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IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Filed: [9/28/95]

UNITED STATES OF AMERICA)	**No. CR 95-0364EFL**
)	
v.)	**INFORMATION**
)	
MUNICIPAL GOVERNMENT)	**VIOLATIONS:**
INVESTMENT ASSOCIATES, INC.,)	**Title 18 United States**
)	**Code, Sections 1343, 1346**
Defendant.)	**(Wire Fraud);**
)	**Title 15 United States**
)	**Code, Sections 78j(b),**
)	**78ff(a) and**
	17 C.F.R. 240.10b-5
	(Securities Fraud)
	Judge Lynch

The United States of America, acting through its attorneys, charges:

COUNT ONE

(18 U.S.C. §§ 1343, 1346)

I. DEFENDANT AND CO-SCHEMERS

1. Municipal Government Investment Associates, Inc. (MGIA) is hereby made a defendant in this information.

2. Defendant MGIA is a closely held corporation, organized and existing under the laws of the State of California, located in San Francisco, California. Defendant MGIA is a broker/dealer of securities registered with the Securities and Exchange Commission. Among other services, MGIA submits bids to municipalities to restructure escrow accounts held by municipalities in conjunction with the issuance of tax-exempt municipal bonds.

3. Various individuals and corporations, not made defendants in this Count, participated as co-schemers in the offense charged and performed acts and made statements in furtherance of the frauds charged in this information.

4. Whenever this Count refers to any act, deed or transaction of a corporation, the allegation means that the corporation engaged in the act, deed or transaction by or through its officers, directors, agents, employees, or representatives while they were actively engaged in the management, direction, control or transaction of the corporation's business or affairs.

II. TAX EXEMPT MUNICIPAL BONDS

5. When a municipality wants to refinance (re-fund) its debts, such as the tax-exempt bonds it has sold to build water treatment plants or jails, it cannot simply pay off the bonds the way a homeowner refinances a mortgage (by paying off the original mortgage with a new, lower interest rate mortgage). Instead, a municipality must create an escrow account which contains money raised by issuing new, lower interest rate municipal bonds. The

escrow account must consist of securities issued by the United States Treasury or backed by the full faith and credit of the United States ("United States Treasury securities"). The escrow account is used to continue to pay off the principal and interest on the original bonds as those payments come due.

6. Under federal tax laws, municipal bonds are exempted from federal taxation if they comply with certain provisions of the Internal Revenue Code, 26 U.S.C. §§ 103, 148. A municipality may not earn profits from re-funding its tax-exempt bonds or through investments made with the proceeds of its tax-exempt bonds (such as escrow accounts) in excess of amounts established by the Internal Revenue Code and regulations. When a municipality re-funds tax exempt municipal bonds, it must certify, through its employees and agents, that it has complied with the Internal Revenue Code and regulations and that it has not earned profits in excess of what is permitted by the Internal Revenue Code and regulations. Such profits are called arbitrage. As a consequence, when tax-exempt municipal bonds are re-funded or an escrow account is restructured (by substituting one group of United States Treasury securities for another), a municipality and its employees and agents may place requirements upon those persons who undertake the re-funding or escrow restructuring on behalf of the municipality to ensure that the municipal bonds will not lose their tax-exempt status as a result of violating the Internal Revenue Code and regulations.

III. CHARGED OFFENSE

7. Beginning at least as early as September 1992, and continuing into at least April 1994, the exact dates being unknown to the United States, in the Northern District of California and elsewhere, defendant MGIA, together with other co-schemers, knowingly and willfully devised and intended to devise and participated in a scheme and artifice:

(a) to defraud the City of Tampa, Florida ("City of Tampa") of money and property;

(b) to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property from the City of Tampa; and

(c) to defraud the City of Tampa by depriving it of its right of honest services from defendant MGIA.

