

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 67934 / September 27, 2012

ADMINISTRATIVE PROCEEDING

File No. 3-15048

In the Matter of

GOLDMAN, SACHS & CO.

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTIONS 15(b), 15B(c)(2)
AND 21C OF THE SECURITIES EXCHANGE
ACT OF 1934, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS AND A
CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15(b), 15B(c)(2) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Goldman, Sachs & Co. (“Goldman Sachs” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15(b), 15B(c)(2) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds¹ that:

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

A. SUMMARY

1. These proceedings involve “pay-to play” violations by Goldman, Sachs & Co. (“Goldman Sachs”), a broker-dealer and registered municipal securities dealer, arising from the conduct of Neil M.M. Morrison (“Morrison”), a former vice president in the investment banking division of Goldman Sachs. Starting in July 2008, Morrison was employed by Goldman Sachs to solicit municipal underwriting business from, among others, the Commonwealth of Massachusetts Treasurer’s Office. During the period November 2008 to October 2010, however, Morrison was also substantially engaged in the political campaigns, including the November 2010 Massachusetts gubernatorial campaign, for Timothy P. Cahill (“Cahill”), the then-Treasurer of Massachusetts.² Morrison participated extensively in Cahill’s gubernatorial campaign and did so at times from his Goldman Sachs office, during his Goldman Sachs work hours and using Goldman Sachs resources, such as phones, e-mail and office space. Morrison’s campaign work gave him complete access to Cahill and his staff, who often provided him with information about the office’s internal deliberations involving underwriter selection.

2. Morrison’s campaign activities during his Goldman Sachs work hours and use of Goldman Sachs resources constituted valuable undisclosed “in-kind” campaign contributions to Cahill attributable to Goldman Sachs. In addition, during the same period, Morrison made a secret, undisclosed cash campaign contribution to Cahill.

3. Within two years of these cash and attributed “in-kind” campaign contributions, Goldman Sachs engaged in municipal securities business with issuers associated with Cahill as Treasurer of Massachusetts and as a candidate for Governor of Massachusetts. Goldman Sachs’ engagement in municipal securities business with these issuers violated Section 15B(c)(1) of the Exchange Act and the Municipal Securities Rulemaking Board’s (“MSRB”) Rule G-37(b).³ Goldman Sachs did not disclose any of the contributions on MSRB Forms G-37, and did not make or keep records of the contributions in violation of MSRB Rules G-37(e), G-8 and G-9. In addition, Goldman Sachs did not take steps to ensure that the attributed contributions, or campaign work or the conflicts of interest raised by them were disclosed in the bond offering documents, in violation of MSRB Rule G-17, which requires broker-dealers to deal fairly and

² In addition to Cahill’s gubernatorial campaign, between November 2008 and September 2009, Morrison worked on Cahill’s re-election campaign for Treasurer of Massachusetts.

³ Rule G-37(b) is a broad prophylactic measure. It provides that no broker, dealer or municipal securities dealer shall engage in municipal securities business with an issuer within two years after any contribution to an official of such issuer made by: (A) the broker, dealer or municipal securities dealer; (B) any municipal finance professional associated with such broker, dealer or municipal securities dealer; or (C) any political action committee controlled by the broker, dealer or municipal securities dealer or by any municipal finance professional. A violation of Rule G-37(b) does not require a showing of “quid pro quo” (i.e. that municipal securities business was actually given in exchange for the contribution.).

not engage in any deceptive, dishonest, or unfair practice. In addition, Goldman Sachs failed to effectively supervise Morrison in violation of MSRB Rule G-27.

B. RESPONDENT

4. Goldman Sachs, a New York limited partnership with its principal offices in New York, New York, is a registered broker-dealer pursuant to Section 15(b) of the Exchange Act and a municipal securities dealer as defined in Sections 3(a)(30) and 3(a)(31) of the Exchange Act. Goldman Sachs, a limited partnership, is a subsidiary of The Goldman Sachs Group, Inc., a Delaware corporation with common stock that is registered with the Commission pursuant to Section 12(b) of the Exchange Act and is listed on the New York Stock Exchange. In 2010, Goldman Sachs was the fifth largest underwriter of negotiated municipal securities offerings in the country.

