U.S. Securities and Exchange Commission

SEC Charges State of New Jersey for Fraudulent Municipal Bond Offerings

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Washington, D.C., Aug. 18, 2010 — The Securities and Exchange Commission today charged the State of New Jersey with securities fraud for misrepresenting and failing to disclose to investors in billions of dollars worth of municipal bond offerings that it was underfunding the state's two largest pension plans.

Additional Materials

- SEC Order Against State of New Jersey

According to the SEC's order, New Jersey offered and sold more than $26 billion worth of municipal bonds in 79 offerings between August 2001 and April 2007. The offering documents for these securities created the false impression that the Teachers' Pension and Annuity Fund (TPAF) and the Public Employees' Retirement System (PERS) were being adequately funded, masking the fact that New Jersey was unable to make contributions to TPAF and PERS without raising taxes, cutting other services or otherwise affecting its budget. As a result, investors were not provided adequate information to evaluate the state's ability to fund the pensions or assess their impact on the state's financial condition.

High-Res Photo

"The State of New Jersey didn't give its municipal investors a fair shake, withholding and misrepresenting pertinent information about its financial situation."

Robert Khuzami
Director
SEC Enforcement Division

New Jersey is the first state ever charged by the SEC for violations of the federal securities laws. New Jersey agreed to settle the case without admitting or denying the SEC's findings.

"All issuers of municipal securities, including states, are obligated to provide investors with the information necessary to evaluate material risks," said Robert Khuzami, Director of the SEC's Division of Enforcement. "The State of New Jersey didn't give its municipal investors a fair shake, withholding and misrepresenting pertinent information about its financial situation."

Elaine C. Greenberg, Chief of the SEC's Municipal Securities and Public Pensions Unit, added, "Issuers of municipal bonds must be held accountable when they seek to borrow the public's money using offering documents containing false and misleading information. New Jersey hid its financial challenges from the very people who are most concerned about the state's financial health when investing in its future."

The SEC's order finds that New Jersey made material misrepresentations and omissions about the underfunding of TPAF and PERS in such bond disclosure documents as preliminary official statements, official statements, and continuing disclosures. Among New Jersey's material misrepresentations and omissions:

- Failed to disclose and misrepresented information about legislation adopted in 2001 that increased retirement benefits for employees and retirees enrolled in TPAF and PERS.
- Failed to disclose and misrepresented information about special Benefit Enhancement Funds (BEFs) created by the 2001 legislation initially intended to fund the costs associated with the increased benefits.
- Failed to disclose and misrepresented information about the state's use of the BEFs as part of a five-year "phase-in plan" to begin making contributions to TPAF and PERS.
- Failed to disclose and misrepresented information about the state's alteration and eventual abandonment of the five-year phase-in plan.

The SEC's order further finds that New Jersey failed to provide certain present and historical financial information regarding its pension funding in bond disclosure documents. The state was aware of the underfunding of TPAF and PERS and the potential effects of the underfunding. Furthermore, the state had no written policies or procedures about the review or update of the bond offering documents and the state did not provide training to its employees about the state's disclosure obligations under accounting standards or the federal securities laws. Due to this lack of disclosure training and inadequate procedures for the drafting and review of bond disclosure documents, the state made material misrepresentations to investors and failed to disclose material information regarding TPAF and PERS in bond offering documents.

The SEC's order requires the State of New Jersey to cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933. New Jersey consented to the issuance of the order without admitting or denying the findings. In determining to accept New Jersey's offer to settle this matter, the Commission considered the cooperation afforded the SEC's staff during the investigation and certain remedial acts taken by the state.

Mary P. Hansen and Suzanne C. Abt in the SEC's Philadelphia Regional Office conducted the SEC's investigation in this matter.

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For more information about this enforcement action, contact:

SEC's Philadelphia Regional Office — (215) 597-3100

- Elaine C. Greenberg — Chief, Municipal Securities and Public Pensions Unit and Associate Regional Director
- Daniel Hawke, Regional Director
- Mary P. Hansen, Assistant Regional Director

http://www.sec.gov/news/press/2010/2010-152.htm