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16 **UNITED STATES DISTRICT COURT**  
 17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 SECURITIES AND EXCHANGE  
 19 COMMISSION,

20 Plaintiff,

21 vs.

22 CHOICE ADVISORS, LLC and  
 23 MATTHIAS O’MEARA,  
 24 Defendants.

25 Case No. '21CV1669 CAB MSB

26 **COMPLAINT**

27 Plaintiff Securities and Exchange Commission (“the Commission” or “SEC”)  
 28 alleges as follows:

INTRODUCTION

1. This case concerns misconduct by the municipal advisory firm Choice  
 Advisors, LLC (“Choice”) and one of its founders, Matthias O’Meara.

1           2.       Municipal advisors are registered market professionals who provide  
2 advice to municipal issuers and related entities about, among other things, the  
3 issuance of municipal bonds. Municipal advisors and their associated persons are  
4 fiduciaries, and owe their clients a duty of care and a duty of loyalty. Municipal  
5 advisors must deal honestly and with the utmost good faith and act in the client’s best  
6 interest without regard to their own financial or other interests. As described below,  
7 defendants (1) provided municipal advisory services to four charter school clients  
8 without being properly registered, (2) breached their fiduciary duty to their charter  
9 school clients, and (3) engaged in other unfair and deceptive conduct as to the charter  
10 schools.

11           3.       Defendants’ misconduct was in connection with municipal advisory  
12 services that they, and Choice’s other co-founder, Paula Permenter, provided to four  
13 charter schools in 2018. Each of the schools was inexperienced in municipal finance  
14 and hired Choice to help navigate the path for obtaining funds for new school  
15 facilities. None of the schools had ever before participated in a bond issuance.

16           4.       At the time each of these schools employed Choice as its municipal  
17 advisor, O’Meara and Permenter had not registered Choice with either the  
18 Commission or the Municipal Securities Rulemaking Board (“MSRB”)—a fact they  
19 withheld from the four schools.

20           5.       By serving as the schools’ municipal advisors while unregistered,  
21 Choice, O’Meara and Permenter violated the Commission’s and the MSRB’s  
22 registration requirements. Indeed, Choice’s attorney had specifically advised  
23 O’Meara and Permenter not to provide municipal advisory services until after Choice  
24 was registered and that, if they nevertheless engaged municipal advisory clients prior  
25 to Choice being registered, this fact should be disclosed to the schools. Nevertheless,  
26 the two co-founders failed to follow this guidance and improperly provided municipal  
27 advice to the four schools prior to Choice’s registration.  
28





1 RELEVANT INDIVIDUAL AND ENTITIES

2 14. **Paula Permenter** resides in Houston, Texas. She co-founded Choice  
3 around May 2018 and has been a partner with Choice since its founding. From  
4 around October 2013 through May 2018, Permenter was a registered representative of  
5 the Underwriter. As described herein, starting in or about May 2018, Permenter was  
6 a municipal advisor and an associated person of Choice, as those terms are defined by  
7 Sections 15B(e)(4)(A) and 15B(e)(7) of the Exchange Act. In a September 23, 2021  
8 Commission enforcement action, Permenter consented, without admitting or denying  
9 the findings, to the institution of a Commission Order finding that she violated certain  
10 provisions of the federal securities laws in connection with some of the misconduct  
11 described herein.

12 15. The “**Underwriter**” is a Delaware limited liability company with its  
13 principal place of business in Richmond, Virginia. From about June 2007 through  
14 June 2021, it was a broker-dealer registered with the Commission.

15 16. “**School Client A**” is a K-8 charter school located in San Diego County,  
16 California. School Client A operates pursuant to California law under a charter  
17 granted by a California public school district, and is both a “municipal entity” and an  
18 “obligated person” as those terms are defined by Sections 15B(e)(8) and 15B(e)(10)  
19 of the Exchange Act.