C. OTHER RELEVANT INDIVIDUAL

5. Morrison, age 38, resides in Taunton, Massachusetts. Between July 14, 2008 and December 19, 2010, Morrison was a vice president in Goldman Sachs' investment banking division in one of the firm's Boston, Massachusetts offices. On December 19, 2010, as a result of his conduct, Goldman Sachs terminated Morrison. Between January 2003 and June 2007, Morrison was employed by the Massachusetts Treasurer's Office, which included positions as the first deputy treasurer, chief of staff and assistant treasurer, reporting directly to Cahill.

D. FACTS

Background

6. Between July 2008 and October 2010, Morrison engaged in activities that constituted solicitation of municipal securities business from certain issuers on behalf of Goldman Sachs. In addition, Morrison was listed on Goldman Sachs' list of municipal finance professionals ("MFP") during his employment with the firm. As a result, Morrison was an MFP associated with Goldman Sachs within the meaning of MSRB Rule G-37.⁴

7. As the Treasurer of Massachusetts and candidate for Governor of Massachusetts, Cahill was an "official" of various municipal securities issuers in Massachusetts within the

⁴ Rule G-37(g)(iv)(B) provides that "the term 'municipal finance professional' [includes] . . . any associated person [of a broker, dealer or municipal securities dealer] who solicits municipal securities business." Morrison solicited municipal securities business by attending meetings with issuer staff, which were intended to obtain municipal securities business with the issuer and by communicating with issuer staff about Goldman Sachs' underwriting capabilities. In addition, Morrison engaged in municipal securities solicitation activities by, among other things, signing cover letters attached to responses to requests for qualifications ("RFQ") for underwriting business and by having his name appear in the responses to the RFQs as a member of Goldman Sachs' underwriting team. Either one of these solicitation activities by itself was sufficient to make him an MFP. See John F. Kendrick, Exchange Act Release No. 62500 (July 14, 2010).

meaning of Rule G-37.⁵ Specifically, as Treasurer of Massachusetts, Cahill was an incumbent who was responsible for, or had the authority to appoint persons who were responsible for, the hiring of brokers, dealers, or municipal securities dealers for municipal securities business by the Commonwealth of Massachusetts and certain related state issuers, including the Massachusetts Water Pollution Abatement Trust and Massachusetts School Building Authority. As candidate for Governor of Massachusetts, Cahill was a candidate for elective office which has authority to appoint persons who are directly or indirectly responsible for, or can influence the outcome of, the hiring of a municipal securities dealer for municipal securities business of certain issuers, including the Massachusetts Housing Finance Authority, Massachusetts Bay Transportation Authority, Massachusetts Health and Education Facilities Authority, and Massachusetts Water Resources Authority. The issuers listed in this paragraph are hereafter referred to collectively as “Issuers.”

Morrison Worked Extensively on Cahill’s Campaigns Using Goldman Sachs Resources

8. Starting at least as early as November 2008, Morrison began actively assisting with Cahill’s re-election campaign for Treasurer of Massachusetts by soliciting contributions for fundraisers and arranging for others to solicit contributions for Cahill. Thereafter, between July 2009 and September 2009, Morrison’s campaign work focused on assisting the campaign to prepare for Cahill’s eventual bid for Governor of Massachusetts. This assistance included interviewing campaign consultants, preparing and reviewing campaign documents, participating on campaign conference calls, and attending campaign meetings during Goldman Sachs work hours.

9. On September 9, 2009, Cahill officially announced his candidacy for Governor of Massachusetts. Thereafter, Morrison’s campaign work increased dramatically, including the number of campaign telephone calls made during work hours and the number of e-mails that he sent using his Goldman Sachs’ e-mail account. Starting in September 2009, Morrison became one of Cahill’s most trusted campaign advisers. As described below, he was involved in, and used Goldman Sachs resources for, numerous significant aspects of the campaign, including interviewing at least one possible running mate in his Goldman Sachs office, negotiating campaign contracts and accepting contract terms on behalf of the campaign during Goldman Sachs’ work hours and/or using Goldman Sachs’ telephones and e-mail.

