

## [Securities Regulation Daily Wrap Up, ENFORCEMENT—SEC busts financial advisor’s myths of high returns, profits, and success, \(Aug. 28, 2017\)](#)

Securities Regulation Daily

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By [Brad Rosen, J.D.](#)

The SEC has brought a three count complaint in the federal district court in the Maryland against Dawn J. Bennett, a former financial adviser and long-time resident of Chevy Chase Maryland, and DJB Holdings, LLC, a company founded, wholly owned and operated by Bennett. The complaint charged Bennett, the former radio show host of *Financial Myth Busting with Dawn Bennett*, with defrauding investors and spending their money on herself and to make Ponzi-like payments to earlier investors in the alleged scheme ([SEC v. Bennett](#), August 25, 2017).

**Underlying facts.** The SEC alleged that Bennett and DJB Holdings LLC raised more than \$20 million from 46 investors by selling unregistered notes issued by the company, a Washington, D.C. luxury sports apparel firm. According to the SEC, Bennett exaggerated the safety of the notes and success of her firm, touting it as a profitable business able to pay annual returns as high as 15 percent.

The Commission also asserted that while Bennett claimed investor funds would be used for corporate purposes, she spent a portion on personal expenses including jewelry, high-end clothing, mystics, and a \$500,000 annual lease for a luxury suite at AT&T Stadium in Dallas. Bennett used other funds to repay earlier investors, a common feature of a Ponzi scheme.

According to the charges, Bennett’s victims consisted largely of elderly and unsophisticated investors who were lied to both during the solicitation phase and during the course of their investments. For instance, the defendants misrepresented the year-end 2015 financial information provided to investors as follows:

- overstated sales by over \$3.8 million, or 424 percent;
- overstated gross profit by nearly \$2.5 million, or 3,382 percent;
- understated expenses by over \$3.6 million, or 73 percent; and
- overstated net income by over \$6.1 million, or 124 percent, and again inaccurately reflected a profit of \$1.1 million rather than the actual loss of nearly \$5 million.

The commission also claimed that Bennett took steps to conceal and continue the scheme by lying to regulators about the note sales, repaying investors with loans she obtained by inflating her net worth, and replacing existing convertible notes with sham promissory notes.

**SEC charges and remedies sought.** In its complaint, the SEC charged the defendants with violating Sections 5 and 17(a) of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The SEC is seeking a permanent injunction, disgorgement plus interest, and penalties. In a parallel proceeding, the U.S. Attorney’s Office for the District of Maryland has unsealed criminal charges against Bennett.

**Prior administrative proceedings.** The SEC had instituted administrative proceedings against Bennett for this conduct in September 2015. Bennett was one of many respondents in SEC administrative proceedings who challenged the constitutionality of the SEC’s administrative law judge regime in federal court. The Fourth Circuit, joining the Second, Seventh, Eleventh and D.C. Circuits, [rejected](#) Bennett’s constitutional arguments. On appeal to the Commission on an ALJ’s default judgment, the commissioners also rejected these arguments and those espoused in the Eleventh Circuit’s *Bandimere* decision that ALJs are unconstitutionally appointed inferior officers, and upheld the ALJ’s imposition of cease and desist-orders, disgorgement, and penalties.

The case is [No. 17-cv-2453](#).

Attorneys: Jennifer Chun Barry for the SEC.

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