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EB-5 Visa Fraud Cases — What Practitioners Need to Know

The EB-5 Immigrant Investor Program (the "EB-5 Program") is among the most controversial and maligned entry programs for foreigners seeking permanent residency (green card) status. Created in 1990, the purpose of the EB-5 Program is to stimulate the U.S. economy through job creation and capital investment by foreign investors.[1] From 2012 through 2015, the U.S. Citizenship and Immigration Services (CIS) estimates that the program has brought $8.7 billion in foreign capital into the country and created 35,000 jobs.[2]

In its first 25 years of existence, the program was undersubscribed. In recent years, however, there has been overwhelming demand for the approximately 10,000 slots. Most of the applicants are Chinese nationals, hoping for EB-5 status not only for themselves but for their spouses and children (eligible up to age 21).

How the Program Works

The EB-5 Program requirements are fairly straightforward. CIS grants conditional permanent residency status for two years to individuals who invest $1 million or $500,000 (in the case of a rural or high unemployment area) in a "new commercial enterprise" or troubled business that creates or preserves at least 10 full-time jobs for qualifying U.S. workers.[3] If the jobs requirement is satisfied within two years of approval of conditional status, and the other requirements for green card status are also met (e.g., background checks), the investor and his or her family may obtain unconditional permanent residency status.[4]

A certain number of EB-5 visas are set aside for investors in CIS-approved Regional Centers. A Regional Center is defined as "any economic unit, public or private, which is involved with the promotion of economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment."[5] Regional Centers are often limited partnerships or LLCs in which the foreign investors are limited partners and the U.S.-based operator and owner is the general partner. A key benefit of investing through a Regional Center is that "indirect" job creation counts toward the 10-job requirement.

The EB-5 Program has been a magnet for abuse by parties on all sides of the transactions. Depending on the case, foreign investors, immigration attorneys, and the U.S.-based offerors of the EB-5 investments can be defendants or victims. For example, the Department of Justice (DOJ) has brought cases against U.S.-based offerors and developers who assist convicted foreign nationals seeking to park assets abroad. The DOJ has also brought at least one civil forfeiture action against the EB-5 interest of foreign applicants.

The most common kind of case, however, is an SEC enforcement action seeking an *ex parte* asset freeze, appointment of a receiver, disgorgement, and

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penalties. In the typical action, the SEC alleges that the U.S.-based offerors of EB-5 investments have misused EB-5 money for unrelated projects (e.g., shoring up an unrelated restaurant project), and/or for personal expenses and luxury items. The SEC argues that the limited partnership interests offered to EB-5 applicants are securities, usually offered pursuant to one or more exemptions from the registration requirements of the U.S. securities laws, and that the defendant-offerors violated the antifraud provisions of the securities laws by making false statements in private placement memoranda or otherwise engaging in a scheme to defraud.

In addition, the SEC has targeted immigration attorneys involved in the EB-5 application and investment process. In those cases, the SEC alleges that attorneys and their firms accepted transaction-based compensation (i.e., commissions) for funneling investors to a Regional Center. The SEC takes the position that such attorneys acted as unregistered broker-dealers in violation of the securities laws.

Defending an EB-5 Program case is no easy task. As discussed below, the typical EB-5 scheme is relatively simple, explicit, and demonstrable (e.g., forged documents, written commission agreements, bank account statements and wires, and real estate deeds), which makes such cases attractive to prosecutors. And, just like most white collar cases, the government will have spent months if not years poring over documents, interviewing witnesses, and forming theories of liability.

When defending an EB-5 case, counsel should consider things like a possible advice of counsel defense where the defendant-offeror may have consulted with an attorney before sending out prospectuses and before applying investor money to projects that were not strictly specified in the prospectus. Counsel should also review the offering documents and other evidence to determine whether the property interest is really a "security." Counsel may also consider more conventional defenses (e.g., statute of limitations) and ways to limit the damage (e.g., the Supreme Court's recent decision in *Kokesh v. SEC*, in which the Court held that SEC disgorgement is a "penalty" subject to the five-year statute of limitations under 28 U.S.C. § 2462).[6]

Finally, counsel should be aware that there have been legislative attempts to reform or eliminate it. For example, in February 2017, U.S. Senators Grassley (R) and Feinstein (D) introduced legislation to eliminate the program, citing, among other things, the practice of "economic gerrymandering," whereby Regional Centers stitch together a contiguous region composed of high income and low income areas (also known as targeted employment areas or "TEAs") so that the high unemployment test is met, thereby keeping the minimum investment of $500,000 in play for foreign investors.[7] Such bills have gone nowhere. On the regulatory front, the Department of Homeland Security (DHS) has proposed changes to the rules to prevent abuse, some of which may become law in 2017.