10. Morrison’s work for Cahill’s campaign during his Goldman Sachs’ work hours was remarkable in its breadth. Between September 2009 and October 4, 2010, Morrison engaged in (a) fundraising; (b) drafting speeches and fundraising solicitations; (c) reviewing,

⁵ Rule G-37(g)(vi) defines an “official of such issuer” as any person who was, at the time of the contribution, an incumbent, candidate or successful candidate: (A) for elective office of the issuer which office is directly or indirectly responsible for, or can influence the outcome of, the hiring of a broker, dealer or municipal securities dealer for municipal securities business by the issuer; or (B) for any elective office of a state or of any political subdivision, which office has authority to appoint any person who is directly or indirectly responsible for, or can influence the outcome of, the hiring of a broker, dealer or municipal securities dealer for municipal securities business by an issuer.

approving and writing campaign memos, contracts, letters, talking points, campaign position papers, and responses to campaign issues; (d) attending and preparing for press conferences; (e) approving campaign invoices and expenditures; (f) approving personnel decisions, such as salaries and hiring; (g) negotiating with campaign personnel; (h) arranging advertisements and commercials; (i) communicating with reporters on behalf of the campaign; (j) reviewing the campaign's budget; (k) recruiting supporters; (l) reviewing campaign leases for office space; (m) selecting county representatives; (n) interviewing consultants; (o) drafting campaign plans and quotations; (p) providing legal advice; and (q) assisting with debates. In engaging in these actions, Morrison at times used his Goldman Sachs e-mail account, phone and other resources and did so during ordinary work hours. During the thirteen-month period, September 9, 2009 to October 4, 2010, Morrison sent at least 364 campaign-related e-mails using his Goldman Sachs e-mail account.

Morrison Actively Solicited Underwriting Business and Attempted to Exert Influence on the Underwriter Selection Process

11. At the same time Morrison was working on Cahill's campaign, he was actively soliciting municipal securities business from the Cahill Treasurer's Office. At times, Morrison referenced his campaign work in those solicitations in an apparent attempt to curry favor with the Treasurer's Office in the underwriting selection process.

12. For example, on September 29, 2009, Morrison sent an e-mail using his Goldman Sachs e-mail account to a Deputy Treasurer discussing the selection of underwriters. In this e-mail Morrison stated:

The boss [Cahill] mentioned to me this morning that he spoke to [the Assistant Treasurer] and that it is looking good for us [Goldman Sachs] on the build America bond deal. He then said that you would probably split it up with 2 joint bookrunners. I am ok with that if that's what you want. I actually think it will be good because it enables the boss [Cahill] to handsomely reward someone else.

13. In the same e-mail exchange, apparently referencing the upcoming election, Morrison went on to say:

From my standpoint as an advisor/consultant/friend I am saying, PLEASE don't give these [underwriter] slots away willy-nilly. You are in the fight of your lives and need to reward loyalty and encourage friendship. If people aren't willing to be creative with their support then they shouldn't expect business. This has to be a political decision.

14. In another e-mail dated September 28, 2009, to the Deputy Treasurer, Morrison again linked his campaign work and his solicitation for underwriting business:

I have a couple of items that I want to put out there in the interest of leaving nothing unsaid.

1. We have discussed the Build American Bond transaction and how important it is to me. You have been great keeping me up to speed. This is my number 1 priority and most important ask. Having Goldman as the lead and getting 50% of the economics would be such a home run for me.

2. There is a Taunton/Southeastern Mass function for the boss [Cahill] coming up. It looks like it will be on Oct. 26.

3. In the event that [a local municipal securities dealer] were going to have a role in the Build American Bond deal, it might be beneficial to tell me that before the local banker there. She might be more interested in being more supportive. HAVING SAID THAT, I am only pushing for number 1 above. This would help number 2, (and certainly help that banker) but I am not so aggressive as to push for more than myself at this point.

