SEC Enforcement Roundup: Broker Charged With Stealing to Pay for Mortgage, Groceries

By Marlene Y. Satter and Melanie Waddell, AdvisorOne | September 13, 2012

Among recent enforcement actions taken by the Securities and Exchange Commission (SEC) were charges in a $50 million Nevada real estate investment scam and CDO fraud charges that resulted in $23 million in settlement costs.

The SEC also zeroed in on a broker who stole client funds and used them to pay for his own personal expenses, including groceries and a mortgage, and three brokers who churned away $2.7 million in client money.

Broker Uses $600,000 in Client Funds to Pay Mortgage, Grocery Bills: SEC

The SEC on Thursday charged a broker and his company based in Danbury, Conn., with stealing at least $600,000 from clients and using the money to pay for his mortgage, grocery bills and other personal expenses.

The SEC alleges that Stephen B. Blankenship persuaded about a dozen clients—including some retirees and others he met at church—to withdraw money from their brokerage accounts he managed at other firms and instead invest with him directly. As part of his scheme, he assured them they could obtain a greater rate of return on their money by transferring it to his firm, Deer Hill Financial Group.

According to the SEC, Blankenship claimed he was investing their money in established securities such as publicly traded mutual funds. But in reality he made no investments and merely transferred customer money to his own bank account, and he misused it to pay his mortgage, travel and grocery bills among other personal expenses. Blankenship also paid some business expenses and made Ponzi-like payments to other customers who requested a return of all or part of their investment.

In a parallel action, the U.S. Attorney's Office for the District of Connecticut on Thursday announced criminal charges against Blankenship.

"Blankenship took advantage of fellow churchgoers and senior citizens who relied on their savings for retirement and placed their trust in him," said David P. Bergers, director of the SEC's Boston Regional Office, in a statement. “He betrayed that trust by using their money to make personal credit card payments and home improvements.”

According to the SEC’s complaint filed in the U.S. District Court for the District of Connecticut, most of the investors deceived by Blankenship became his brokerage customers at Santa Monica-based Syndicated Capital and later at Melville, N.Y.-based Vanderbilt Securities. Some had been his customers for as long as two decades. Beginning in at least 2002, Blankenship took advantage of those longstanding relationships and began persuading customers to withdraw money from their brokerage accounts at those firms with promises that he could achieve a greater rate of return for them directly by investing their money through Deer Hill.

The SEC alleges that in order to conceal his scheme, "Blankenship often created fake account statements that falsely represented that he had invested their money in a variety of investments. The purported account statements were printed on Deer Hill letterhead and provided to customers." In all instances, the investments described on the account statements did not exist, the SEC says.

The SEC’s complaint alleges that Deer Hill and Blankenship violated the antifraud provisions of the federal securities laws and acted as unregistered brokers. The complaint seeks disgorgement of ill-gotten gains plus prejudgment interest, monetary penalties, and the entry of a permanent injunction against Deer Hill and Blankenship, who lives in New Fairfield, Conn.

Based on the same misconduct, the U.S. Attorney’s Office for the District of Connecticut charged Blankenship with criminal violations. The Connecticut Department of Banking's Securities Division has obtained, by consent, a revocation of Blankenship’s registration and has barred Blankenship and Deer Hill from operating in Connecticut.

Investors Lose $50 Million in Real Estate Scam

The SEC announced an asset freeze against a San Diego-based firm, Western Financial Planning Corp., and its owner, Louis V. Schooler, accused of running a real estate investment fraud that raised approximately $50 million from hundreds of investors nationwide.

According to the complaint filed in federal court in San Diego, Western and Schooler sold units in partnerships Western had organized to buy vacant land in Nevada and hold for sale at a profit at a later date.

The SEC alleged that, since 2007, Schooler and Western not only failed to tell investors that they were paying an exorbitant markup on the land, sometimes more than five times fair market value, they also failed to disclose that often the land held by the partnerships was encumbered by mortgages Western used to help finance the land’s initial purchase.

