

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 90002 / September 25, 2020**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-20072**

**In the Matter of**

**FUNDING THE GAP, LLC**  
**and IRENE P. CARROLL**

**Respondents.**

**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 and in the public interest that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Funding the Gap, LLC (“FTG”) and Irene P. Carroll (“Carroll”) (together, “Respondents”).

**II.**

In anticipation of the institution of these proceedings, Respondents have 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 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 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 Respondents' Offer, the Commission finds<sup>1</sup> that:

#### Summary

1. This matter involves unregistered municipal advisory activity by Funding the Gap, LLC ("FTG"), a Scottsdale, Arizona based entity, and its principal, Irene P. Carroll.

2. Starting as early as July 2014 and continuing through September 2019, FTG and Carroll provided municipal advice to twelve charter schools in connection with the issuance of municipal bonds. FTG and Carroll provided advice with respect to twelve municipal bond offerings sold via conduit issuers that cumulatively raised \$222 million. FTG was paid fees for the services FTG and Carroll provided to the charter schools in connection with these bond offerings.

3. During this period, FTG was not registered as a municipal advisor, and was not subject to any exemptions or exclusions from registration while providing advice to its municipal entity clients. As a result, FTG violated Section 15B(a)(1)(B) of the Exchange Act by failing to register as a municipal advisor, and Carroll caused FTG's violation.

#### Respondents

4. Funding the Gap, LLC is an Arizona limited liability company organized in 2011 and located in Scottsdale, Arizona. FTG provides financing and real estate consulting services to charter and private schools. FTG has never registered with the Commission as a municipal advisor.

5. Irene P. Carroll, of Scottsdale, Arizona is principal and one of two initial members of FTG. She has solely controlled the firm since approximately 2017. Separately, Carroll wholly-owns and is an associated person of an entity that registered with the Commission as a municipal advisor effective September 27, 2019 and registered with the Municipal Securities Rulemaking Board as a municipal advisor on January 17, 2020.

#### Facts

6. A municipal advisor is a person (who is not a municipal entity or an employee of a municipal entity) that provides advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues, or that undertakes a solicitation of a municipal entity or obligated person. Exchange Act Section 15B(e)(4)(A).

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<sup>1</sup> The findings herein are made pursuant to Respondents' Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

7. Section 15B(a)(1)(B) of the Exchange Act requires all municipal advisors to register with the Commission. The registration requirements and regulatory standards for municipal advisors are intended to mitigate some of the problems 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.

8. Charter schools, such as FTG’s clients, are generally considered municipal entities, because they are public schools and derive their charter from a political subdivision of a state. Registration of Municipal Advisors, SEC Release No. 34-70462 at 69 (Sept. 20, 2013).

9. With respect to the issuance of municipal securities, municipal advisors, among other things, may assist municipal entities in developing a financing plan, assist municipal entities in evaluating different financing options and structures, assist in the selection of other parties to the financing (such as bond counsel and underwriters), coordinate the rating process, ensure adequate disclosure, and/or evaluate and negotiate the financing terms. Registration of Municipal Advisors, SEC Release No. 34-70462 at 17 (Sept. 20, 2013).

10. Carroll co-founded FTG in Arizona in 2011, and has primarily controlled and operated FTG during the relevant time period. On its website and in marketing materials, FTG describes itself as a capital advisory and real estate services firm for charter schools and other education-related entities. FTG’s clients are primarily charter schools located throughout the United States, including Florida, Colorado, Texas and South Carolina. Each of the twelve charter schools that FTG and Carroll advised received its charter from a political subdivision of the state in which it is located.

11. Between at least July 2014 and September 2019, FTG and Carroll provided municipal advice to twelve charter schools that included advice with respect to structure, timing, and terms and other similar matters concerning such financial products or issues. The services FTG and Carroll provided to their charter school clients in connection with their bond offerings included some services which are routinely provided by a registered municipal advisor to municipal entities and obligated persons. This included advice on (1) financing structures and interest rates; (2) debt service analysis and amortization schedules; (3) selection of the conduit municipal issuer for bonds; and (4) selection of the underwriter.

12. For example, in connection with an \$11.9 million municipal bond offering in September 2018, FTG and Carroll advised their charter school client on the interest rate of the bonds, including the reasonableness of the expected rate in light of current market conditions. In another example, in connection with a \$32 million municipal bond offering in February 2019, FTG and Carroll prepared a document on behalf of their client, which included estimates of total offering amounts, interest rates and term, sources and uses of funds, and bond amortization. Similarly, in connection with a \$53 million municipal bond offering in June 2019, FTG and Carroll provided input to their client on the structure of proposed municipal bonds, (specifically

regarding bond tranches) and prepared a schedule for their client including issuance amounts, interest, and issuance expenses.

13. Cumulatively, the twelve charter schools advised by FTG and Carroll borrowed directly, or through related entities, \$222 million through municipal bonds offerings, primarily to fund school building and campus development costs. FTG was paid fees for the services provided to the charter schools, which included, in addition to municipal advisory services, certain real estate, construction, and other consulting services related to campus and organization development.

14. Carroll was aware of the municipal advisor registration requirements as early as 2011 and she understood that she and FTG were providing services similar to those typically provided by registered municipal advisors. For example, in July 2018, Carroll told a charter school client that FTG's "services encompass far more than what [a municipal advisor] provides." Despite this, neither FTG nor Carroll was registered as a municipal advisor. Carroll did not represent herself or FTG as registered municipal advisors.

### **Violations**

15. 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.

16. The Exchange Act defines the term "municipal advisor" to include a person that "provides advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues...." See Exchange Act, Section 15B(e)(4)(A)(i). The term "municipal advisor" "includes financial advisors" who provide such advice. See Exchange Act, Section 15B(e)(4)(B). Charters schools are generally considered municipal entities. See Registration of Municipal Advisors, SEC Release No. 34-70462 at 69 (Sept. 20, 2013).

17. As a result of the conduct described above, FTG violated Section 15B(a)(1)(B) of the Exchange Act by failing to register as a municipal advisor with the Commission.

18. 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).

19. As a result of the conduct described above, Carroll was a cause of FTG's violation of Section 15(B)(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, and in the public interest, to impose the sanctions agreed to in Respondents' Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent FTG and Carroll:

- (1) Shall cease and desist from committing or causing any violations and any future violations of Section 15B(a)(1)(B) of the Exchange Act; and
- (2) Shall, within 60 days of the entry of this Order, pay, jointly and severally, a civil money penalty in the amount of \$30,000.00 to the Commission for transfer to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Exchange Act. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

B. 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 FTG or Carroll, 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.

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, 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 Carroll, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Carroll 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 Carroll 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