

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

UNITED STATES SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

WILLIAM C. BETHEA,
Defendant.

Civil Action No.

3:98cv457/LAC/MD

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff, United States Securities and Exchange Commission (the
"Commission"), alleges:

SUMMARY

1. This case involves undisclosed payments to public officials and other improper acts and practices in the municipal securities business by William C. Bethea. While serving as head of the public finance department of Stephens Inc., a brokerage firm, Bethea authorized secret payments to one Florida public official and—though lacking actual knowledge—assisted in secret payments to another, for the purpose of obtaining or retaining municipal securities business for Stephens. In addition, Bethea defrauded the issuer and purchasers of a 1992

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Walton County, Florida bond issue by failing to disclose—in the face of a duty to do so—Stephens' compensation of a consultant and an employee of another underwriting firm, despite knowing, having reason to know, or recklessly disregarding the fact that the consultant intended to (and did) share his compensation with the employee of the other firm.

2. Bethea had a duty to disclose the secret arrangements and payments thereunder to the issuers served by the paid officials, and to purchasers of those issuers' bonds. Bethea likewise had a duty to disclose the compensation of the consultant and of the employee of the other underwriting firm to the issuer and to investors in the Walton County bonds. Bethea's failure to disclose the arrangements, the payments, and the actual and potential conflicts of interest created thereby, violated Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]. By this conduct, Bethea also violated Section 15B(c)(1) of the Exchange Act [15 U.S.C. § 78o-4(c)(1)] and Rules G-17 and G-20 of the Municipal Securities Rulemaking Board ("MSRB").

3. In addition, Bethea: endorsed the conferral of an undisclosed favor upon a third Florida public official; enlisted third parties to serve as conduits for campaign contributions; and created false and misleading books and records at

Stephens to cover up the illicit payments. By this conduct, Bethea further violated Section 15B(c)(1) of the Exchange Act and MSRB Rule G-17. Finally, Bethea's participation in the compensation of the employee of the other underwriting firm in the Walton County bond issue violated MSRB Rule G-20, as the payment was made in the absence of any written contract and without the written permission of the other underwriting firm. Bethea, unless permanently enjoined by this Court, will likely continue to engage in such violations. The Commission accordingly seeks to enjoin Bethea from committing future violations, and civil money penalties.

JURISDICTION

4. The Commission brings this action pursuant to the authority conferred upon it by Sections 20(b) and (d) of the Securities Act [15 U.S.C. §§ 77t(b) and (d)], and Sections 21(d) and (e) of the Exchange Act [15 U.S.C. §§ 78u(d) and (e)] to restrain and enjoin the defendant, and for civil money penalties.

5. The Court has subject matter jurisdiction over this action pursuant to Sections 20(d)(1) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(d)(1) and 77v(a)] and Sections 21(d)(3)(A), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d)(3)(A), 78u(e), and 78aa].

6. Defendant Bethea, directly or indirectly, has made use of the means and instrumentalities of interstate commerce, of the mails or of the facilities of a national securities exchange, in connection with the acts, practices and courses of business alleged herein, certain of which occurred within the Northern District of Florida.

THE DEFENDANT

7. Defendant Bethea, age 44, a resident of Arkansas, was at all relevant times a banker in the public finance department of Stephens. From June 1991 through March 1994, Bethea served as head of Stephens' public finance department. From approximately 1987 through early 1991, Bethea served as a member of Stephens' Political Action Committee ("PAC"), with signature authority over the PAC's account.

OTHER RELEVANT ENTITY

8. Stephens Inc. ("Stephens") is an Arkansas corporation with its principal place of business in Arkansas. At all relevant times, Stephens was a broker-dealer and municipal securities dealer, and was registered with the Commission pursuant to Sections 15(b) and 15B(a) of the Exchange Act [15 U.S.C. §§ 78o(b) and 78o-4(a)].

FIRST CLAIM

Violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q] and Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §240.10b-5]

9. Paragraphs 1 through 8 are realleged and incorporated herein by reference.

UNDISCLOSED PAYMENTS TO TERRY BUSBEE, A PUBLIC OFFICIAL OF THE ESCAMBIA COUNTY (FLORIDA) UTILITIES AUTHORITY

10. The Escambia County (Florida) Utilities Authority ("ECUA") is a local government body that was established by the Florida legislature in 1981, for the purpose of managing, financing and improving the water and sewer systems of Escambia County, Florida. At all relevant times, the ECUA was empowered to issue revenue bonds to finance the acquisition, construction and improvement of water, sewer, sanitation and (with certain limitations) natural gas systems within Escambia County and some adjacent areas. The ECUA had an elected board comprised of five members who served staggered four-year terms.

