

# Municipal Securities Enforcement: Officials Face a 'Doubleheader' of Civil and Criminal Charges

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PRACTICES Public Finance

The unprecedented arrest of two public officials in connection with alleged municipal bond fraud further escalates the government's relentless patrol of the municipal securities industry. On April 14, 2016, the Securities and Exchange Commission ("**SEC**") filed civil fraud charges against the town of Ramapo, New York, the Ramapo Local Development Corp. ("**RLDC**"), and four local officials for allegedly misleading investors about the town's financial condition prior to issuing municipal bonds, including one offering for the construction of a minor league baseball stadium.<sup>1</sup> Two of the town officials also face criminal fraud charges. This first-of-a-kind action using parallel civil and criminal proceedings is a reflection of the SEC's increased scrutiny of municipal underwriters and issuers,<sup>2</sup> sending a message to the bond industry, and particularly individuals, that they are no longer safe from civil—and now criminal—penalties. Industry participants can expect that this is but the first of many joint efforts between the SEC and DOJ to prosecute municipal securities fraud.

## SEC's Allegations

According to the SEC's Complaint, Ramapo, its public officials, and the RLDC made material misstatements and omissions to investors about the town's financial health in offering 16 municipal bonds between 2010 and 2015.<sup>3</sup> The SEC particularly faults the two officials facing criminal charges: town supervisor and RLDC president Christopher P. St. Lawrence, and former RLDC executive director and assistant town attorney N. Aaron Troodler. The SEC alleges that St. Lawrence and Troodler artificially inflated the town's primary operating fund. According to the SEC, it appeared to investors that the fund had positive balances between \$1.4 million and \$4.2 million during a six-year period when, in reality, the fund had deficits ranging from \$250,000 to \$14 million.<sup>4</sup>

In one alleged move to mislead bond investors, prior to issuing a \$25 million bond to help build a minor league baseball stadium, the defendants reported a false \$3.6 million receivable to elevate the town's general fund when it was actually running a deficit.<sup>5</sup> Then, to again hide the town's dire finances prior to issuing bonds, the defendants allegedly claimed that the town had received a \$3.1 million refund from the federal government for disaster relief; but, the town had allegedly never submitted those claims.<sup>6</sup>

## Requested Relief

Not only do St. Lawrence and Troodler face possible prison time, the SEC is seeking aggressive penalties not commonly sought against small municipalities. In addition to civil penalties sought against Ramapo, RLDC, and all four individual defendants, the SEC asks the court to require Ramapo and RLDC to retain an independent consultant and auditor for five years. The SEC also seeks an order prohibiting Ramapo from participating in future municipal bond offerings for five

years unless it retains independent disclosure counsel. These measures, coupled with the possibility of an injunction, could prove to be expensive for future bond offerings by the town.

## Conclusion

The SEC's charges and the criminal pursuit of public officials highlight the SEC's commitment to protecting retail investors who make up 75 percent of the \$3.7 trillion municipal bond market.<sup>7</sup> Andrew J. Ceresney, Director of the SEC's Enforcement Division, stated that the SEC "won't stand for public officials and employees who resort to alleged accounting trickery to mislead investors who are investing in their financial futures as well as the future betterment of our communities."<sup>8</sup> Municipal officials and issuers face being thrown out of the game with a single "foul" offering.

For additional information, please contact one of the Haynes Boone attorneys listed below:

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<sup>1</sup> See [Complaint](#), (S.D.N.Y. April 14, 2016); see Press Release, [SEC: Town Officials in New York Hid Financial Troubles From Bond Investors](#) (April 14, 2016). The SEC's Complaint charges the defendants with violations of Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5. Two defendants are also charged with liability under Section 20(a) of the Exchange Act as controlling persons for the violations by the town and RLDC, and all four public officials are charged with aiding and abetting violations by the town and RLDC.

<sup>2</sup> See generally Kit Addleman & Sarah Mallett, SEC MCDC Enforcement Initiative Update: [SEC Announces Final Actions against Municipal Bond Underwriters and Beginning of an Issuer Sweep](#), Haynes Boone (February 2016).

<sup>3</sup> See Press Release.

<sup>4</sup> See *id.*

<sup>5</sup> See *id.*

<sup>6</sup> See *id.*

<sup>7</sup> See *id.*

<sup>8</sup> See *id.*