This article analyzes a sampling of the cases brought by the DOJ and SEC and examines potential regulatory and legislative reforms.

Criminal Cases Against Individuals

The DOJ has brought a handful of EB-5 cases against individuals. The common allegations are misappropriation of investor assets obtained through deception to buy personal luxury items and real estate.

For example, on January 4, 2017, a Seattle-area real estate developer pled guilty to two felony charges, agreeing to spend up to 10 years in federal prison after admitting that he defrauded approximately 250 Chinese EB-5 investors tens of millions of dollars out of the over $150 million he solicited from them.[8] Lobsang Dargey pled guilty to one count of concealing material information from CIS and one count of conspiracy to commit fraud. Dargey also agreed to pay restitution of over $24 million to investors.[9] On August 4, 2017, Dargey was sentenced to four years of imprisonment and three years of probation.[10]

Dargey and the Regional Centers he created targeted immigrant investors by sending them prospectuses and using finders in China for supposed investments in two Puget Sound-area developments — a farmer's market and downtown tower. In addition to their investment capital, Dargey and his companies charged a $45,000 administrative fee to pay sales commissions and expenses. Dargey used $11.5 million in investment capital to pay commissions and syndication costs, and diverted $16.8 million to other unrelated real estate deals Dargey owned.[11]

In a parallel SEC enforcement action, the SEC alleged that Dargey and his companies misappropriated approximately $17.6 million.[12] For example, Dargey allegedly misappropriated approximately $2.5 million of investor funds to purchase a residence in Bellevue, Washington. The SEC also alleged that Dargey made cash withdrawals of investor funds totaling approximately $350,000, including more than $200,000 withdrawn at 14 different casinos in Washington, Nevada, California, and British Columbia, Canada.[13] Dargey and the SEC settled, with Dargey agreeing to pay $18.4 million.[14] The court-appointed receiver has taken control of the defendants' assets and is trying to position the developments for sale so that investors can get some of their money and possible return out of the projects.

Similarly, on February 21, 2017, Chicago-area developer Anshoo Sethi pled guilty to one count of wire fraud in connection with his control and operation of a Regional Center that purported to be building a hotel and convention center near O'Hare Airport.[15] Sethi and his companies raised over $158 million from Chinese investors using forged documents and misrepresentations that large hotel chains such as Starwood had executed franchise agreements to operate the non-existent hotel. Sethi went so far as to forge a city ordinance to make it appear that the funding was a done deal. The project was not completed and no applicant received an EB-5 visa.[16]

On February 21, 2017, Sethi was sentenced to three years and ordered to pay $8.85 million in restitution. Sethi had previously settled a parallel SEC action and paid $147 million in disgorgement to the SEC, which was restored to the investors.[17]

In Rem Forfeiture Cases

The DOJ has also brought in rem forfeiture actions against an EB-5 limited partnership interest and other assets purchased with EB-5 investor money. In such actions, the DOJ must prove by a preponderance of the evidence that, among other things, the properties were purchased with proceeds derived from or traceable to criminal activity.[18]

For example, on February 18, 2015, the DOJ brought a forfeiture in rem action against an EB-5 limited partnership interest ("EB-5 Interest") in federal court in Philadelphia.[19] The EB-5 investor was the daughter-in-law of former President Chun Doo-hwan (President Chun) of Korea who had been convicted of bribery and other crimes in

Korea. The DOJ alleged that the money invested in a Regional Center project in Pennsylvania was traceable to corruption proceeds.[20]

According to the Complaint, the former president's son, Chun Jae Yun, had liquidated a portion of bearer bonds that he owned and which were ultimately traceable to his dad's "Secret Fund."[21] He and his wife used those funds to purchase the EB-5 Interest. The case was part of a larger investigation conducted by Korean authorities to recover assets worldwide.

