the Commission's rules, Hall represented that he and EHA were eligible to work in this capacity.

14. In or about August 2015, Hall, on behalf of EHA, executed a contract for EHA to provide the School District with financial advisory services in connection with a potential bond offering. As part of this agreement, EHA and Hall represented that EHA would comply with all laws, rules and regulations applicable to its role as financial advisor, and that EHA would secure and maintain all necessary permits and licenses necessary to act as a financial advisor.

15. The contract also set forth a description of EHA's advisory services, which included commitments to advise the School District with regard to the structure, timing, terms and related matters in connection with the potential bond offering.

16. Over the next few months, EHA and Hall provided municipal advisory services for the School District. Among other things, EHA and Hall assisted the School District in scheduling the bond offering, and advised the School District as to the best timing to achieve a favorable interest rate. EHA and Hall represented the School District in discussions with the underwriter, bond counsel and rating agency, including discussions regarding the structure, timing, and terms of the bond offering. Under Hall's direction, EHA also prepared and reviewed key documents to the bond offering. Among other things, EHA aided in the preparation of the School District's board meeting materials describing the financial impact of the offering, and revised the underlying agreements to the offering.

17. On October 20, 2015, the School District issued the bonds. For their municipal advisory services, EHA and Hall received net compensation of \$35,520 from the School District.

18. In early 2016, EHA and Hall began discussions with the School District for EHA to serve as municipal advisor on a potential bond offering in 2016. By April 2016, EHA and Hall were performing municipal advisory services in furtherance of the potential offering, including assembling the team of other professionals, and providing preliminary advice and planning with regard to the amount of the bond offering, the use of bond proceeds, and the potential structure of the offering.

19. In April 2016, the Commission staff sent a letter to EHA and Hall informing them that the staff had received information that EHA may have engaged in municipal advisory activity without having registered as a municipal advisor under the final registration rule, as required under the federal securities laws and related MSRB rules. Among other things, the letter requested that EHA and Hall identify any municipal advisory activity EHA had conducted after October 2014.

20. Hall responded on behalf of EHA in a May 2016 letter to the Commission staff. EHA and Hall identified EHA's past work on the School District's 2015 bond offering as possible municipal advisory activity. However, EHA and Hall did not identify EHA's ongoing work on the potential 2016 bond offering, and instead claimed that EHA "is not providing and has not provided municipal advisory services" to any client at any time after the School District's 2015 bond offering.

21. In the same letter, Hall stated that EHA would comply with municipal advisor registration requirements in the future, and that it would complete and maintain its permanent registration with the Commission.

22. Despite this representation, EHA and Hall did not register EHA with the Commission. In June 2016, shortly after responding to the Commission's inquiry, EHA and Hall continued to encourage the School District to conduct another bond offering, with EHA as its municipal advisor.

23. That month, Hall and a representative of the School District finalized the terms of a contract for EHA to provide municipal advisory services for the proposed 2016 bond offering. As with the 2015 contract, the 2016 contract set forth a description of EHA's proposed services, which again included advisory services regarding the structure, timing, terms and related matters in connection with the potential bond offering. The 2016 contract also included the School District's requirement that EHA would comply with all laws, rules and regulations applicable to its role as financial advisor, and that EHA would secure and maintain all necessary permits and licenses necessary to act as a financial advisor.

24. EHA and Hall knew, or should have known, that they would not be able to meet these obligations without registering with the Commission. Despite this, EHA and Hall did not inform the School District that EHA could not meet the School District's requirement that all consultants be properly licensed and abide all applicable laws, rules and regulations. EHA and Hall also did not disclose to the School District that the Commission staff had contacted EHA and Hall to discuss EHA's failure to register.

25. EHA and Hall provided municipal advisory services to the School District pursuant to the 2016 contract. In June 2016, EHA and Hall led a presentation to the School District's board of education, for the purpose of advising the board on whether to pursue the proposed bond offering. Among other things, EHA and Hall presented on the School District's need for bond funding, the potential uses of the funding, and the timing of a potential bond offering. In the weeks following the June 2016 presentation, EHA and Hall assisted the School District's administrators in responding to issues raised by the board regarding, among other things, the structure, timing, and terms of a potential bond offering.