15. Morrison was able to engage in the campaign work using Goldman Sachs resources over an extended period of time without detection in part because he worked in a one-person office and was supervised by a Goldman Sachs employee who was located in New York. Although Morrison had certified to the firm that he had disclosed all of his political contributions and activities and although his e-mail was subject to Goldman Sachs' general compliance screening, Goldman Sachs failed to adopt, maintain, and enforce written supervisory procedures reasonably designed to ensure his compliance with MSRB rules. Goldman Sachs should have taken additional steps to ensure Morrison's compliance in light of the fact that the firm knew that he had a political background, had a personal relationship with Cahill, and that he had a close relationship with other issuer employees. For example, in a September 5, 2008 e-mail to his supervisors about the reasons that Goldman Sachs received certain underwriting business from the Massachusetts Housing Finance Authority, Morrison bragged "realistically, if you really want to know, I got [the Vice Chair of the issuer's] son several job interviews and one of them panned out. [The Vice Chair of the issuer] has now turned up the heat with the staff and [a senior staff member of the issuer] has responded." In addition, during an October 2009 compliance review of Morrison's branch office in Boston, Goldman Sachs compliance personnel did not detect Morrison's use of e-mails for his campaign activities or conduct any specific review of Morrison's compliance with MSRB rules. In October 2010, in light of Morrison's conduct, Goldman Sachs suspended solicitations of negotiated municipal finance offerings by Massachusetts issuers, and in December 2010, Goldman Sachs terminated Morrison's employment.

Morrison's Conduct Disqualified Goldman Sachs from Underwritings

16. From November 25, 2008 to October 4, 2010, each instance of Morrison's extensive campaign work during work hours or using firm resources constituted valuable "in-kind" campaign contributions to Cahill attributable to Goldman Sachs.

17. In addition to his direct campaign work on behalf of Cahill, on October 26, 2009, Morrison made an indirect \$400 cash contribution to Cahill by providing a friend with \$400 in cash and asking the friend to write a check in the friend's name to the Cahill campaign for \$500. Morrison's indirect contribution of \$400 was above the \$250 *de minimis* exception provided in Rule G-37.⁶

18. Under Rule G-37, Morrison's indirect contribution and each "in-kind" contribution attributable to Goldman Sachs, starting on November 25, 2008 and ending on October 4, 2010, triggered a two-year ban on municipal securities business with the Issuers.

19. Despite the prohibitions contained in Rule G-37, within two years after the above contributions, Goldman Sachs participated as senior manager, co-senior manager, or co-manager for a total of thirty negotiated underwritings by the Issuers totaling approximately \$9 billion. For its roles in the thirty underwritings, Goldman Sachs received fees in the amount of \$7,558,942.

20. The "in-kind" contributions attributable to Goldman Sachs and the indirect cash contribution by Morrison were not disclosed as required in Goldman Sachs' quarterly reports to the MSRB on Form G-37. In addition, Goldman Sachs did not make and keep books and records of the contributions.

21. The indirect contribution by Morrison and the undisclosed "in-kind" contributions attributable to Goldman Sachs also created a conflict of interest which was not disclosed in the relevant municipal securities offerings, in violation of MSRB Rule G-17. In a July 29, 2009 e-mail to a campaign official, Morrison acknowledged the existence of this conflict, stating:

I am staying in banking and don't want a story that says that I am helping Cahill, who is giving me banking business. If that came out, I'm sure I wouldn't get any more business.

⁶ A *de minimis* exception to Rule G-37(b) allows an MFP to contribute up to \$250 per candidate per election if the MFP is entitled to vote for the candidate. Cahill's gubernatorial election was held on November 2, 2010.

VIOLATIONS

22. Section 15B(b) of the Exchange Act established the MSRB and empowered it to propose and adopt rules with respect to transactions in municipal securities by brokers, dealers, and municipal securities dealers. Section 15B(c)(1) of the Exchange Act prohibits a broker, dealer or municipal securities dealer from using the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any municipal security in contravention of any rule of the MSRB. As a municipal securities dealer, Goldman Sachs was subject to Section 15B(c)(1) of the Exchange Act and the MSRB rules.

23. As a result of the conduct described above, Goldman Sachs willfully⁷ violated MSRB Rule G-8(a)(xvi), which requires brokers, dealers and municipal securities dealers to make and keep current records reflecting all direct and indirect contributions to officials of issuers made by the broker, dealer, municipal securities dealer and each municipal finance professional.

24. As a result of the conduct described above, Goldman Sachs willfully violated MSRB Rule G-9, which requires brokers, dealers and municipal securities dealers to preserve records reflecting all direct and indirect contributions to officials of issuers made by the broker, dealer, municipal securities dealer and each municipal finance professional for six years.