20 17. “**School Client B**” is a K-12 charter school located in El Paso County,  
21 Colorado. School Client B operates pursuant to Colorado law under a charter granted  
22 by a Colorado public school district, and is both a “municipal entity” and an  
23 “obligated person” as those terms are defined by Sections 15B(e)(8) and 15B(e)(10)  
24 of the Exchange Act.

25 18. “**School Client C**” is a K-12 charter school located in Butte County,  
26 California. School Client C operates pursuant to California law under a charter  
27 granted by a California public school district, and is both a “municipal entity” and an  
28

1 “obligated person” as those terms are defined by Sections 15B(e)(8) and 15B(e)(10)  
2 of the Exchange Act.

3 19. “**School Client D**” (or, together with School Client A, School Client B,  
4 and School Client C, the “Four School Clients”) is a K-8 charter school located in  
5 San Bernardino County, California. School Client D operates pursuant to California  
6 law under a charter granted by a California public school district, and is both a  
7 “municipal entity” and an “obligated person” as those terms are defined by Sections  
8 15B(e)(8) and 15B(e)(10) of the Exchange Act.

9  
10 STATEMENT OF FACTS

11 **A. Respective Roles of the Borrower, the Underwriter, and the**  
12 **Municipal Advisor in Municipal Bond Offerings**

13 20. In a municipal bond offering, a borrower raises money from investors  
14 for a particular purpose and is responsible for paying the principal and interest on the  
15 bonds and the costs of the bond offering. In this case, the Four School Clients were  
16 borrowers and sought to raise money to construct new school facilities through the  
17 issuance of municipal bonds. The bonds issued on behalf of each of the Four School  
18 Clients described herein are “securities” under Section 3(a)(1) of the Exchange Act.

19 21. To facilitate the bond offering, the borrower selects an underwriter to  
20 market and sell the bonds to investors. The borrower negotiates the terms of the  
21 offering with the underwriter. The underwriter purchases the bonds on those terms  
22 and then sells the bonds to the underwriter’s customers, the investors. Since the  
23 underwriter has financial and other interests that are adverse to the borrower, the  
24 underwriter has an arms-length relationship with the borrower.

25 22. Borrowers like the Four School Clients may retain a municipal advisor  
26 to navigate the relationship with the underwriter and other aspects of the bond  
27 offering process. Under the federal securities laws, municipal advisors are required  
28 to register with the SEC and the MSRB. A municipal advisor serves the borrower in

1 a fiduciary capacity, must act in the best interest of the borrower within the scope of  
2 the engagement, and must disclose any conflicts of interest to its borrower clients. As  
3 a representative and fiduciary of the borrower, the municipal advisor is also in an  
4 arms-length relationship with the underwriter.

5 23. In this case, the Underwriter and the defendants sent engagement letters  
6 to each of the Four School Clients, in which they acknowledged their respective  
7 obligations and responsibilities as underwriter and municipal advisor.

8 24. The Underwriter disclosed in its respective engagement letters to each of  
9 the Four School Clients that: (i) the Underwriter was engaging in an arms-length  
10 transaction with each school, (ii) the Underwriter may have financial and other  
11 interests that differ from the schools, and (iii) if the school wanted a representative to  
12 operate in a fiduciary capacity it was free to engage a municipal advisor.

13 25. Likewise, defendants' engagement letters to each of the Four School  
14 Clients explicitly acknowledged that, as their municipal advisor: (i) defendants were  
15 required to act in a fiduciary capacity, (ii) defendants were required to act solely in  
16 the school's best interests, and (iii) defendants were required to fully and fairly  
17 disclose in writing all material actual or potential conflicts of interest.

18 26. As described below, defendants failed to meet these obligations. Their  
19 misconduct arises from their failure to register Choice as a municipal advisor and  
20 their intertwined relationship with the Underwriter, which resulted in undisclosed  
21 conflicts of interest. For two of the Four School Clients, defendant O'Meara's  
22 misconduct included operating simultaneously as both the underwriter and the  
23 municipal advisor.