On March 5, 2015, the claimants to the EB-5 Interest settled the Pennsylvania action as well as a pre-existing California forfeiture action seeking the condemnation of over $726,000 in a California bank account that the DOJ asserted was also the proceeds of illegal activity in Korea.[22] The claimants to the EB-5 Interest and the California bank account agreed to waive their claims to the cash and the EB-5 Interest in return for a $100,000 payment.[23] The balance was returned to the Republic of Korea.

More recently, on May 24, 2017, the DOJ filed nine lawsuits seeking forfeiture of properties worth over $30 million allegedly purchased with the proceeds of an EB-5 fraud scheme perpetuated by Victoria Chan and her father Tat Chan (the "Chans") of California.[24] In those lawsuits, the DOJ alleges that the Chans, through the California Investment Immigration Fund, LLC (CIIF), a CIS-approved Regional Center they controlled, obtained $50 million from over 100 Chinese investors that was supposed to be directed into various commercial and mixed-use construction projects in California.[25] The government alleges that CIIF never engaged in any substantial construction.

Instead, DOJ alleges that $30 million of the total amount was plowed into luxury homes for the Chans and other personal items, or was refunded to investors without telling CIS.[26] For example, the Chans allegedly bought five residences in the following California cities: Rancho Cucamonga, Arcadia (worth approximately $4 million), Diamond Bar, Riverside and Duarte (valued at $5.5 million).

In addition, the Chans allegedly fronted money to certain Chinese nationals who then turned around and presented that "capital" to "invest" through CIIF.[27] A substantial number of Chinese nationals obtained visas, allegedly including several fugitives who were on China's 100 most wanted list.

To date, the Chans have not been charged, either civilly or criminally. This is a bit surprising because, on April 5, 2017, the FBI and other agencies raided CIIF's headquarters and took away documents. It may be that the government feels that it does not have enough for a criminal case or is waiting to see how things play out. Ultimately, it may be that the SEC steps in to bring a civil case.

The Jay Peak Vermont Case — A Classic SEC Owner-Operator Case

Since 2013, the SEC has brought at least 25 cases involving alleged EB-5 fraud. Most of them are against owner-operators, also known as EB-5 offerors, who are typically the general partners and operators of the projects specified in the offering documents provided to foreign investors. The offerors are immigration attorneys, doctors, investors, and business people who solicit and channel money into Regional Centers that they helped create and run. To date, the largest case is the Jay Peak Vermont case.

On April 14, 2016, a federal court in Miami imposed an asset freeze and appointed a receiver in a case brought by the SEC alleging that two developers of projects in northern Vermont and their companies had used $200 million out of $350 million in EB-5 investor money for personal expenses and to "back fill" pre-existing projects that ran out of money.[28] The SEC alleged securities fraud against Ariel Quiros (of Miami) and William Stenger (of Newport, Vermont) and their companies in connection with investments made by over 700 individuals from 74 countries that were supposed to fund ski resort facilities and a biomedical research facility in or around Jay, Vermont.[29]

Quiros and Stenger, in person and through prospectuses, allegedly told investors that their money would be used for specific projects connected to Jay Peak, Inc. (collectively, the "Jay Peak Projects") but instead commingled and misused the money. For example, the defendants allegedly used investor funds to buy Jay Peak, Inc., itself (an unapproved investment) instead of using it to build the prospectus-specified projects (i.e., two hotels).[30] As money ran out for a given project, the defendants allegedly used new money from additional projects to back fill earlier projects. Defendants were able to engage in this "Ponzi-like" scheme, the government says, until it was reported in 2015. At that time, the SEC says money dried up and some projects were left incomplete and many vendors were not paid.

Of the $200 million that was misused, the SEC alleges that Quiros diverted $50 million for improper items, such as paying his personal income taxes, buying a $2 million condo in Trump Tower in New York, and paying off a personal line of credit.[31] The government alleges that the remaining $150 million was used to pay down a series of margin loans that Quiros obtained from financial services firm Raymond James in Florida. When there were repeated shortfalls due to the misuse of investor money, Quiros allegedly would pledge investor funds to get a margin loan from Raymond James and plug the funding gap. Raymond James would occasionally call the loans, which Quiros would pay down using investor money, according to court documents. When the scheme was disclosed, the SEC says, Quiros no longer had a source of new money to obtain new loans.[32]