25. As a result of the conduct described above, Goldman Sachs willfully violated MSRB Rule G-17, which states that in the conduct of its municipal securities business, every broker, dealer and municipal securities dealer shall deal fairly with all persons and shall not engage in any deceptive, dishonest, or unfair practice.

26. As a result of the conduct described above, Goldman Sachs willfully violated MSRB Rule G-27, which requires, among other things, that (a) each broker, dealer and municipal securities dealer supervise the conduct of its municipal securities business and the municipal securities activities of its associated persons to ensure compliance with MSRB rules as well as the applicable provisions of the Exchange Act and the rules promulgated thereunder; and (b) each broker, dealer and municipal securities dealer to adopt, maintain, and enforce written supervisory procedures reasonably designed to ensure compliance with the same rules and Exchange Act provisions.

27. As a result of the conduct described above, Goldman Sachs willfully violated MSRB Rule G-37(b), which prohibits brokers, dealers or municipal securities dealers from

⁷ A willful violation of the securities laws means merely “that the person charged with the duty knows what he is doing.” Wonsover v. SEC, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting Hughes v. SEC, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor “also be aware that he is violating one of the Rules or Acts.” Id. (quoting Gearhart & Otis, Inc. v. SEC, 348 F.2d 798, 803 (D.C. Cir. 1965)).

engaging in municipal securities business with an issuer within two years after any contribution to an official of such issuer made by (i) the broker, dealer or municipal securities dealer; (ii) any municipal finance professional associated with such broker, dealer or municipal securities dealer; or (iii) any political action committee controlled by the broker, dealer or municipal securities dealer or by any municipal finance professional, unless the contribution is exempt.

28. As a result of the conduct described above, Goldman Sachs willfully violated MSRB Rule G-37(e), which requires brokers, dealers, or municipal securities dealers to file quarterly reports with the MSRB disclosing all direct and indirect contributions, exceeding the *de minimis* amount, to any official of a municipal securities issuer made by, among others, the broker, dealer, municipal securities dealer and each municipal finance professional associated with such broker, dealer, or municipal securities dealer.

29. As a result of Goldman Sachs' willful violations of MSRB Rules G-37(b), G-17 and G-37(e), Goldman Sachs willfully violated Section 15B(c)(1) of the Exchange Act.

REMEDIAL EFFORTS

In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Respondent and cooperation afforded the Commission staff.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Goldman Sachs' Offer.

Accordingly, pursuant to Sections 15(b), 15B(c)(2), 21B and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent Goldman Sachs shall cease and desist from committing or causing any violations and any future violations of Section 15B(c)(1) of the Exchange Act, MSRB Rule G-8, MSRB Rule G-9, MSRB Rule G-17, MSRB Rule G-27, MSRB Rule G-37(b) and MSRB Rule G-37(e).

B. Respondent Goldman Sachs is censured.

C. Respondent Goldman Sachs shall, within 10 days of the entry of this Order, pay disgorgement of \$7,558,942 and prejudgment interest of \$670,033. Of the \$7,558,942 in disgorgement, \$2,120,547 shall be deemed satisfied by Respondent's payment of \$1,512,902 to the Commonwealth of Massachusetts and \$607,645 to the Massachusetts Water Pollution Abatement Trust in a related action by the Commonwealth of Massachusetts, by and through Martha Coakley, Attorney General. The remaining \$5,438,395 and prejudgment interest of \$670,033 shall be paid to the Securities and Exchange Commission for remittance to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Goldman, Sachs & Co. as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Elaine C. Greenberg, Chief, Municipal Securities and Public Pensions Unit, Securities and Exchange Commission, Philadelphia Regional Office, The Mellon Independence Center, 701 Market Street Philadelphia, PA 19106-1532.

D. Respondent Goldman Sachs shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$3,750,000 to the Securities and Exchange Commission, of which \$1,875,000 shall be transferred to the Municipal Securities Rulemaking Board in accordance with Section 15B(c)(9)(A) of the Exchange Act, and of which the remaining \$1,875,000 shall be transferred to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341

6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Goldman, Sachs & Co. as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Elaine C. Greenberg, Chief, Municipal Securities and Public Pensions Unit, Securities and Exchange Commission, Philadelphia Regional Office, The Mellon Independence Center, 701 Market Street Philadelphia, PA 19106-1532.

By the Commission.

Elizabeth M. Murphy
Secretary