24 **B. Formation of Choice Advisors and Establishment of a Prohibited**  
25 **Fee-Splitting Arrangement**

26 27. From approximately 2014 through May 2018, O'Meara was employed  
27 as a registered representative of the Underwriter. From approximately 2013 through  
28 May 2018, Permenter was employed as a registered representative of the



1 Underwriter. As registered representatives of the Underwriter, both O’Meara and  
2 Permenter underwrote bonds for borrowers like the Four School Clients.

3 28. In or around February 2018, while employed at the Underwriter, O’Meara  
4 and Permenter decided to form Choice as a new municipal advisory firm. They  
5 engaged legal counsel to advise them as to the steps necessary to start a municipal  
6 advisory firm. At this time, and throughout the formation and registration of Choice,  
7 counsel informed O’Meara and Permenter that they should not provide municipal  
8 advisory services to clients until after the firm had registered as a municipal advisor  
9 with both the Commission and the MSRB. As discussed below, despite this advice,  
10 O’Meara and Permenter provided municipal advice to the Four School Clients before  
11 Choice had registered as a municipal advisor with the Commission or MSRB.

12 29. In or around May 2018, O’Meara and Permenter informed a manager at  
13 the Underwriter that they intended to resign their positions at the Underwriter to form  
14 Choice. At the time, both O’Meara and Permenter were registered representatives  
15 responsible for underwriting certain municipal bond offerings.

16 30. After they gave notice of their intention to resign, O’Meara and  
17 Permenter negotiated an “agreement of fee-splits” with the manager at the  
18 Underwriter. The arrangement contemplated that, for bond transactions that O’Meara  
19 and Permenter had originated as underwriting business for the Underwriter, the  
20 borrowers would engage Choice as their municipal advisor. Pursuant to the  
21 arrangement, the Underwriter would lower its underwriting fees by an amount equal  
22 to the amount that Choice would then receive as municipal advisor for anticipated  
23 bond transactions. The fee-splitting arrangement covered several of the  
24 Underwriter’s existing bond transaction customers, including at least the Four School  
25 Clients.

26 31. The Four School Clients had not sought or requested municipal advisory  
27 services from O’Meara, Permenter or Choice. Rather, O’Meara and Permenter  
28 presented the engagement of Choice to the Four School Clients as a way for the Four



1 School Clients to avoid any disruption to their respective transactions as a result of  
2 O’Meara and Permenter’s decision to leave their employment with the Underwriter.

3 32. Neither O’Meara nor Permenter consulted with the Four School Clients  
4 before entering into the fee-splitting arrangement, and none of the Four School  
5 Clients was even aware that the arrangement had been formed until O’Meara and  
6 Permenter informed them that they were leaving the Underwriter to form Choice.

7 **C. O’Meara Drafted the Engagement Letter to School Client A that**  
8 **Included Material Misrepresentations and Omissions.**

9 33. In or around early May 2018, O’Meara drafted Choice’s engagement  
10 letter to School Client A.

11 34. O’Meara solicited School Client A as a client and obtained its agreement  
12 to serve as its municipal advisor for the bond offering at issue even though he knew,  
13 or should have known, (i) that it was unlawful to conduct municipal advisory  
14 activities without first registering Choice with the Commission and the MSRB, and  
15 (ii) that he was, at the time, still operating in a dual capacity for both the benefit of  
16 the Underwriter and as a partner at Choice.

17 35. O’Meara sent a draft of the proposed engagement letter for School Client  
18 A to Choice’s counsel in or around May 2018. Choice’s counsel advised that  
19 O’Meara should clarify any conflict of interest arising out of O’Meara’s relationship  
20 with the Underwriter, and confirm that Choice and the Underwriter had no  
21 compensation agreement impacting the transaction.

22 36. Despite his counsel’s advice, O’Meara did not modify the proposed  
23 engagement letter to disclose his conflicts of interest or fee-splitting arrangement.

