

# SEC Steps Up Fraud Enforcement on Municipal Bonds

**BAIRD**

Public  
Finance

**THE BOND BUYER**  
Monday, October 10, 2016 | as of 2:30 PM  
ET

Enforcement  
**Allen Park, Mich., Officials Barred from Offerings, Ex-Mayor to Pay \$10,000**

Enforcement  
**THE BOND BUYER**  
Monday, October 10, 2016 | as of 12:54 PM  
ET

**In a First Federal Jury Trial, Miami, Boudreaux Found Guilty**

**The New York Times** <http://nyti.ms/1qrUoEH>

N.Y. / REGION  
**Ramapo Town Supervisor Arrested in Federal Fraud Case**

Enforcement  
**THE BOND BUYER**  
Monday, October 10, 2016 | as of 12:58 PM  
ET

**SEC May Litigate Rather than Settle Due to Miami, Boudreaux Verdict**

SEC.gov | SEC Charges Illinois for Misleading Pension Disclosures

Press Release

SEC Charges Illinois for Misleading Pension Disclosures

FOR IMMEDIATE RELEASE  
2013-37

Washington, D.C., March 11, 2013 — The Securities and Exchange Commission today announced that it has charged the State of Illinois with securities fraud for funding its pension plan with proceeds from the sale of municipal bonds.

**THE BOND BUYER**  
Monday, October 10, 2016 | as of 1:00 PM  
ET

Regional News  
**Miami Weighs \$1 Million Settlement for SEC Suit**

Regional News  
**THE BOND BUYER**  
Monday, October 10, 2016 | as of 2:34 PM  
ET

**Former Harvey, Ill., Official Banned from Muni Offerings**

SEC.gov | SEC: Port Authority Omitted Risks to Investors in Roadway Projects

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Press Release

SEC: Port Authority Omitted Risks to Investors in Roadway Projects

FOR IMMEDIATE RELEASE  
2017-4

Washington D.C., Jan. 10, 2017 — The Securities and Exchange Commission today announced that the Port Authority of New York and New Jersey has agreed to admit wrongdoing and pay a \$400,000 penalty

**The Securities and Exchange Commission is Pursuing Municipalities**  
**ILCMA Winter Conference**  
**February 9, 2017**

**Stepped up enforcement**

- The Securities and Exchange Commission (SEC) brought three fraud charges against governmental bond issuers between 2006 and 2014
- It brought six charges in 2015 through 2017
- Now working with the FBI and Justice Department to bring more cases
- The SEC is encouraged to litigate rather than settle by its successful Miami prosecution

**Focuses of investigations**

- Misleading investors with inaccurate or incomplete information in official statements
- Failure to disclose project risks
- Newly focusing on public corruption and pay to play
- Charging municipal officials as individuals as well as municipal corporations

**Continuing Disclosure**

- Now that the voluntary settlement phase of MCDC is over, will go after municipalities that didn't voluntarily settle
- Disclosure violations can include:
  - Late filings
  - Failure to file annual financial and operating information
  - Failure to file material events
  - Failure to file a failure to file notice
- Not disclosing these violations in subsequent bond official statements misleads investors and could be the basis of fraud charges.
- MCDC creates conflicts between municipalities and their officials
  - Officials may not want to voluntarily disclose violations
  - Individuals not eligible for favorable treatment under MCDC

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## SEC Municipal Bond Related Charges

| Year | Issuer                                    | Official(s)   | Charge  | Result   |
|------|---|---|---|--|
| 2008 | City of San Diego, CA                     | City Manager, Comptroller, Treasurer, Assistant Auditor, Deputy City Manager  | Fraud and recklessness in misleading bond investors   | Fined \$5,000 to \$25,000 and enjoined against future securities law violations  |
| 2010 | State of New Jersey                       | None Named  | Fraud for failure to disclose underfunding of pensions  | Settled and agreed to cease and desist against future securities law violations  |
| 2013 | State of Illinois                         | None Named  | Fraud for failure to disclose underfunding of pensions  | Settled and agreed to cease and desist any future securities law violations  |
| 2014 | Allen Park, MI                            | Mayor, Administrator  | Fraud for misleading statements about bond-funded project, ability to pay debt service and city's financial condition   | Fined \$10,000 and barred from any involvement in municipal bond issues  |
| 2015 | Harvey, IL                                | Mayor, Comptroller  | Fraud in materially misleading investors about project and diversion of bond proceeds                                   | Fined \$10,000 and \$200,000 and barred from any involvement with bond issues  |
| 2016 | Ramapo, NY                                | Supervisor, Executive Director of Local Development Corporation, Attorney, Department Finance Director, Auditing Firm | Arrested by FBI and charged with fraud for misleading investors about town financial status and misuse of bond proceeds | Audit firm fined \$500,000 and partner barred from practicing, other defendant dispositions still pending  |
| 2016 | Miami, FL                                 | Budget Director   | Fraud for misleading investors on status of city's finances   | Found guilty by jury, fined \$15,000 (under appeal)  |
| 2016 | Miami, FL                                 | None Named  | Fraud for misleading investors on status of city's finances   | Settled for \$1 million fine and enjoined from committing securities law violations in future  |
| 2016 | Westlands Water District, CA              | General Manager, Assistant General Manager  | Fraud for misleading investors about its financial condition.   | Settled, \$125,000 fine for district, \$50,000 for General Manager and \$20,000 for Assistant General Manager and enjoined from committing securities law violations in the future |
| 2017 | Port Authority of New York and New Jersey | None Named  | Misleading investors about the use of bond proceeds.  | Settled, \$400,000 fine for the Authority.   |