11. During 1992 and 1993, Bethea authorized and assisted with the payment of at least \$18,000 in secret compensation to Terry C. Busbee, an elected public official of the ECUA, for the purpose of securing underwriting business for Stephens in two ECUA bond issuances: a \$16 million offering used to finance the upgrade of a sewage treatment plant, that closed on October 29,

1992 ("Plant Upgrade issue"); and a \$20 million offering used to acquire and upgrade the existing sanitation system of Escambia County, that closed on February 11, 1993 ("Sanitation issue").

12. On Thursday, July 30, 1992, after casting the deciding vote to select Stephens as lead underwriter for the ECUA's Plant Upgrade issue, Busbee demanded that Stephens make payments in excess of \$15,000 to a Busbee associate for the purpose of (1) preventing the rescinding of Stephens' selection; and (2) ensuring Stephens' selection as lead underwriter for the upcoming Sanitation issue. When informed of this demand, Bethea agreed, despite knowing, having reason to know, or recklessly disregarding the fact that the requested payments to the Busbee associate were meant for Busbee. Very shortly thereafter, Bethea learned that the payments to the Busbee associate actually would, in fact, be funneled to Busbee.

13. On September 29, 1992, Busbee again cast the deciding vote for Stephens' selection as lead underwriter for ECUA bonds, this time for the Sanitation issue.

14. Thereafter, in November 1992 and September 1993, respectively, Bethea caused Stephens to issue checks of \$10,000 and \$7,500 payable to an entity owned by Busbee's associate, in accordance with the payment arrangement Bethea had approved. Bethea caused the mischaracterization of these payments

on Stephens' books and records as for consulting services from Busbee's associate; they, in fact, were payments to Busbee. Moreover, no such consulting services had been rendered by Busbee's associate. Bethea caused the delay in the issuance of the second (\$7,500) check until after the completion of a state grand jury investigation into the ECUA's underwriter selections.

15. Neither during the underwriter-selection nor during the offering processes for the Plant Upgrade and Sanitation issues, did Bethea disclose the payment arrangement with Busbee and the resulting conflicts of interest generated thereby.

**UNDISCLOSED PAYMENTS TO LARRY K. O'DELL, A PUBLIC OFFICIAL
OF OSCEOLA COUNTY, FLORIDA**

16. The Osceola County Board of Commissioners is the governing body of Osceola County, Florida. At all relevant times, the Osceola County Board of Commissioners consisted of five elected members, and was empowered to issue bonds and to select underwriters and selling group members in connection with such bond issuances. The authority to select selling group members was delegated to the Osceola County Manager.

17. By the Summer of 1992, a municipal securities business development consultant to Stephens ("Consultant") had entered into an agreement with Larry K. O'Dell, then Director of Public Works for Osceola County, Florida, that

if O'Dell would help Stephens obtain a selling group position for an upcoming bond issue of Osceola County, the Consultant would share his compensation from Stephens with O'Dell. The bond issue in question was the \$150 million Osceola County, Florida, Transportation Improvement Bonds (Osceola Parkway Project), dated July 15, 1992 ("Osceola Parkway Bonds").

18. Also by the Summer of 1992, Bethea agreed with the Consultant that, if Stephens were selected as a selling group member for the Osceola Parkway Bonds, Stephens would pay the Consultant a sum equal to one-half its public finance department's net profits on that bond issue. Although Bethea lacked actual knowledge of the payment arrangement between the Consultant and O'Dell, he ignored indications that the Consultant would (and did) share his compensation with O'Dell.

19. By July 1992, with O'Dell's help, Stephens was named a selling group member for the Osceola Parkway Bonds. The bond issue closed on August 6, 1992.

20. By December 1992, Stephens' public finance department had recorded net profits of \$35,739.54 for the Osceola Parkway Bonds. At that time, in accordance with his agreement with the Consultant, Bethea caused Stephens to issue a check to the Consultant for \$17,869.77—exactly half of \$35,739.54—

ostensibly for "special compensation" relating to "Florida transactions." In fact, this check was solely for one transaction, the Osceola Parkway Bonds.

21. Shortly thereafter, concerned that the arithmetical relationship between the \$17,869.77 check and the amount of his department's profits from the Osceola Parkway Bonds might either cause the uncovering of its connection to that bond issue or cause the check to stand out, Bethea directed the voiding of the check, and its replacement by another check, in a different amount, with different supporting documentation. The replacement check, for \$17,800, was mischaracterized on Stephens' books and records at Bethea's direction as a "bonus" pursuant to the Consultant's contract with Stephens.

22. Neither during the selling-group selection process, nor during the offering process, for the Osceola Parkway bonds, did Bethea disclose the foregoing payment arrangement with the Consultant and O'Dell and the resulting conflicts of interest generated thereby.