24 37. Instead, O’Meara signed and sent the engagement letter to School Client  
25 A on or about May 8, 2018, and in it identified that he was sending the letter pursuant  
26 to MSRB Rule G-42. The letter did not give the required full and fair disclosure of  
27 Choice’s and O’Meara’s conflicts of interest. Rather, O’Meara falsely stated in the  
28 letter that “Choice Advisors does not share fees with any other parties and [sic] any

1 provider of investments or services to the Client.” The letter also stated that  
2 (i) Choice was obliged to “fully and fairly disclose...in writing all material actual or  
3 potential conflicts of interest that might impair [Choice’s] ability to render unbiased  
4 and competent advice” and that Choice had no such “known actual or potential  
5 conflicts of interest;” and (ii) municipal advisors are “required to act solely in [the  
6 client’s] best interest.” These statements were misleading because Choice did, in  
7 fact, have actual and potential conflicts of interest and was not acting in School Client  
8 A’s best interest.

9 38. In light of his counsel’s advice, O’Meara failed to exercise due care in  
10 making these materially misleading statements. He also did not exercise due care in  
11 failing to disclose that he and Choice did, in fact, have conflicts of interest arising out  
12 of their relationship with the Underwriter, the fee-splitting agreement, and Choice’s  
13 unregistered status.

14 39. The engagement letter for School Client A became Choice’s template,  
15 and either O’Meara or Permenter used a form of the same engagement letter for each  
16 of the Four School Clients. Each of the engagement letters to the Four School Clients  
17 contained the same misstatements and omissions as the engagement letter to School  
18 Client A.

19 **D. While Still Working at the Underwriter, O’Meara Deceptively**

20 **Operated in a Dual-Capacity to Increase the Cost of Issuance for**  
21 **School Client A.**

22 40. O’Meara also violated his fiduciary duties of care and loyalty owed to  
23 School Client A by manipulating the engagement letters for both the Underwriter and  
24 Choice to create a fee structure that would increase the overall cost of issuance for  
25 School Client A.

26 41. In or around May 2018, O’Meara responded to an email from the  
27 manager at the Underwriter confirming the “agreement of fee splits,” and indicated  
28

1 that he would get to work on the Underwriter’s engagement letters for School Client  
2 A and School Client B.

3 42. According to the terms of the “agreement of fee splits” outlined by the  
4 manager at the Underwriter, neither School Client A nor School Client B would pay  
5 any additional costs as a result of hiring Choice. Instead, the Underwriter and Choice  
6 would split the originally contemplated underwriting fee.

7 43. The Underwriter’s original engagement letter to School Client A, signed  
8 by O’Meara and dated May 30, 2017, set the underwriting fee at 2% of the par  
9 amount of the bonds.

10 44. Under the “agreement of fee splits,” instead of taking the entire 2%, the  
11 Underwriter would instead take 1.25% of the par amount of School Client A’s bonds,  
12 and Choice would then take the remaining 0.75%.

13 45. On or about May 8, 2018, O’Meara sent an updated version of the  
14 Underwriter’s engagement letter to School Client A’s executive director. Consistent  
15 with the fee-splitting arrangement, the updated engagement letter contained a  
16 potential overall underwriting fee of 1.25%. However, the engagement letter split the  
17 1.25% fee into two portions—a 1% fee to be paid at closing, and a conditional 0.25%  
18 fee that could only be charged in the event the bonds were “non-investment grade.”

19 46. The Underwriter’s original 2017 engagement letter to School Client A  
20 did not contain a conditional term based on the bonds’ rating.

21 47. As the term is used in the municipal finance industry, “non-investment  
22 grade” generally means a bond rating of “Ba1” or lower.

23 48. O’Meara had knowledge of and responsibility for navigating the credit  
24 rating process for School Client A’s bonds. In the weeks prior to leaving the  
25 Underwriter, O’Meara served as School Client A’s representative in communications  
26 with the rating agency, and School Client A hired Choice and O’Meara in part to  
27 assist in the remainder of the credit rating process. As O’Meara was aware, the  
28 Underwriter’s internal documents tracking the transaction contemplated that School

1 Client A's offering may be rated below investment grade, which was not surprising  
2 given that School Client A was a small, first-time borrower.

