

[Securities Regulation Daily Wrap Up, TOP STORY—Lumber Liquidators floored by fraud charges from SEC and DOJ, \(Mar. 12, 2019\)](#)

Securities Regulation Daily Wrap Up

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Company hit with combined monetary sanctions of \$33 million, which resulted from false public statements it made in response to a *60 Minutes* expose.

The SEC issued an order simultaneously filing and settling charges against Lumber Liquidators Holdings Inc, a discount retailer of hardwood flooring, for making fraudulent misstatements to investors. The charges stemmed from Lumber Liquidators' false public statements made in response to media allegations that the company was selling laminate flooring that contained levels of formaldehyde exceeding regulatory standards. Lumber Liquidators agreed to pay more than \$6 million to settle the SEC action (*In the Matter of Lumber Liquidators Holding, Inc.*, [Release No. 34-84291](#), March 12, 2019).

Flooring and falsehoods. The SEC's order found the following in connection with [Lumber Liquidator's wrongful conduct](#):

- In early 2015, the company made public statements in response to a *60 Minutes* news program episode that showed an undercover video of Lumber Liquidators' suppliers stating that they provided the company with products that did not comply with regulatory requirements;
- In response, Lumber Liquidators fraudulently informed investors that third-party test results of its flooring products proved compliance with formaldehyde emissions standards and that it had discontinued sourcing materials from suppliers that were unable to meet these standards;
- In actuality, Lumber Liquidators knew that its largest Chinese supplier had failed third-party formaldehyde emissions testing and was unable to produce documentation showing regulatory compliance; and,
- Lumber Liquidators falsely stated that its suppliers were not depicted in the video. despite having evidence confirming that the individuals in the "60 Minutes" undercover video were, in fact, factory employees of its suppliers.

Statutory violations and sanctions. The SEC's order also found that Lumber Liquidators violated the antifraud provisions in Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Section 13(a) of the Exchange Act and related rules, which require periodic filings with the SEC to contain all material information. In addition to paying more than \$6 million in disgorgement and prejudgment interest, the company agreed to cease and desist from future violations of the charged provisions and to cooperate fully with any further investigation, litigation, or other proceeding by the Commission staff relating to this matter.

An SEC regional director speaks out. Marc P. Berger, director of the SEC's New York Regional Office proclaimed, "Pressured by negative publicity, Lumber Liquidators misled investors about its product testing and regulatory compliance programs." He added, "The relief obtained today, along with the criminal fine imposed by the Department of Justice, ensures that the company will forfeit all profit and pay a heavy price for the false assurances it provided to the market."

Parallel DOJ action. In a [parallel criminal action](#), Lumber Liquidators entered into a [deferred prosecution agreement](#) with the Justice Department's Fraud Section and the U.S. Attorney's Office for the Eastern District of Virginia. by which Lumber Liquidators agreed to pay \$33 million in criminal fines and forfeiture. The Department of Justice further agreed to credit the amount paid to the SEC in disgorgement as part of its agreement. As a

result, the combined total amount of criminal and regulatory penalties paid by Lumber Liquidators will be \$33 million.

Assistant Brian Attorney General Benczkowski stated, "Lumber Liquidators lied to investors and to the public about its compliance with formaldehyde regulations for the flooring it sold—all to protect its stock price." He added, "False and misleading financial reports undermine the integrity of our securities markets and harm investors. The Department and our law enforcement partners are committed to doing everything we can to ensure that those who commit securities fraud are held accountable."

The release is [No. 34-84291](#).

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