Western and Schooler provided comparative prices or “comps” of supposedly similar plots of land that had sold for prices higher than those offered by Western. However, the comps were not at all comparable to Western’s plots. The SEC also alleges that since the spring of 2011, Schooler paid “hush money” to silence investors who discovered they had been defrauded, allowing the scheme to continue.

Judge Larry A. Burns of the U.S. District Court for the Southern District of California granted the SEC's request for a temporary restraining order and asset freeze against Schooler, Western and all entities under Western's control, and appointed Thomas C. Hebrank as a temporary receiver over Western and the entities. A hearing has been scheduled on the SEC's motion for a preliminary injunction.

$23 Million Settlement Reached Over Fraudulent Management of CDOs

The SEC announced that it has reached a settlement with New York-based investment advisory firm ICP Asset Management, and its founder and president, Thomas Priore, over charges that they defrauded several collateralized debt obligations (CDOs) they managed.

In June 2010, the SEC had filed a case against them in federal court in Manhattan, alleging that they engaged in fraudulent practices and misrepresentations that caused the CDOs to overpay for securities and lose millions of dollars. Priore and the ICP companies also improperly obtained fees and undisclosed profits at the expense of the CDOs and their investors.Settlement terms were approved on Sept. 6. The final judgment orders Priore to pay disgorgement of $797,337, prejudgment interest of $215,045, and a penalty of $487,618. ICP and its holding company, Institutional Credit Partners LLC, were ordered, on a joint and several basis, to pay disgorgement of $13,916,005 and prejudgment interest of $3,709,028. ICP also is ordered to pay a penalty of $650,000.

An affiliated broker-dealer, ICP Securities LLC, is ordered to pay disgorgement of $1,637,581, prejudgment interest of $301,893, and a penalty of $1,939,474. Priore also agreed to settle an administrative proceeding against him. Without admitting or denying the SEC's allegations, Priore and the ICP companies also consented to permanent injunctions enjoining them from future violations of the securities laws they were alleged to have violated.

3 Brokers Charged With Churning Through $2.7 Million in Client Funds

The SEC announced Monday that it has charged three former brokers at an Atlanta-based brokerage firm, JP Turner & Co., for "churning" the accounts of customers with conservative investment objectives, causing the customers to lose $2.7 million.

The SEC says it also charged the head supervisor, Michael Bresner, as well as the firm's president, William Mello, and the firm itself for compliance failures.

JP Turner and Mello agreed to settle the SEC's charges, while an administrative proceeding will continue against the three brokers and the supervisor.

In settling the SEC's charges without admitting or denying the findings, JP Turner agreed to hire an independent consultant to review the firm's supervisory procedures in order to prevent future violations. The SEC's order censures JP Turner and requires payment of $200,000 in disgorgement, representing JP Turner's approximate share of the commissions and fees generated by the fraudulent churning, plus $16,051 in prejudgment interest and a $200,000 penalty.

The order suspends Mello from association in a supervisory capacity with a broker, dealer or investment advisor for five months and requires him to pay a $45,000 penalty.

The SEC's Enforcement Division alleges that the brokers Ralph Calabro, Jason Konner and Dimitrios Koutsoubos engaged in churning while they worked at JP Turner, collectively generating commissions, fees and margin interest totaling approximately $845,000 while the defrauded customers suffered aggregate losses of approximately $2.7 million.

"Broker-dealers' supervisory systems must provide customers with reasonable protection from churning and similar abuses. JP Turner's supervisory systems failed to do that," said William P. Hicks, associate director of the SEC's Atlanta Regional Office, in a statement.

According to the SEC's order instituting administrative proceedings against the three brokers and the supervisor, Calabro lives in Matawan, N.J., and Konner and Koutsoubos live in Brooklyn, N.Y. They all work at different firms now. While at JP Turner, they collectively churned the accounts of seven customers with conservative investment objectives and low or moderate risk tolerances. The churning occurred between January 2008 and December 2009.