

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 76905 / January 14, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17055

In the Matter of

**STATE STREET BANK
AND TRUST COMPANY,**

Respondent.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 21C OF THE SECURITIES
EXCHANGE ACT OF 1934, MAKING
FINDINGS, AND IMPOSING A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against State Street Bank and Trust Company (“State Street” 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 Cease-and-Desist Proceedings Pursuant to Section 21C of the Exchange Act , Making Findings, and Imposing 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:

Summary

In early 2010, Vincent J. DeBaggis ("DeBaggis"), a former employee of State Street Bank and Trust Company ("State Street") who was then a Senior Vice President and head of Public Funds at State Street, entered into an agreement with Amer Ahmad ("Ahmad"), then the Deputy Treasurer of the State of Ohio, to make illicit cash payments and political campaign contributions in exchange for several lucrative subcustodian contracts awarded by the Office of the Treasurer of the State of Ohio ("TOS"). Specifically, from February 2010 through April 2011, DeBaggis caused State Street to pay \$160,000 to Mohamed Noure Alo ("Alo") in purported lobbying fees, a substantial portion of which actually operated as kickbacks to Ahmad. In addition, DeBaggis, aided by Robert B. Crowe ("Crowe"), a State Street lobbyist, arranged for at least \$60,000 in political contributions to the Treasurer's election campaign. DeBaggis undertook these actions in violation of State Street policies and procedures, and without informing others in State Street management of these actions. In return for these payments and contributions, Ahmad awarded State Street the subcustodian contracts for three Ohio pension funds, which resulted in millions of dollars in revenues for State Street.

Respondent

1. **State Street Bank and Trust Company ("State Street")** is a Massachusetts trust company and a subsidiary of State Street Corporation, a Massachusetts financial holding company with shares registered with the Commission under Section 12(g) of the Securities Act of 1933. State Street is the principal banking subsidiary of State Street Corporation, providing asset servicing to the firm's institutional clients, including custody, accounting, fund administration, and recordkeeping. Both State Street and State Street Corporation have a principal place of business in Boston, Massachusetts.

Pay-to-Play Arrangement with Alo

2. The State Teachers Retirement System of Ohio ("STRS"), the Ohio Public Employees Retirement System ("OPERS"), the Ohio Police & Fire Pension Fund ("OP&F"), and the School Employees Retirement System of Ohio ("SERS") are public pension funds that hold retirement assets for the benefit of their members. These funds seek to provide their members with financial security in retirement through the prudent management and investment of securities. Each of the pension funds is run by a professional staff and overseen by a board of trustees, and is legally separate from and fiscally independent of state and local governments.

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.

3. Under Ohio State law, the Treasurer is the statutory custodian of the pension funds' assets and has sole authority to select the service providers that perform custody services for those assets. Ohio law requires that the Treasurer enter into contracts only with banks located in Ohio. Because most Ohio banks do not have the capability to provide custody services for international assets, the Treasurer can require that the Ohio custodian bank subcontract with another bank, chosen by the Treasurer, to serve as global subcustodian. The global subcustodian then enters into a subcustody agreement directly with the custodian bank. Although the pension funds are not parties to the contract, they are named as the beneficial owners of the assets and cash under custody.

4. In January 2010, under the direction of Ahmad, TOS issued a public Request for Information ("RFI") to solicit bids for a two-year global subcustodian contract for each of the four pension funds. The role of the custody service providers was integral to facilitating or effecting transactions in securities on behalf of the pension funds and to maintaining the integrity of the funds' investment accounts. The custody services covered by the RFI included, among other things: receiving and delivering cash and securities for the pension funds, safekeeping the funds' assets, securities transaction settlement, income collection, recordkeeping, and other functions that served to effect or facilitate the funds' securities transactions. The subcustodian also had responsibility for investing the funds' daily cash balances into short-term investment funds. In addition, the pension funds could separately contract directly with the subcustodian for ancillary services, such as securities lending and performance analytics. Bids were due February 2, 2010. On January 28, 2010, State Street submitted its bid.

5. TOS reviewed the bids using a two-stage procedure set forth in the RFI. First, a committee of TOS employees scored bidders on their ability to satisfy the pension funds' subcustody service needs. Second, TOS compared the fee proposals of each bidder. The RFI process was used to assess the merits of the bids, but TOS was not bound by the results of the assessment and was not required to select the lowest bidder or the bidder that received the highest qualitative score. Rather, TOS had wide discretion in choosing the subcustodian.