In September 2016, Stenger settled with the SEC, neither admitting nor denying the allegations.[33] Stenger agreed to pay some future penalty amount depending on his ability to pay and his level of cooperation. Stenger has tried to restore his reputation somewhat and reduce the amount he may have to pay by performing work on the Jay Peak

Projects at the request of the receiver.[34]

In November 2016, a federal judge in Miami denied Quiros' motion to dismiss and granted the SEC's motion for preliminary injunction.[35] Quiros had argued that he did not make any false statements to investors because Stenger was customer facing and Quiros did not hand out the prospectuses with the allegedly misleading information.[36] The judge rejected those arguments, stating that "[t]he record supports a preliminary finding that Quiros was the architect of a fraudulent scheme to use the investor funds to enrich himself."[37] On August 22, 2017, the SEC filed an unopposed motion for entry of judgment against Quiros pursuant to which Quiros neither admits nor denies the allegations. The court will order disgorgement and potential penalties in amounts that are likely to be negotiated between the parties.[38]

Separately, some investors and the court-appointed receiver for the entity defendants sued Raymond James, claiming that it knew or should have known of Quiros' fraud. On April 20, 2017, the federal court in Miami preliminarily approved a settlement between the receiver and investors and Raymond James pursuant to which Raymond James agreed to pay $150 million as recompense to the investors and to contractors who had done work on the various projects.[39] Because the settlement amount is not enough to make all investors whole, the agreement sets aside almost $20 million for the completion of various projects so that investors can potentially receive their principal back and perhaps some profit.[40]

Emilio Francisco Case — A Rare (and Temporary) Win for the Defense

On December 27, 2016, the SEC filed a complaint in a California federal court alleging that Emilio Francisco, an Orange County attorney, had defrauded approximately 131 Chinese investors seeking to participate in the EB-5 program he was running by diverting money to his personal and other business uses.[41] The SEC alleges that Francisco raised $72 million from the investors solicited through his marketing firm PDC Capital to invest in EB-5 projects that included opening Caffe Primo restaurants, developing assisted living facilities, and renovating a production facility for environmentally friendly agriculture and cleaning products.

According to the complaint, Francisco and PDC Capital diverted investor funds from one project to another and outright stole at least $9.6 million that was used to finance Francisco's own businesses and luxury lifestyle, including buying a yacht and yacht club membership.[42] Francisco was allegedly aware that doing so would violate federal regulations and jeopardize any visas for the foreign investors.

On January 24, 2017, the SEC obtained an injunction barring Francisco and his companies from liquidating assets and from destroying evidence and imposing an asset freeze.[43] The court found sufficient good cause to believe that there was a danger that Francisco would dissipate assets and that securities fraud had occurred. The court also appointed a receiver to marshal the assets and try to continue the projects so that the legitimate financial and citizenship interest of investors would be protected.

On April 4, 2017, however, the court dismissed the complaint, stating, among other things, "[w]hile the broad strokes of the alleged fraud is clear ... the complaint does not delineate the nature of the fraud in each particular offering."[44] On May 4, 2017, the SEC filed an amended complaint in which it provided further detail.

Francisco sought dismissal of the amended complaint on the same grounds that he obtained dismissal of the original complaint.[45] He argued that the SEC had failed to identify any of the investors, dates for interactions between defendants and investors, or written documents evidencing fraudulent statements. Francisco noted that the SEC had subpoenaed defendants and obtained over 6,600 documents but had not been able to plead securities fraud with sufficient particularity.

In essence, Francisco argued that the SEC has not alleged any direct contact with investors or authorship of any offering documents, instead merely stating that he approved those documents and channeled the money for his personal benefit. On June 14, 2017, however, the court concluded that the amended complaint passed muster and noted, with some irony, "Francisco's detailed counterarguments establish that he is able to ascertain the allegations against him."[46]

Gatekeeper Cases — Immigration Lawyers Acting as 'Brokers'

Since 2015, the SEC has brought cases against 13 immigration attorneys alleging that they accepted transaction-

based compensation (which typically ranges from $15,000 to $70,000 per transaction) from Regional Centers and other promoters to guide potential investors to investor centers across the country.[47] The SEC alleged that by accepting such commissions, the recipients and their firms are acting as unregistered broker-dealers in violation of Section 15(a)(1) of the Exchange Act.[48] In addition, the SEC alleges that failure to disclose the existence of such commission payments to law firm clients amounts to breach of fiduciary duty and constitutes material misstatements and/or a scheme to defraud investors in violation of the antifraud provisions of the securities laws.

