STATE OF CONNECTICUT ~ OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL GEORGE JEPSEN

COOPERATION AGREEMENT REACHED WITH FORMER BROKER IN ANTICOMPETITIVE MUNICIPAL BOND DERIVATIVES SCHEMES

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HARTFORD – Attorney General George Jepsen announced a settlement Thursday with Martin Kanefsky, the former chief executive officer of Kane Capital Strategies, Inc., as part of a nationwide investigation of alleged anticompetitive and fraudulent conduct in the municipal bond derivatives industry.

Under the settlement, Kanefsky has agreed to pay $250,000 in restitution to those harmed and to cooperate in the continuing investigation by a multistate working group of attorneys general in 24 states and the District of Columbia. Connecticut is leading the investigation.

Between 2001 and 2006, Kanefsky, through Kane Capital Strategies, his former financial products and services firm in Great Neck, N.Y., provided brokerage services to governmental and not-for-profit entities seeking to invest the proceeds of municipal bonds. None of Kanefsky's clients were in Connecticut and the state is not expected to share in the settlement money.

"Kanefsky did not broker any transactions in Connecticut. Nevertheless, in his role as a broker, Kanefsky had significant interactions with key co-conspirator marketers at several of the more culpable financial institutions involved in the various schemes," Jepsen said. "As a condition of his settlement, Kanefsky will provide the working group with direct inside knowledge of the schemes and how they worked."

Kanefsky is the first broker to settle with the working group, which to date has obtained settlements valued at approximately $250 million. Previous agreements were reached with Bank of America, UBS AG and J.P. Morgan Chase.

In his role as a broker, Kanefsky solicited and received intentionally losing bids for certain investment agreements. He also gave co-conspirators at major financial institutions, who were bidding on the investment agreements, information about the prices, price levels or conditions in competitors' bids. This practice, known as a "last look," is prohibited by U.S. Treasury regulations.

The "last looks" allowed marketers at certain financial institutions, with whom Kanefsky had a close business relationship, an opportunity to see their competitor's bids before giving their own final bid. The illegal "last looks" and bidding manipulation compromised a competitive bidding process and allowed co-conspirator financial institutions to win investment contracts at artificially determined price levels.

The settlement between the multistate working group and Kanefsky follows his plea agreement last year with the U.S. Department of Justice. On Aug. 12, 2010, Kanefsky entered into a plea agreement with the DOJ's Antitrust Division, admitting to two counts of conspiracy and one count of wire fraud relating to his role as a broker or bidding agent hired to conduct a competitive bidding process for the award of investment agreements.

Jepsen said Kanefsky's decision to cooperate with the working group will help the investigation. "We fully expect to leverage the evidence he provides to build our cases against other culpable financial institutions with whom he conspired." Jepsen added.

Municipal bond derivatives are contracts that tax-exempt issuers use to reinvest proceeds of bond sales until the funds are needed, or to hedge interest-rate risk. In April 2008, the states began investigating allegations that certain large financial institutions, including national banks, insurance companies, and certain brokers and swap advisors, engaged in various schemes to rig bids and commit other deceptive, unfair and fraudulent conduct in the municipal bond derivatives market.

To date, the working group's investigation has revealed collusive and deceptive conduct involving brokers active in the municipal bond derivatives industry and marketers at various financial institutions. The wrongful conduct took the form of "last looks," bid rigging, submission of non-competitive courtesy bids and submission of fraudulent certificates of compliance to government agencies, among others, in violation of U.S. Treasury regulations.

The overall objective of the scheme was to enrich the financial institution and/or the broker at the expense of the issuer -- and ultimately taxpayers -- by depriving the issuer of a competitive, transparent marketplace. As a result, state, city, local, and not-for-profit entities entered into municipal derivatives contracts on less advantageous terms than they would have otherwise.

Assistant Attorney General Christopher Haddad and Paralegal Lori Measer worked on this case for the Attorney General, under the direction of Assistant Attorney General Michael E. Cole, Chief of the Antitrust Department.

Jepsen was appointed earlier this year as the co-chair of the Antitrust Committee for the National Association of Attorneys General.

View the Kanefsky Settlement – (PDF-4MB)

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