6. Shortly before State Street submitted its bid for the Ohio pension fund, a State Street vice president of institutional sales and marketing met Alo at a fundraiser for the incumbent Ohio State Treasurer. Alo presented himself as an attorney and a friend of the Treasurer, and later introduced the State Street vice president to the Ohio Treasurer and Ahmad. A few days after the fundraiser, Alo called the State Street vice president and proposed that he (Alo) could be engaged as a lobbyist for State Street. The State Street vice president referred the matter to DeBaggis, who was then the head of State Street's Public Funds group. From that point on, DeBaggis was Alo's primary State Street contact.

7. In early February 2010, Alo flew to Boston for a meeting with DeBaggis. Alo was an immigration attorney with no experience in lobbying. He assured DeBaggis, however, that through his relationship with Ahmad he could influence the award of the Ohio subcustody contracts. On or around February 10, 2010, DeBaggis, on behalf of State Street, entered into a purported lobbying agreement with Alo. The agreement provided that State Street would pay Alo a monthly fee of \$8,000. In addition, DeBaggis agreed to an escalation clause that provided for an increased salary of \$10,000 per month if State Street won the business of at least two of the Ohio

pension funds.

8. The lobbying agreement was merely a pretext devised by Ahmad to funnel money to Alo and Ahmad in exchange for the award of the Ohio pension funds contracts. During the negotiation of the agreement, DeBaggis understood that Alo was acting at Ahmad's instructions and would be sharing his lobbying fees with Ahmad. As DeBaggis knew, Alo did not perform any lobbying services for State Street.

9. On February 23, 2010, Alo received his first payment from State Street in the amount of \$16,000, which represented an advance payment for the first two months of his engagement. After State Street was awarded three of the Ohio pension fund contracts on March 29, 2010, Alo began receiving \$10,000 per month pursuant to the terms of the escalation clause in his contract. Between 2010 and April 2011, State Street paid Alo approximately \$160,000 in lobbying fees.

10. DeBaggis's actions contravened State Street's Standard of Conduct, which provided that State Street employees could not directly or indirectly make payments to, or promise to make payments to, government officials or others in order to obtain or retain business. DeBaggis did not inform others in State Street management about Alo sharing his fees with Ahmad.

Political Contributions

11. As part of his efforts to secure the subcustodian contracts, DeBaggis also directed campaign contributions to the incumbent Treasurer through Crowe, a State Street lobbyist.

12. Shortly after he was retained as a lobbyist for State Street, Alo informed the State Street vice president that State Street could improve its chances of winning the Ohio contracts if it made campaign contributions to the incumbent Treasurer. The State Street vice president rejected the idea because he believed it was improper, but conveyed the substance of the conversation to DeBaggis. DeBaggis asked State Street's Compliance Department about the permissibility of making personal political contributions to the incumbent Treasurer's campaign.

13. While awaiting a response from the Compliance Department, DeBaggis suggested to Alo that, in lieu of direct contributions, DeBaggis could offer Crowe's services to assist in the Treasurer's fundraising campaign. Alo conveyed the offer to Ahmad, who rejected this proposal outright, stating: "We want to see money, checks." Shortly thereafter, an in-person meeting with DeBaggis, Ahmad, Alo, and others was scheduled.

14. The in-person meeting occurred on March 3, 2010, in Alo's law office in Columbus, and was attended by the incumbent Treasurer, Ahmad, Alo, DeBaggis, Crowe, and the incumbent Treasurer's chief fundraiser. At the meeting, Ahmad demanded that State Street make direct monetary contributions to the incumbent Treasurer's campaign.

15. After the March 3rd meeting, DeBaggis emailed the State Street vice president who had introduced him to Alo to follow up on the status of the inquiry with Compliance regarding political contributions to the incumbent Treasurer's campaign. DeBaggis told the State Street vice president: "Based on my meeting with [the Treasurer] today, we will need to find a way to do this." State Street's Standard of Conduct prohibited any corporate contributions without approval of the Chief Executive Officer, which approval was never sought or received.

