

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 86393 / July 16, 2019**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-19253**

<p><b>In the Matter of</b></p> <p><b>Dale Scott &amp; Company, Inc.</b></p> <p><b>Respondent.</b></p>
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**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO 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 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Dale Scott & Company, Inc. (“DSC” 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 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 finds<sup>1</sup> that:

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<sup>1</sup> 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.

## Summary

1. This matter involves a registered municipal advisor's use of unregistered "solicitor" municipal advisors to solicit business from school districts in California. In 2010, Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act which amended the Exchange Act to establish a federal regulatory regime applicable to municipal advisors. The Exchange Act and SEC rules and regulations thereunder identify two broad categories of municipal advisors: (1) those that provide certain advice to or on behalf of a municipal entity or obligated person; and (2) those that undertake certain solicitations of a municipal entity or obligated person on behalf of an unaffiliated broker-dealer, municipal advisor or investment adviser. The latter category of municipal advisors are known as "solicitor municipal advisors." Section 15B(a)(1)(B) requires all municipal advisors to register with the Commission. The registration requirement for solicitor municipal advisors is intended to provide protection and transparency to municipal entities and obligated persons as they make decisions on the hiring of financial professionals, including the hiring of municipal advisors.

2. Between October 2011 and March 2016, DSC engaged three unregistered parties to provide various services to DSC including to solicit municipal advisory business on DSC's behalf. By soliciting municipal advisory business on behalf of DSC without properly registering with the Commission, those three parties violated the registration requirements of Section 15B(a)(1)(B) of the Exchange Act. DSC was a cause of those violations.

## Respondent

3. Dale Scott & Co., Inc. ("DSC") is a seven employee municipal advisory firm located in San Francisco, California, that provides advisory services to school districts and community college districts in California. DSC is registered as a municipal advisor with both the Commission and the Municipal Securities Rulemaking Board.

## Other Relevant Individual and Entities

4. Solicitor A worked for many years in the Business Services office of a school district in California until his retirement. Solicitor A has never registered with the Commission in any capacity.

5. Solicitor B is a public affairs company based in California. Solicitor B has never registered with the Commission in any capacity.

6. Solicitor C is a company that provides consulting and information services to school districts in California. Solicitor C has never registered with the Commission in any capacity.

## **Facts**

7. Between October 2011 and March 2016, DSC entered into contracts with Solicitor A, Solicitor B, and Solicitor C (collectively, the “Solicitors”) pursuant to which the Solicitors would, in addition to providing consulting services, solicit new municipal advisory business on behalf of DSC from school districts, some of which were already DSC clients. DSC drafted the contracts with the Solicitors which stated the Solicitors would contact school districts “for the purpose of engaging and retaining [DSC] as Financial Advisor.”

8. The Solicitors communicated with school district business officials via email or telephone to solicit them by attempting to secure meetings between the school districts and DSC regarding services DSC could provide in connection with the potential sale of municipal bonds.

9. Pursuant to the contracts, DSC paid the Solicitors either a monthly retainer or a percentage of DSC’s fees earned from certain municipal advisory clients. The Solicitors’ contracts were terminated in March 2016.

10. DSC was closely involved in the Solicitors’ solicitations of potential school district clients on DSC’s behalf:

- DSC had regular update meetings and communications with the Solicitors about ongoing solicitations and directed the Solicitors with regard to individuals to contact, timing of the contact, and setting meetings;
- DSC gave specific background information to the Solicitors about school districts’ existing debt and proposed new municipal bond sales for the Solicitors to use in initial contacts with potential and existing clients; and
- DSC prepared lists of specific school districts for the some of Solicitors to target in their solicitations, and ranked the districts from most likely prospects to the least likely prospects before the solicitations began.

11. DSC knew the Solicitors were not registered as municipal advisors. DSC knew or should have known that its actions would result in the Solicitors engaging in unregistered soliciting municipal advisor activity on DSC’s behalf.

## **Violation**

12. Section 15B(a)(1)(B) of the Exchange Act makes it unlawful to “undertake a solicitation of a municipal entity or obligated person” without being registered with the Commission. “Solicitation” of a municipal entity is defined as a “direct or indirect communication with a municipal entity or obligated person made by a person, for direct or indirect compensation, on behalf of a . . . municipal advisor . . . that does not control, is not controlled by, or is not under common control with the person undertaking such solicitation for the purpose of obtaining or retaining an engagement by a municipal entity . . . of a municipal advisor for or in connection with municipal financial products, [or] . . . the issuance of municipal securities.” Exchange Act, Section 15B(e)(9).

13. The Solicitors undertook the solicitation of municipal entities on behalf of DSC without being registered with the Commission. The Solicitors' emails and phone calls to school districts were "communications" within the definition of solicitation in Section 15B(e)(9). As set forth above, the Solicitors contacted school districts regarding DSC's services in an effort to set up meetings to discuss the possibility of the school districts hiring DSC. Because these communications were made for the purpose of the school districts hiring DSC as a municipal advisor, they fall within the definition of solicitation. The payments made by DSC to the Solicitors meet the "compensation" element of the definition of solicitation in Section 15B(e)(9).

14. As a result of the conduct described above, the Solicitors violated Section 15B (a)(1)(B) of the Exchange Act for failing to register with the Commission.

15. The Commission may institute cease-and-desist proceedings against any person held to be a cause of violations of the federal securities laws due to acts or omissions such person knew or should have known would contribute to the violation. See 15 U.S.C. § 78u-3(a); Robert M. Fuller, 56 SEC 976, 984 (2003), pet. denied, 95 F. App'x 361 (D.C. Cir. 2004).

16. As a result of DSC's conduct described above, DSC was a cause of the Solicitors' violations of Section 15B (a)(1)(B) of the Exchange Act for failing to register with the Commission.

#### IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in DSC's Offer.

Accordingly, pursuant to Section 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent DSC cease and desist from committing or causing any violations and any future violations of Section 15B(a)(1)(B) of the Exchange Act.

B. Respondent shall, within 10 days of the entry of this Order, pay a civil penalty of \$25,000, to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

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 DSC 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.

C. 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, it shall not argue that he is entitled to, nor shall it 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 it 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.

By the Commission.

Vanessa A. Countryman  
Secretary