UNDISCLOSED COMPENSATION IN WALTON COUNTY

23. The Florida Community Services Corporation of Walton County, Florida ("FCS-Walton") was at all relevant times a non-profit corporation which provided central wastewater and water service through a regional utilities system for South Walton County, Florida. Subject to the sponsorship and approval of the five-member Walton County Board of Commissioners, FCS-Walton was

authorized to issue bonds to finance, construct, operate and maintain the regional utilities system, and to refinance prior bonds issued for such purposes.

24. By February 1992, Bethea had authorized the compensation of the Consultant and the nondisclosure thereof in connection with an FCS-Walton bond issue, despite knowing that disclosure was required under Florida state law, and despite knowing, having reason to know, or recklessly disregarding the fact that the Consultant intended to (and did) share his compensation with an employee of another underwriting firm (the "non-Stephens banker"), who had assisted the Consultant in obtaining for Stephens the senior manager position on that bond issue. At the time— as Bethea was fully aware—such compensation to the non-Stephens banker could lawfully have been made only if (1) a written contract providing for such compensation was entered into with the non-Stephens banker; (2) the written permission of the non-Stephens banker's employer was obtained; and (3) the compensation was fully disclosed to the issuer and investors in the FCS-Walton bonds.

25. In particular, Bethea agreed to pay the Consultant nearly \$10 per bond as a success fee in connection with the \$17.225 million FCS-Walton Water and Sewerage Revenue Bonds, Series 1992 (South Walton County, Florida, Regional Utilities System) ("South Walton Utilities Bonds"), which closed in February 1992.

26. On or about February 11, 1992, Bethea directed a Stephens banker to certify to the issuer of the South Walton Utilities Bonds, on a form required by Florida state law, that, in connection with those bonds, Stephens would pay no "finder's fees" or any other "fee, bonus, or other compensation to anyone not regularly employed or retained" by Stephens. At the time he directed the Stephens banker to so certify, Bethea knew the certification was materially misleading.

27. Following closing of the South Walton Utilities bond issue, Bethea caused Stephens to issue a \$35,000 check to the Consultant for services relating to the South Walton Utilities Bonds. At Bethea's direction, the Consultant included in his invoice for this \$35,000 an itemization of "expenses" that was entirely fictional, in an attempt to make the invoice appear more legitimate. In fact, the Consultant had incurred no such expenses.

28. Also following closing of the South Walton Utilities bond issue, Bethea and the Consultant executed a materially misleading "contract" between Stephens and the Consultant. This contract was purportedly for consulting services to be performed over the ensuing nine months throughout the state of Florida, and provided for compensation of \$9,500 per month plus \$7,000 in "start-up expenses." In fact, the contract and all payments thereunder were exclusively for the South Walton Utilities Bonds.

29. Subsequently, the Consultant shared this South Walton Utilities Bonds compensation with the non-Stephens banker. No written permission was ever obtained from the non-Stephens banker's firm for that employee to be so compensated; nor was any written contract entered into between Stephens and the non-Stephens banker. For his part, Bethea directed a Stephens banker to prepare for Bethea a breakdown of the division of fees between the Consultant and the non-Stephens banker, and then to destroy any record of the breakdown.

30. At no time was any disclosure made to the issuer of the South Walton Utilities Bonds, or to investors in those bonds, of the payments to the Consultant and the non-Stephens banker. In fact, Bethea directed a materially misleading certification attesting to no such payments. Moreover, Florida law required disclosure of these payments in the official statements furnished to investors; yet, they were not so disclosed.

31. In engaging in the foregoing acts, practices and courses of business, Bethea acted with an intent to deceive and defraud, and in breach of duties Stephens and Bethea owed to ECUA, Osceola County, FCS-Walton and Walton County and to investors in the four offerings.

32. By reason of the foregoing, Bethea violated Section 17(a) of

the Securities Act [15 U.S.C. § 77q], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

SECOND CLAIM

Violation of Section 15B(c)(1) of the Exchange Act [15 U.S.C. § 78o-4(c)(1)] and MSRB Rules G-17 and G-20

33. Paragraphs 1 through 31 are realleged and incorporated herein by reference.

34. The MSRB is a self-regulatory organization with primary rulemaking authority for municipal securities brokers and dealers. Pursuant to Section 15B(b)(2) of the Exchange Act [15 U.S.C. § 78o-4(b)(2)], the MSRB proposes and adopts rules governing the conduct of brokers and dealers and municipal securities dealers in connection with municipal securities. Pursuant to Section 21(d)(1) of the Exchange Act [15 U.S.C. § 78u(d)(1)], the Commission is charged with enforcing the MSRB rules.