16. Shortly after the March 3rd meeting, Alo informed DeBaggis and Crowe that Ahmad specifically demanded that they raise \$25,000 within five days if they wanted State Street to win the subcustodian contracts. While still awaiting a response from the Compliance Department, DeBaggis and Crowe contrived to circumvent any State Street restriction on campaign contributions by funneling contributions through Crowe. However, DeBaggis told Alo that he would be unable to raise \$25,000 in the amount of time he was given. DeBaggis and Crowe then pressured Alo to send Crowe the \$16,000 he received as lobbying fees from State Street so that Crowe could turn the money around in the form of campaign contributions to the incumbent Treasurer. Alo initially protested because he was paying a portion of those fees to Ahmad, but DeBaggis and Crowe persuaded him that he would make it up in the future if State Street won the subcustodian contracts.

17. On March 4th, Alo wired \$16,000 to Crowe's personal bank account. Shortly after, Crowe sent Alo an envelope containing a handful of checks that totaled approximately \$20,000 from various sources, all made payable to the incumbent Treasurer's campaign.

18. According to public campaign donation records, on March 11, 2010, the incumbent Treasurer's campaign received \$20,395 from Crowe and known related persons including his law partner and a law firm employee. Crowe contributed the maximum amount allowed of \$11,300 via a check drawn on his personal bank account; his law firm's PAC contributed \$3,000. Crowe immediately reimbursed both his law partner and the law firm employee using checks drawn on his personal bank account.

19. In early April 2010, after the above contributions were made, State Street's Chief Ethics Officer clearly informed DeBaggis that State Street's Legal and Compliance Departments determined that contributions to the Ohio Treasurer should not be made due to the proximity of bidding on the Ohio business and concerns about pay-to-play. Shortly thereafter, and for the same reasons, Legal and Compliance denied a request from DeBaggis to make contributions to a candidate for Ohio State Auditor.

Award of Contracts to State Street

20. On March 29, 2010, TOS informed State Street that it had won the subcustodian contracts for STRS, OPERS, and OP&F. For each pension fund, State Street received the highest qualitative score from the committee evaluating competing bids, and also submitted the lowest bids. However, as noted above, TOS, and specifically the Treasurer, had wide discretion in choosing the subcustodian. TOS was not required to select the lowest cost or highest quality bidder.

21. On April 19, 2010, the formal award letter, signed by Ahmad, was sent to State Street. The subcustody contracts were finalized and dated as of June 30, 2010. For OPERS and STRS, State Street entered into a subcustody agreement with Fifth Third Bank; for OP&F, it entered into a subcustody agreement with Huntington National Bank. DeBaggis signed both agreements on behalf of State Street on June 30, 2010.

22. The terms of the two subcustody agreements were substantially similar. Among other things, both agreements contained a general compliance-with-the-law provision in addition to a specific compliance-with-Ohio-Ethics-Law provision. The general compliance-with-the-law provision stated: "Subcustodian understands and agrees that at all times under this Agreement, Subcustodian must comply with all local, state, and federal laws, rules, regulations, as well as usual and customary banking practices, as applicable to it in providing services hereunder." The Ohio Ethics Law provision specifically provided: "By signing this Agreement, Subcustodian certifies that it is currently in compliance with, and shall continue to adhere to, the requirements of Ohio Ethics Law as provided by R.C. 102.03 and 102.04." R.C. 102.03 prohibits any person from promising or giving to a "public official or employee anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties."

23. At the time that DeBaggis signed the Ohio pension funds' subcustody agreements on behalf of State Street, he knew that the representations he made on behalf of State Street in the agreements were false.

Additional Political Contributions

24. Before the November 2010 election, Ahmad intensified his efforts to raise additional campaign contributions. Even after the subcustody contracts were signed, Ahmad threatened to have them rescinded unless DeBaggis continued to direct contributions to the incumbent Treasurer's campaign. DeBaggis then sought additional fundraising assistance from Crowe.

25. On August 26, 2010, Crowe sent the following email to DeBaggis:

My nephew did 1000 on line – take credit.

The following day, DeBaggis forwarded Crowe's August 26 email to Alo, with the following message:

Noure [Alo], Please let [the campaign] know this came through Bob [Crowe]. Do not forward this, just reach out to her. Make sure we will get credit. Will call later today. Vin.

26. However, apparently DeBaggis considered the \$1,000 contribution insufficient. On August 30, DeBaggis responded to Crowe's August 26 email with the following:

Bob-this is helpful but the lack of traction here is problematic. We've been focused on this since march with little in terms of results. I hate to be blunt but I need your help here and I need it now. The continuation of our partnership depends on it. I hope you are able to see this through and let me know if I can help.

