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Miami defends itself in bond case as mayor hopes to avoid sanctions

BY SCOTT BLAKE

Miami city officials submitted reams of documents this week to federal authorities, defending the city's actions in its latest brush with securities laws over municipal bond sales.

The US Securities and Exchange Commission reportedly is investigating whether the city misled those who invested in the bonds by misrepresenting its financial situation.

The SEC sent a letter last month to the city outlining its concerns related to bond offerings dating back several years. Lawyers for the city prepared a response, providing extensive documents sent Monday to the SEC.

Mayor Tomas Regalado said the city is hoping to avoid any fines or sanctions and is offering to put into place better internal controls to avoid such problems in the future.

"We want to present our case," Mayor Regalado told Miami Today last week. "We want to present our case and ask for a settlement."

The SEC will eventually decide whether to recommend civil charges to the agency's board.

Barton Sacher, a Miami securities lawyer and formerly the SEC's chief of enforcement for the Southeastern US, said he thinks the case could have serious consequences for the city, perhaps even criminal charges.

"Nobody's talked about that yet," Mr. Sacher told Miami Today.



"We want to present our case and ask for a settlement," Mayor Tomás Regalado said last week.

Mayor Regalado said the city attorney's office and outside legal counsel were working on the response to the SEC.

"The city is arguing a fine is not warranted," the mayor said. "We're willing to create new constraints in the budgetary process."

Basically, the mayor said, the intent is to lay out "what the city wants to do" and "how we're going to do it."

If the SEC's Miami office doesn't settle, he added, the city might appeal to authorities in Washington.

SEC officials don't comment on cases under investigation. The agency reportedly is concerned that city financial managers moved millions of dollars into different city budgetary accounts to make it appear to investors that the city had a balanced budget.

Mr. Sacher said the SEC might find the city violated a federal court order stemming from a previous problem with city bonds

about a decade ago in which the city agreed to follow securities regulations in the future.

"If they don't get a settlement this time, [the government] could file a lawsuit," Mr. Sacher said. The SEC "could assert that the city is in contempt of the prior [court] injunction."

He said this would be the second time the city has run afoul of securities law in recent years, in addition to an ongoing SEC inquiry into county and city bond sales used to finance construction of the Miami Marlins' new baseball stadium in Little Havana.

Regarding the SEC's recent letter, Mr. Sacher said if the city made its financial situation appear better than it actually was prior to the bond offerings, not only could that have affected investors' decision to buy the bonds, but it also could have artificially lowered the interest rate the city would have to pay out to investors.

In recent years, Mr. Sacher noted, the SEC has stepped up enforcement of securities regulations related to municipal bonds.

Given the city's history of problems with bonds, he said the SEC may refer the case to the US Justice Department for criminal charges, similar to what happened in Jefferson County, AL, where officials were indicted and later convicted in a municipal bond case.

"It is possible it could happen here," he added. "We'll just have to see how the city and the government play out their hands."