Securities Regulation Daily Wrap Up, ENFORCEMENT—SDFla: SEC Claims Luxury Condo Investment Opportunity was Ponzi Scheme, (Jan. 31, 2013)

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By Matthew Garza, J.D.

The SEC has filed suit in the U.S. District Court for the Southern District of Florida against five individuals accused of running an offering fraud and Ponzi scheme through a real estate development company named Cay Clubs Resorts and Marinas. The group allegedly raised $300 million from 1400 investors between November 2004 and July 2008 in a scheme that involved the sale of luxury units at resorts in Florida and Las Vegas. Among other material misrepresentations, the defendants were accused of representing to investors through conversations and offering and marketing material that leaseback agreements included in the deal would provide a guaranteed 15 percent return. The company advertised the investment through a website, billboards, magazines, seminars, podcasts, presentations on corporate planes, tours of the development locations, and hundreds of sales agents. One of the defendants failed to disclose that he was subject to a multi-million dollar judgment for another failed real estate venture, and another defendant concealed that he had previously been convicted of a felony and spent time in jail for securities fraud (*SEC v. Graham*, January 30, 2013).

The SEC claimed that the company acquired condominium units in 17 locations in the Florida Keys, Central Florida, and Las Vegas, and represented to investors that they would renovate the properties to turn them into five-star resorts. The units ranged in price from $300,000 to more than $1 million and required a membership fee ranging from $5,000 to $35,000. The company allegedly falsely represented that their properties historically appreciated by up to 300 percent. The defendants were flipping the units amongst themselves in order to give the appearance of strong demand, according to the SEC. By April 2005 the defendants began to use new investor funds to pay the guaranteed leaseback returns to earlier investors, in the manner of a Ponzi scheme. The defendants were accused of misappropriating $33 million of investors' money as salaries and commissions, or for personal expenses and business ventures. By 2008 the company had abandoned operations, and many of the investors' properties went into foreclosure. The SEC requested a permanent injunction, disgorgement, an order to repatriate funds, and civil penalties.

The case is No. 4:13-cv-10011.

Companies: Cay Clubs Resorts and Marinas

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