3 49. Nevertheless, O'Meara did not tell School Client A that the new version  
4 of the Underwriter's engagement letter included a new conditional fee, and he did not  
5 advise his client that agreeing to the Underwriter's revised 2018 engagement letter  
6 would create a new risk of increased fees associated with the bond rating. O'Meara's  
7 failure to discuss these facts was a failure to exercise due care given that the revised  
8 engagement letter came as a result of his plan to leave the Underwriter to become  
9 School Client A's municipal advisor and fiduciary.

10 50. On or about the same day that he sent the Underwriter's engagement  
11 letter, O'Meara also sent Choice's engagement letter to School Client A. Choice's  
12 engagement letter stated that Choice's fees would be 1% of the par amount of the  
13 bonds, which was 0.25% higher than the amount set by the fee-splitting arrangement  
14 with the Underwriter.

15 51. O'Meara did not tell School Client A that Choice's fee was higher than  
16 the amount set by Choice's fee-splitting arrangement with the Underwriter, nor did he  
17 tell School Client A that, in the event that the Underwriter's conditional fee was  
18 triggered, Choice's and the Underwriter's combined fees would cost the school  
19 0.25% more in fees than if the school had kept with the original underwriting fee and  
20 chose not to engage Choice as its municipal advisor.

21 52. Rather, both in person and in email, O'Meara deceptively represented  
22 the engagement of Choice as a way for School Client A to keep the original terms  
23 intact. He told the executive director of School Client A the half-truth that the  
24 Underwriter agreed to reduce its fee to accommodate the hiring of Choice and ensure  
25 there was no change for School Client A. O'Meara knew, or should have known, that  
26 this misrepresentation was misleading in light of the omission that hiring Choice  
27 under the terms set by the two engagement letters would create at least a risk that  
28 School Client A would have to pay an additional 0.25% in fees.

1 53. Moreover, O’Meara’s fee manipulation and dual-role further rendered  
2 Choice’s engagement letter misleading, in light of its claims that Choice had no fee-  
3 splitting arrangements or conflicts of interest, and that Choice was acting in the best  
4 interests of School Client A.

5 54. By putting his and Choice’s interests ahead of his client’s, O’Meara  
6 violated the fiduciary duty he and Choice owed to School Client A.

7 55. Throughout the next weeks, O’Meara and Choice provided municipal  
8 advice and other municipal advisory services for School Client A in their capacity as  
9 the school’s municipal advisor.

10 56. School Client A’s approximately \$15.97 million bond offering  
11 ultimately received a rating of “Ba1,” below-investment grade, triggering the  
12 additional 0.25% underwriting fee increase.

13 57. School Client A’s offering closed on or about July 11, 2021, at which  
14 point Choice was paid approximately \$159,700 from bond proceeds, approximately  
15 \$39,925 of which resulted from the misleading 0.25% fee increase.

16 **E. O’Meara Took Steps to Similarly Increase the Fees for School**  
17 **Client B, But Was Stopped by Other Deal Participants.**

18 58. While still working at the Underwriter, O’Meara similarly took steps to  
19 alter the fee-splitting arrangement with respect to another charter school client,  
20 School Client B.

21 59. As with School Client A, the original contemplated underwriting fee for  
22 School Client B was 2% of the par amount of the bonds, but in this transaction the  
23 fee-splitting arrangement between the Underwriter and Choice set the Underwriter’s  
24 revised fee at 1.5% and Choice’s corresponding fee at 0.5%.

25 60. Under O’Meara’s proposed plan for School Client B, Choice would  
26 receive 0.75%, meaning that School Client B, like School Client A, would pay an  
27 additional 0.25%. However, unlike with School Client A, O’Meara was working  
28 with an additional registered representative at the Underwriter to underwrite School

1 Client B's transaction. This registered representative and others at the Underwriter  
2 disagreed with O'Meara's proposed plan, which would increase School Client B's  
3 fees by 0.25%.

4 61. While the Underwriter and O'Meara were engaged in this dispute over  
5 fees, another municipal advisory firm working for School Client B became aware of  
6 the proposed fees. The other municipal advisory firm intervened, and demanded that  
7 both the Underwriter and Choice decrease their fees.