In most of the cases, the government benefitted from the fact that written referral services agreements existed between the U.S.-based offerors or promoters and the law firms stating that a flat fee or specific percentage of the transaction will be paid for each foreign national who submits an I-526 Petition to CIS to start the EB-5 process. In addition, in some cases, the agreements specify that the Regional Center will make a second payment when the applicant is finally approved for unconditional permanent status. The commissions are typically taken out of an administrative fee that the investor pays directly to the Regional Centers.

In the settled cases to date, the attorneys neither admitted nor denied any wrongdoing and the dollar amounts involved were relatively small — disgorgement ranged from $30,000 to $450,000 and the highest civil penalty was $25,000.[49] In fact, in several of the cases, there was only *one* EB-5 offer at issue. By bringing these cases, however, the SEC sent a shot across the bow of the immigration bar that it considers even relatively small and isolated events to be serious because it views attorneys as "gatekeepers" who should be monitoring fraud rather than committing it.

One Ongoing Attorney Case — Hui Feng, Esq.

One attorney and his firm — Hui Feng and Law Offices of Feng and Associates — aggressively fought SEC charges. On December 7, 2015, the SEC brought an enforcement action against them in federal court in Los Angeles asserting that the defendants collected more than $1.1 million in commissions from at least five promoters for referring dozens of clients to invest in EB-5 offerings.[50] The complaint also alleges that defendants were contractually entitled to more than $3.1 million in additional payments upon approval of the pending I-526 petitions. Defendants allegedly failed to disclose the commission payments to most of the investors, who were also their law clients.

The SEC asserted that defendants' conduct violated the Securities Act and the Exchange Act based on three theories: (1) defendants acted as unregistered broker-dealers by soliciting and facilitating investments for the promoters; (2) defendants defrauded their clients by not disclosing the receipt of the commissions to their clients and the inherent conflict therein; and (3) defendants defrauded the promoters by creating sham agents, partners, and a company in Hong Kong to receive referral fees after the promoters expressed concern that defendants might be acting as unregistered brokers in the United States.[51]

The parties filed cross motions for summary judgment. Feng argued that the investments are not securities because no investor had a reasonable expectation of a profit; the applicants were just seeking a visa.[52] Feng argued that no applicant could possibly be seeking a profit, especially after paying the administrative fee (normally $50,000), and attempted to provide the "affidavits" of 28 Chinese nationals in which there were statements that the investor had no expectation of profit after paying the commission charges. The SEC countered that investors in fact had received interest on their investments and that some of the offering documents themselves identify the partnership interests as "securities."

On June 30, 2017, the court denied Feng's motion and granted the SEC's, finding, among other things, that EB-5 applicants not only sought permanent residency but also a profit, thereby making the offerings "securities."[53] The court further found that Feng and his firm had failed to register as broker-dealers and acted with scienter toward clients. The court ordered them to pay $1.7 million in disgorgement and a combined $960,000 in civil penalties. Feng has indicated that he will appeal.

Regardless of the outcome in the Feng case, counsel representing EB-5 defendants should carefully evaluate the offering documents to see precisely what has been offered to applicants. Counsel should consider whether the client acting had control over the documents, approved of them, and/or provided them to potential applicants. Counsel should also assess whether the local in-country promoters who actually delivered the documents provided any "gloss" on them to potential applicants.

Possibilities for Reform

The Office of the Inspector General of DHS has concluded that CIS is "limited in its ability to prevent fraud or national security threats that could harm the United States, and it cannot demonstrate that the EB-5 program is improving the U.S. economy and creating jobs for U.S. citizens as intended by Congress."[54] Various politicians, including U.S. Senators Chuck Grassley (R) and Diane Feinstein (D), have attempted to eliminate or modify the program. But it is still popular with powerful constituencies, including the president's son-in-law Jared Kushner, whose family has benefited from EB-5 investments in the tri-state area.[55]

The prospects for regulatory reform are a bit clearer. On January 13, 2017, DHS proposed amendments to the existing EB-5 regulations.[56] The proposals include an increase in the minimum investment amounts from $1 million to $1.8 million in affluent areas and from $500k to $1.35 million in TEAs. In addition, the proposed rules would remove the ability of states to designate TEAs and vest that power solely with CIS. They would also add a "weighted average" component to assessing whether a given tract or region meets the high

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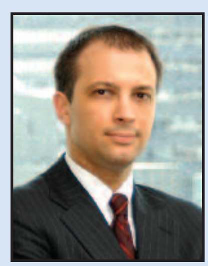
About the Author

William Haddad concentrates his practice on litigation involving all types of commercial disputes as well as client responses to government investigations and enforcement actions.