27. As campaign fundraising deadlines approached, Ahmad increased the pressure for contributions. On August 31, regarding a phone call with Ahmad, DeBaggis sent Crowe the following email:

Had my head handed to me last night. They need us to achieve target by 9/15. Can you confirm that you can do that?

In response, Crowe asked:

What's my number?

DeBaggis answered:

Original 30, less 5 from pac and whatever [] and [] do.

28. In total, from August 22, 2010, through September 23, 2010, public records show that the incumbent Treasurer's campaign received at least an additional \$11,595 from Crowe and known related persons.

29. Crowe understood that State Street winning and retaining the subcustodian contracts was related to the payment of campaign contributions. In addition, Crowe believed that aiding DeBaggis in raising funds for the incumbent Treasurer's campaign was critical to his retaining State Street as a client. In a September 1, 2010 email to another of his law partners, which references certain communications with DeBaggis, Crowe wrote:

Thank you for sending \$5000 from the PAC. As you can see from this e-mail and a conversation I just had, I have to get him 30 to keep this client. This has never happened to me before, but State Street is a 20+ year client and a very important name in the Financial Services Industry. I have not been able to raise more than an additional 3 and have been trying since March.

He wants us to max out our PAC to [Treasurer] and the Ohio Democratic Party. They can each take \$11,395. To date we have given [the Treasurer] 8. So we can give him \$3,395. And the party \$11,395. With the 5 this comes to \$19,791. I hope to raise \$3,000 and

I will give the balance personally of \$7,210 to the party. I have already personally maxed to [Treasurer] at an earlier request. State Street pays us \$180,000 per year and has paid us as much as \$600,000.

Thank you for your consideration.

Bob

30. Crowe testified that he was concerned that DeBaggis would fire him if he did not raise the money for the incumbent Treasurer. Crowe further testified that State Street was an important client and, because Crowe had just joined his firm, it was critical that he retain State Street.

31. DeBaggis did not inform others in State Street management about Crowe's contributions to the Ohio Treasurer's campaign prior to being questioned about these events in the 2011 internal investigation referenced in paragraph 35 below.

32. In October 2010, after an extensive transition period, contract performance began. According to State Street's fee proposal, the estimated total value of the three Ohio pension fund contracts was \$2.4 million over the two-year contract period. Because the custodian service fees were largely transaction-based, the estimated value of each of the contracts was based on each fund's historical transaction volume. The actual value of the contracts could only be determined after performance. In addition, the contracts created opportunities for additional revenue through the sale of ancillary products and services. In fact, for the period from 2010-2014, State Street received more than \$30 million in direct gross revenues from the three Ohio pension fund contracts. During that same period, State Street also received \$13.5 million in indirect revenues related to Ohio pension fund business (*i.e.*, revenue not paid by the pension funds but generated from either interest earned on the custodied assets or securities lending).

The Scheme Begins to Unravel

33. In May and June 2010, several local Ohio newspapers began publishing news stories that scrutinized State Street's ties to Alo and Ahmad. In press interviews, Ahmad stated that his friendship with Alo played no role in State Street securing the pension fund contracts and that Alo had not even attempted to lobby for the State Street contract. State Street did not at that time initiate an internal investigation.

34. The incumbent Treasurer was defeated in the November 2010 election, and Ahmad left TOS in December 2010.

35. In January 2011, State Street received a subpoena for documents from the Department of Justice related to the Ohio pension funds' subcustodian bids and campaign contributions. In response, State Street launched its own internal investigation into the matter, found that DeBaggis violated State Street's Standard of Conduct, and disciplined him. State Street terminated DeBaggis's employment in September 2014 after he declined to be interviewed by the Commission in this matter.

36. In 2011, State Street terminated its agreements with Alo and Crowe, and implemented new policies related to political activities.

37. In September 2014, State Street formed a special committee, which retained an independent law firm to conduct an investigation. The law firm shared its findings with the Staff of the Commission's Division of Enforcement. State Street employees cooperated fully with this independent investigation.

Violation

38. As a result of the conduct described above, State Street violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

State Street's Remedial Efforts

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

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent State Street's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent State Street cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

B. Respondent shall, within 14 days of the entry of this Order, pay disgorgement of \$4 million and a civil money penalty of \$8 million to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Securities Exchange Act of 1934 Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 and/or 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 State Street Bank and Trust Company as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Charles J. Kerstetter, Division of Enforcement, Securities and Exchange Commission, 175 West Jackson Boulevard, Suite 900, Chicago, IL 60604.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Brent J. Fields
Secretary