8. In about September 1992, the exact date being unknown to the United States, defendant MGIA and other co-schemers, created and presented to the City of Tampa a proposal to restructure an escrow account established for the $156,520,000 of Utilities Tax and Special Revenue Refunding Bonds, Series 1988 ("Series 1988 escrow account"), and an escrow account established for the $138,610,000 Utilities Tax and Special Revenue Refunding Bonds, Series 1991 ("Series 1991 escrow account"), which proposal included the sale of forward purchase agreements (also referred to as float contracts, escrow reinvestment agreements, security purchase agreements, or forward supply contracts) that would give the contract purchaser the future right to profits by causing the

City of Tampa or its agents to purchase United States Treasury securities with money (proceeds) they derived when United States Treasury securities held in the Series 1988 and Series 1991 escrow accounts matured.

9. The City of Tampa, through its employees and agents, required that in order to be permitted to complete the transaction, defendant MGIA, and other co-schemers, must obtain and provide:

(a) at least three independent, arm's length bids on the forward purchase agreements; and

(b) a certification that the bidding process that was undertaken for the sale of the forward purchase agreement associated with the Series 1991 escrow account was designed to and did obtain at least three independent, arm's length bids.

10. It was part of the scheme charged in this Count that defendant MGIA and other co-schemers:

(a) misrepresented that they had obtained a minimum of three independent, arm's length bids on the forward purchase agreement associated with the Series 1991 escrow account ("Series 1991 forward purchase agreement"), when in fact defendant and co-schemers had created and obtained bids that they knew were not independent, arm's length, or competitive;

(b) misrepresented that they had obtained three independent, arm's length bids for the Series 1991 forward purchase agreement, when in fact defendant and co-schemers knew, but failed and omitted to disclose to the City of Tampa or its employees and agents, that defendant MGIA, which was a bidder, and another bidder, were not independent but instead had a written agreement to share the profits that either obtained from the transaction;

(c) misrepresented that they had obtained three independent, arm's length bids for the Series 1991 forward purchase agreement when in fact defendant and co-schemers knew that they had provided another bidder with false and incorrect information upon which to formulate and submit its bid, which false information caused the bid of this other bidder to be inaccurate and lower than it would have been had the correct information been provided, and therefore to be noncompetitive; and

(d) misrepresented in a certification letter to the City of Tampa, signed by other co-schemers, that the bid process on the Series 1991 forward purchase agreement was designed to "elicit bids from at least three providers not otherwise

involved in the restructuring," when in fact defendant and co-schemers knew that they had solicited and submitted non-independent and non-competitive bids, had failed and omitted to disclose the profit sharing arrangement between bidders, and had provided one bidder with false and fraudulent information in order to obtain an inaccurate and noncompetitive bid.

11. It was further part of the charged scheme that defendant MGIA received and obtained the sum of approximately $1,228,961 from the escrow restructuring, which sum they failed and omitted to disclose to the City of Tampa, its employees or agents.

12. Defendant MGIA, and other co-schemers, in furtherance and for the purpose of executing and carrying out the scheme charged in this Count, did knowingly and willfully transmit or cause to be transmitted by means of wire communication in interstate commerce, signals and sounds.

ALL IN VIOLATION OF TITLE 18 UNITED STATES CODE, SECTIONS 1343, 1346.

COUNT TWO

(15 U.S.C. 78j(b) and 78ff(a), and 17 C.F.R. 240.10b-5)

13. Paragraphs 1 through 11 of this information are hereby realleged and incorporated by reference as if fully set forth herein.

14. Beginning at least as early as September 1992, and continuing into at least April 1994, the exact dates being unknown to the United States, in the Northern District of California and elsewhere, defendant MGIA, and other co-schemers, unlawfully, knowingly, and willfully, directly and indirectly, by use of the means or instrumentalities of interstate commerce, in connection with the purchase or sale of securities: (1) employed a device, scheme, and artifice to defraud; (2) made an untrue statement of material fact, and omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (3) engaged in a transaction, acts, and course of business which would and did operate as a fraud and deceit upon the City of Tampa, and its employees and agents.

15. On or about December 28, 1993, by use of the means or instrumentalities of interstate commerce, in furtherance and for the purpose of executing and carrying out the aforesaid scheme, defendant MGIA, and other co-schemers, did cause, in connection with the purchase and sale of securities, the sale of a forward purchase agreement, by the City of Tampa, Florida.

ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTIONS 78j(b) AND 78ff(a), AND 17 C.F.R. 240.10b-5.

_____"/s/"_____	_____"/s/"_____
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