8 62. O'Meara signed and provided the other municipal advisor Choice's  
9 engagement letter on or about May 15, 2018. The engagement letter was based on  
10 the same template as the one sent to School Client A, and contained the same  
11 misrepresentations and omissions.

12 63. O'Meara failed to exercise due care in making these omissions and  
13 misstatements to School Client A and School Client B.

14 64. O'Meara never disclosed to School Client B that he took steps to  
15 increase Choice's fees and the overall cost of issuance for the school, or that he had  
16 conflicts of interest arising out of his relationship with the Underwriter, the fee-  
17 splitting arrangement, or Choice's unregistered status.

18 65. By attempting to increase the costs of issuance for School Client A and  
19 School Client B, O'Meara breached his fiduciary obligations to these clients. His  
20 conduct was deceptive, manipulative and unfair to these clients.

21 66. Throughout the next few months, O'Meara and Choice provided  
22 municipal advisory services in their capacity as one of School Client B's municipal  
23 advisors.

24 67. On or about September 21, 2018, School Client B's offering closed and  
25 bond proceeds were used to pay the Underwriter a fee of 1.3% and Choice a fee of  
26 0.45%.

27  
28

1                   **F. Permenter Also Performed Unregistered Municipal Advisory**  
2                   **Activities and Failed to Disclose Material Conflicts of Interest.**

3           68.     Unlike O’Meara, Permenter waited until after she had left the  
4 Underwriter before she approached potential municipal advisory clients to seek their  
5 agreement to retain Choice as a municipal advisor. However, at no point did either  
6 she or O’Meara disclose to their clients that their connections to the Underwriter  
7 presented conflicts of interest. The conflicts of interest arose from, among other  
8 things, the fact that, as a municipal advisor, Choice would be in the position of  
9 evaluating the Underwriter’s work.

10          69.     By email in or around June 2018, Permenter informed Choice’s counsel  
11 that she was formalizing her municipal advisory relationship with School Client C  
12 through a written engagement letter and inquired whether she should disclose that  
13 Choice was not yet registered as a municipal advisor. Permenter sent the email to  
14 both Choice’s counsel and O’Meara. Counsel, in an email sent to both O’Meara and  
15 Permenter, advised that Choice’s engagement letter should disclose its unregistered  
16 status. Despite this, neither Permenter nor O’Meara ever disclosed to any of the Four  
17 School Clients that Choice was not registered as a municipal advisor. This omission  
18 was material because a reasonable client would have considered it important to know  
19 that Choice, O’Meara and Permenter were not permitted under the securities laws to  
20 act as a municipal advisor.

21          70.     The engagement letter to School Client C, sent in or around June 2018,  
22 was signed by Permenter but was based on the template drafted by O’Meara. It  
23 contained the same misstatements and omissions as the engagement letters sent to  
24 School Client A and School Client B. Permenter never disclosed to School Client C  
25 that she had conflicts of interest arising out of her fee-splitting arrangement and her  
26 relationship with the Underwriter.



1 71. Choice and Permenter continued to provide municipal advice to School  
2 Client C in the months that followed despite the fact that Choice was not registered as  
3 a municipal advisor.

4 72. By around July 2018, Choice and Permenter had also begun to provide  
5 municipal advisory services to School Client D. Permenter did not disclose to School  
6 Client D that Choice was not registered as a municipal advisor, and also did not  
7 disclose that she had conflicts of interest arising out of her fee-splitting arrangement  
8 and relationship with the Underwriter.

9 73. Permenter failed to exercise due care in making these omissions and  
10 misrepresentations to School Client C and School Client D.

11 **G. The Transactions for School Client B, School Client C, and**  
12 **School Client D Closed, and Choice and Permenter Sign a**  
13 **Misleading Engagement Letter to School Client D.**

14 74. On or about August 27, 2018, Choice completed its registration with the  
15 Commission.

16 75. On or about September 21, 2018, School Client B's bond offering  
17 closed, and Choice was paid from bond proceeds pursuant to the instructions  
18 provided by the Underwriter.