CREATION OF FALSE BOOKS AND RECORDS CONCERNING CONFERRAL OF UNDISCLOSED BENEFIT ON FHFA OFFICIAL

35. At all relevant times, the Florida Housing Finance Agency ("FHFA") was a public body, established under Florida law, empowered, among other things, to issue revenue bonds to provide financing for mortgage loans to assist in alleviating the shortage in safe, sanitary, affordable housing for low-, middle- and moderate-income persons or families. The FHFA was headed by a nine-

member board of directors. Eight of the nine members were appointed by the Governor and confirmed by the state senate; the ninth member, the Secretary of the Department of Community Affairs, was an ex-officio, voting member of the board.

36. In connection with a \$6 million remarketing issue of the FHFA that closed on August 19, 1993 ("Remarketing issue"), Bethea caused the mischaracterization of the Consultant's compensation on Stephens' books and records, knowing that the Consultant had performed for William Jay Ramsey, an FHFA official, a favor which was instrumental in Stephens' selection as remarketing agent.

37. In particular, in or about early March 1993, the Consultant assisted Ramsey in obtaining a \$90,000-per-year post with an architecture firm the Consultant represented, by giving Ramsey a favorable recommendation. Bethea learned of the Consultant's help with Ramsey's obtaining employment with the architecture firm at the time it occurred.

38. Shortly thereafter, another Stephens banker enlisted the Consultant to assist Stephens with its effort to be named remarketing agent for the Remarketing issue, by advocating Stephens' selection to Ramsey. Bethea approved the hiring of the Consultant for this purpose. The Consultant then persuaded Ramsey to drop his prior opposition to Stephens' selection. In June

1993, Stephens was selected as remarketing agent for the Remarketing issue, with Ramsey's support.

39. Following closing of the Remarketing issue, Bethea caused Stephens to issue a \$10,000 check to the Consultant for his assistance in that issue. At Bethea's direction, however, false books and records were created concerning the \$10,000 payment, including an invoice mischaracterizing the payment as relating to other matters. In fact, the payment was solely and entirely for the Remarketing issue.

REIMBURSED CAMPAIGN CONTRIBUTIONS

40. Between 1989 and 1992, Bethea enlisted Stephens employees and outside vendors to make approximately \$10,000 in campaign contributions to state and local candidates in connection with Stephens' efforts to obtain municipal securities business. With respect to some, if not all, of these contributions, Bethea caused the reimbursement of the employees and outside vendors, and in some cases, the advancing of funds to them, for the contributions. In at least two instances, Bethea caused the creation of false and misleading books and records concerning such reimbursements.

41. By reason of all the conduct set forth above, including the conduct in connection with the ECUA, Osceola, FCS-Walton and FHFA transactions, and the reimbursed campaign contributions, Bethea engaged in deceptive, dishonest or

unfair practices, and failed to deal fairly with all persons, in the conduct of municipal securities business.

42. As set forth above, in relation to the municipal securities activities of Busbee's employer, the ECUA, and O'Dell's employer, Osceola County, Bethea, directly or indirectly, gave or permitted to be given to Busbee and O'Dell, things or services of value in excess of \$100 per year.

43. As set forth above, in relation to the municipal securities activities of the non-Stephens banker's employer, Bethea gave or permitted to be given to the non-Stephens banker, things or services of value in excess of \$100 per year, in the absence of any written contract and without written permission of the employer of the non-Stephens banker.

44. As set forth above, from at least 1989 through at least 1993, Bethea made use of the mails or means or instrumentalities of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of, municipal securities in contravention of Rules G-17 and G-20 of the MSRB.

45. Through the foregoing, Bethea violated Section 15B(c)(1) of the Exchange Act [15 U.S.C. § 78o-4(c)(1)] and MSRB Rules G-17 and G-20.

PRAYER FOR RELIEF

Wherefore the Commission respectfully requests that this Court make findings that Bethea violated the federal securities laws specified in this Complaint and grant relief against him as follows:

I.

Grant a permanent injunction restraining and enjoining Bethea from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)(2)], and Sections 10(b) and 15B(c)(1) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78o-4(c)(1)] and Rule 10b-5 thereunder, and MSRB Rules G-17 and G-20.

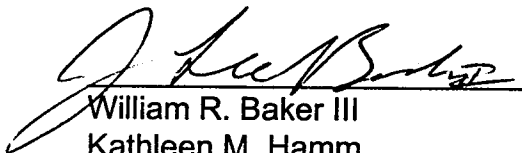
II.

Order Bethea to pay civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

III.

Enter orders granting such other relief as the Court considers just and proper.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "James Lee Buck II", is written over a horizontal line.

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Kathleen M. Hamm
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Dated: November 23, 1998
Washington, D.C.