26. In August 2016, the School District's board of education determined not to proceed with the 2016 bond offering.

Violations

27. Municipal advisors include financial advisors who provide advice to municipal entities with respect to bond offerings, including advice with respect to the structure, timing, terms and other matters concerning bond offerings. See Exchange Act Sections 15B(e)(4)(A) and (B). In 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), which included provisions 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 undisclosed conflicts of interest and failure to place the duty of loyalty to their municipal entity clients ahead of their own interests. See Registration of Municipal Advisors, Release No. 34-70462 (September 20, 2013), 78 Fed. Reg. 67468, 67469 (November 12, 2013).

28. Section 15B(c)(1) of the Exchange Act, as amended by Section 975 of the Dodd-Frank Act, imposes upon municipal advisors and their associated persons a fiduciary duty

to their municipal entity clients, and prohibits them from engaging in any act, practice, or course of business that is not consistent with their fiduciary duty. It is well settled that fiduciaries must act in utmost good faith, use reasonable care to avoid misleading clients, and fully and fairly disclose conflicts of interest. SEC v. Capital Gains Research Bureau, Inc., 375 U.S. 180, 194 (1963).

29. MSRB Rule G-17 states 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. 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). Section 15B(c)(1) of the Exchange Act requires that municipal advisors shall not act in contravention to any MSRB rule in the provision of advice to or on behalf of a municipal entity or in undertaking a solicitation of a municipal entity.

30. As a result of the conduct described above, EHA willfully¹ violated Section 15B(a)(1)(B) by failing to register as a municipal advisor. Hall was a cause of EHA's violation of Section 15B(a)(1)(B) of the Exchange Act.

31. By failing to disclose to the School District that EHA was not registered and therefore not qualified to act as a municipal advisor, EHA and Hall breached their fiduciary duty and willfully violated Section 15B(c)(1) of the Exchange Act. EHA and Hall also willfully violated Section 15B(c)(1) of the Exchange Act by not dealing fairly with the School District, in violation of MSRB Rule G-17.

IV.

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Sections 15B and 21C of the Exchange Act, EHA:

- (1) Shall cease and desist from committing or causing any violations and any future violations of Sections 15B(a)(1)(B), 15B(c)(1) of the Exchange Act, and MSRB Rule G-17;
- (2) Shall be, and is hereby, censured;

¹ A willful violation of the securities laws means merely "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." Id. (quoting Gearhart & Otis, Inc. v. SEC, 348 F.2d 798, 803 (D.C. Cir. 1965)).

- (3) Shall pay, jointly and severally with Hall, disgorgement of \$35,520 and prejudgment interest of \$4,241.38 to the Commission. Payment shall be due twelve (12) months from the date of the Order. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600; and
- (4) Shall pay, jointly and severally with Hall, a civil money penalty in the amount of \$15,000 to the Commission of which \$2,500 shall be transferred to the MSRB in accordance with Section 15B(c)(9)(A) of the Exchange Act, and of which the remaining \$12,500 shall be transferred to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). Payment shall be due twelve (12) months from the date of the Order. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

B. Pursuant to Sections 15B and 21C, and Rule 15Bc4-1 of the Exchange Act, and Section 9(b) of the Investment Company Act, Hall:

- (1) Shall cease and desist from committing or causing any violations and any future violations of Sections 15B(a)(1)(B), 15B(c)(1) of the Exchange Act, and MSRB Rule G-17;
- (2) Be, and is hereby, barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization;
- (3) Be, and is hereby, 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;
- (4) Shall pay, jointly and severally with EHA, disgorgement of \$35,520 and prejudgment interest of \$4,241.38 to the Commission. Payment shall be due twelve (12) months from the date of the Order. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600; and
- (5) Shall pay, jointly and severally with EHA, a civil money penalty in the amount of \$15,000 to the Commission of which \$2,500 shall be transferred to the MSRB in accordance with Section 15B(c)(9)(A) of the Exchange Act, and of which the remaining \$12,500 shall be transferred to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). Payment shall be due twelve (12) months from the date of the Order. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

C. Any reapplication for association by Hall 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 Hall, 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.

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

- (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondents 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) Respondents 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 EHA or Hall, respectively, 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, Securities and Exchange Commission, 33 Arch Street, 23rd Floor, Boston, MA 02110-1424.

E. 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, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they 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 Respondents 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 Hall, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Hall 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 Hall 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.

Brent J. Fields
Secretary