19 76. On or about October 16, 2018, Choice completed its registration with the  
20 MSRB.

21 77. On or about October 18, 2018, School Client C's bond offering closed.  
22 Pursuant to instructions provided by the Underwriter, Choice was paid for this  
23 transaction from bond proceeds in amounts consistent with the fee-splitting  
24 arrangement between Choice and the Underwriter.

25 78. Although Choice and Permenter had completed much of the municipal  
26 advisory work for School Client D months earlier, it was not until on or about  
27 January 2, 2019, that Permenter signed, and caused to be delivered, an engagement  
28 letter for Choice to School Client D. This version of the engagement letter disclosed

1 that Permenter had previously been employed by the Underwriter. However, in the  
2 engagement letter, Choice and Permenter failed to exercise due care by repeating the  
3 same misleading statements and omissions that appeared in Choice’s engagement  
4 letters with School Client A, School Client B, and School Client C, including that  
5 Choice did not “share fees with...any provider of investments or services to [School  
6 Client D]” and that Choice had no “material actual or potential conflicts of interest.”

7 79. On or about February 14, 2019, the municipal bond offering for School  
8 Client D closed. Pursuant to instructions provided by the Underwriter, Choice was  
9 paid for this transaction from bond proceeds in amounts consistent with the fee-  
10 splitting arrangement between Choice and the Underwriter.

11  
12 **FIRST CLAIM FOR RELIEF**

13 ***Violations of Section 15B(a)(5) of the Exchange Act by Choice and O’Meara***  
14 ***(Deceptive or Manipulative Act or Practice by a Municipal Advisor)***

15 80. Paragraphs 1 through 79 are hereby re-alleged and are incorporated  
16 herein by reference.

17 81. By reason of the foregoing, defendants Choice and O’Meara, used the  
18 mails or other means or instrumentality of interstate commerce to provide advice to  
19 or on behalf of a municipal entity or obligated person with respect to municipal  
20 financial products or the issuance of municipal securities, in connection with which  
21 Choice and O’Meara engaged in a deceptive or manipulative act or practice.

22 82. By reason of the forgoing, defendants Choice and O’Meara violated and,  
23 unless enjoined will continue to violate, Section 15B(a)(5) of the Exchange Act [15  
24 U.S.C. § 78o-4(a)(5)].

1  
2 **SECOND CLAIM FOR RELIEF**

3 ***Violations of Section 15B(c)(1) of the Exchange Act by Choice and O’Meara***  
4 ***(Breach of Fiduciary Duty)***

5 83. Paragraphs 1 through 79 are hereby re-alleged and are incorporated  
6 herein by reference.

7 84. Pursuant to Section 15B(c)(1) of the Exchange Act, a municipal advisor  
8 and any person associated with a municipal advisor shall be deemed to have a fiduciary  
9 duty to any municipal entity for whom the municipal advisor acts as a municipal  
10 advisor, and no municipal advisor may engage in an act, practice or course of business  
11 that is not consistent with a municipal advisor’s fiduciary duty.

12 85. By engaging in the conduct alleged above, defendant Choice acted as a  
13 municipal advisor and defendant O’Meara acted as a municipal advisor and person  
14 associated with a municipal advisor, as those terms are defined in Sections  
15 15B(e)(4)(A) and 15B(e)(7) of the Exchange Act [15 U.S.C. §§ 78o-4(e)(4) and (7)].  
16 As such, Choice and O’Meara owed a fiduciary duty to School Client A and School  
17 Client B.

18 86. By reason of the forgoing, defendants engaged in the acts, practices and  
19 courses of business described above, and Choice and O’Meara breached their fiduciary  
20 duty to School Client A and School Client B.

21 87. By reason of the forgoing, defendants Choice and O’Meara violated and,  
22 unless enjoined will continue to violate, Section 15B(c)(1) of the Exchange Act [15  
23 U.S.C. § 78o-4(c)(1)].  
24  
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1 95. By reason of the forgoing, defendants Choice and O’Meara, in the  
2 conduct of their municipal securities or municipal advisory activities, failed to deal  
3 fairly with all persons and engaged in a deceptive, dishonest, or unfair practice or  
4 practices.

