SEC Charges Deloitte & Touche With Violating Auditor Independence Rules

FOR IMMEDIATE RELEASE
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Washington D.C., July 1, 2015 — The Securities and Exchange Commission today charged Deloitte & Touche LLP with violating auditor independence rules when its consulting affiliate maintained a business relationship with a trustee serving on the boards and audit committees of three funds it audited. Deloitte agreed to pay more than $1 million to settle the charges.

The SEC charged the trustee Andrew C. Boynton with causing related reporting violations by the funds, and charged the funds' administrator ALPS Fund Services with causing related compliance violations. They also agreed to settle the charges.

Auditor independence rules require outside auditors to remain independent from their clients to ensure there is not even the appearance of a firm compromising its objectivity and impartiality when auditing financial statements. According to the SEC's order instituting a settled administrative proceeding, Deloitte violated the rules with respect to the appearance of independence by failing to follow its own policies and conduct an independence consultation prior to entering into a new business relationship with Boynton. Deloitte failed to discover that the required initial independence consultation was not performed until nearly five years after the independence-impairing relationship had been established between Deloitte Consulting LLP and Boynton, who was paid consulting fees for his external client work. Meanwhile, Deloitte represented in audit reports that it was independent of the three funds while Boynton simultaneously served on their boards and audit committees.

"The investing public depends on independent auditors like Deloitte to test the reliability of publicly-reported financial statements, and they have front-line responsibility for ensuring their own independence," said Stephen L. Cohen, Associate Director of the SEC's Division of Enforcement. "But they are not alone in safeguarding the audit process, and the other fiduciaries charged in this case failed to fulfill their roles and preserve investor confidence."

According to the SEC's order:

- Deloitte Consulting acquired a proprietary brainstorming business methodology from Boynton in 2006 and collaborated with Boynton to implement it and serve both internal and external firm clients through 2011.
- As a member of the three funds' boards and audit committees, Boynton was required to complete annual trustee and officer (T&O) questionnaires designed in part to identify conflicts of interest. Boynton did not identify his business relationship with Deloitte Consulting in response to a question calling for identification of his "principal occupation(s) and other positions." Relying on his understanding that Deloitte Consulting was a separate legal entity from Deloitte, Boynton also did not identify the business relationship in his responses to a question added to the questionnaire in 2009 inquiring whether he had any "direct or material indirect business relationship" with Deloitte.
- ALPS contractually agreed to assist the funds in discharging their responsibilities yet failed to

adopt sufficient written policies and procedures as required to prevent auditor independence violations. The funds' audit committee charter addressed auditor independence generally, but the T&O questionnaires did not expressly cover business relationships with the auditor's affiliates. The funds also did not have sufficient written policies and procedures to prevent other types of auditor independence violations, nor did they provide sufficient training to assist board members in the discharge of their responsibilities related to auditor independence.

The SEC's order censures Deloitte for violating the auditor independence standards of Rule 2-02(b) of Regulation S-X, and sanctioned Deloitte for causing the funds to violate Sections 20(a) and 30(a) of the Investment Company Act and Rule 20a-1 thereunder. The order finds that Boynton was a cause of the same reporting violations and ALPS caused the funds' related compliance violations under Rule 38a-1 of the Investment Company Act. Each party agreed to cease and desist from future violations without admitting or denying the findings. Deloitte agreed to pay disgorgement of audit fees in the amount of $497,438 plus prejudgment interest of $116,478 and a penalty of $500,000. Boynton agreed to pay disgorgement of $30,000 plus prejudgment interest of $5,329 and a penalty of $25,000. ALPS agreed to pay a $45,000 penalty.

The SEC's investigation was conducted by James J. Bresnicky and Brian M. Privor, and supervised by J. Lee Buck II.

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Related Materials

- SEC order