5 96. By reason of the forgoing, defendants Choice and O’Meara violated and,  
6 unless enjoined will continue to violate, MSRB Rule G-17.

7  
8 **SIXTH CLAIM FOR RELIEF**

9 ***Violations of MSRB Rule G-42 by Choice and O’Meara***  
10 ***(Breaches of Duties of Non-Solicitor Municipal Advisors)***

11 97. Paragraphs 1 through 79 are hereby re-alleged and are incorporated  
12 herein by reference.

13 98. By reason of the forgoing, defendants Choice and O’Meara (i) breached  
14 their duty of care to their obligated person client or clients; (ii) breached their  
15 fiduciary duty, duty of loyalty, or duty of care to their municipal entity client or  
16 clients; (iii) failed to provide their municipal advisory client or clients full and fair  
17 disclosures in writing of all material conflicts of interest; (iv) failed to evidence each  
18 of their municipal advisory relationships in a writing prior to or promptly after the  
19 establishment of the municipal advisory relationship or relationships; (v) failed to  
20 document the form and basis of direct or indirect compensation for the municipal  
21 advisory activities to be performed; (vi) made a representation or submission of  
22 information that defendants knew or should have known was either materially false or  
23 materially misleading due to the omission of a material fact about the capacity,  
24 resources or knowledge of the municipal advisor to a client or prospective client, for  
25 the purpose of obtaining or retaining an engagement to perform municipal advisory  
26 activities; or (vii) made or participated in a fee-splitting arrangement with an  
27 underwriter on a municipal securities transaction as to which Choice or O’Meara  
28 provided or was providing advice.

1 99. By reason of the forgoing, defendants Choice and O’Meara violated and,  
2 unless enjoined will continue to violate, MSRB Rule G-42.

3  
4 **SEVENTH CLAIM FOR RELIEF**

5 ***Violations of Section 15B(c)(1) of the Exchange Act by Choice and O’Meara***  
6 ***(Acts in Contravention of Any Rule of the MSRB)***

7 100. Paragraphs 1 through 79 are hereby re-alleged and are incorporated  
8 herein by reference.

9 101. By reason of the forgoing, defendants Choice and O’Meara violated  
10 MSRB Rules G-17 and G-42, and defendant Choice violated MSRB Rule A-12.

11 102. By reason of the forgoing, defendants Choice and O’Meara acted in  
12 contravention of a rule or rules of the MSRB while making use of the mails or any  
13 means or instrumentality of interstate commerce to provide advice to or on behalf of a  
14 municipal entity or obligated person with respect to municipal financial products or  
15 the issuance of municipal securities.

16 103. By reason of the forgoing, defendants Choice and O’Meara violated and,  
17 unless enjoined will continue to violate, Section 15B(c)(1) of the Exchange Act [15  
18 U.S.C. § 78o-4(c)(1)].

19  
20 **EIGHTH CLAIM FOR RELIEF**

21 ***Aiding and Abetting Liability Against O’Meara for Choice’s Violations of Sections***  
22 ***15B(a)(1)(B) and 15B(c)(1) of the Exchange Act and MSRB Rule A-12***

23 104. Paragraphs 1 through 79 are hereby re-alleged and are incorporated  
24 herein by reference.

25 105. By reason of the foregoing, Choice violated Sections 15B(a)(1)(B) and  
26 15B(c)(1) of the Exchange Act and MSRB Rule A-12.

27 106. O’Meara was aware of, or recklessly disregarded, that Choice’s conduct  
28 was improper and rendered Choice substantial assistance in this conduct.





V.

Grant such other relief as this Court may deem just and appropriate.

Dated: September 22, 2021

Respectfully Submitted,

/s/ William T. Salzmann

William T. Salzmann

Attorney for Plaintiff

SECURITIES AND EXCHANGE

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