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unemployment test (150 percent of the national average).[57]

These two proposals, taken together, are designed to increase the amount of money invested in the United States and to combat economic gerrymandering. DHS expects to complete its review of public comments received in response to the notice of proposed rulemaking at some point in 2017.

Takeaways for Counsel

The EB-5 Program is under intense political and regulatory scrutiny. Under that glare, the flow of criminal and civil cases is not likely to stop. As noted above, most EB-5 fraud cases tend to be relatively explicit and demonstrable (e.g., forged documents, written commission agreements, bank account statements and wires, and real estate deeds).

That said, counsel representing offerors should think about arguments concerning whether the offering is a security and what representations the client made directly or through documents. There may also be a viable advice of counsel defense to the extent that the client reached out to his or her lawyer along the way. To date, however, it appears that no defendant has escaped some form of liability, even if it is simply to pay a civil penalty and neither admit nor deny liability.

Notes

1. https://www.oig.dhs.gov/assets/Mgmt/2014/OIG_SLP_14-19_Dec13.pdf.

2. https://www.judiciary.senate.gov/imo/media/doc/02-02-16%20Colucci%20Testimony.pdf, at page 4.

3. https://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/about-eb-5-visa-classification.

4. *Id.*

5. 8 C.F.R. § 204.6(e) (2015).

6. No. 16-529, slip op. at 1 (June 5, 2017).

7. https://www.grassley.senate.gov/news/news-releases/feinstein-grassley-introduce-legislation-eliminate-troubled-eb-5-investor-visa. The Government Accountability Office has found that 12 percent of projects qualifying as high unemployment TEAs were actually 100 disparate census tracts that were taped together.

8. https://www.justice.gov/usao-wdwa/pr/developer-pleads-guilty-defrauding-investors-seeking-citizenship-under-federal.

9. *United States v. Dargey*, No. Cr.17-001TSZ, Dkt. No. 6, Plea Agreement, (W.D. Wash. Jan. 4, 2017).

10. https://www.bizjournals.com/seattle/news/2017/08/04/lobsang-dargey-prison-sentence-eb5-criminal-case.html.

11. *Id.*

12. *SEC v. Path America LLC et al.*, 2:15-cv-01350, Dkt. No. 1, Complaint (W.D. Wash. Aug. 24, 2015).

13. *Id.*

14. https://www.bizjournals.com/seattle/news/2017/03/06/dargey-sec-reach-18-4-settlement-over-civil.html.

15. https://www.justice.gov/usao-ndil/pr/hotel-developer-sentenced-three-years-prison-exploiting-us-visa-program.

16. *Id.*

17. https://www.sec.gov/news/press-release/2013-2013-70htm.

18. 18 U.S.C. § 981(a)(1).

19. *United States v. A Limited Partnership Interest Held in the Name of or for the Benefit of Sang Ah Park*, 2:15-cv-00814, Compl. (E.D. Pa. Feb. 18, 2015).

20. *Id.*

21. *Id.*

22. https://www.justice.gov/usao-cdca/pr/justice-department-returns-forfeited-assets-derived-public-corruption-scheme-korean.

23. *Id.*

24. https://www.justice.gov/usao-cdca/pr/us-files-9-lawsuits-seeking-forfeiture-properties-worth-over-30-million-allegedly.

25. *Id.*

26. *Id.*

27. *Id.*

28. *SEC v. Quiros et al.,* 1:16-cv-21301, Compl. (S.D. Fla. Apr. 14, 2016).

29. The SEC alleged violations of Section 17(a) Securities Act and Section 10(b) and Rule 10b-5 of the Exchange Act.

30. *See* Compl.

31. *Id.*

32. *Id.*

33. *SEC v. Quiros et al.*, 16-cv-21301, Judgment, Dkt No. 215, (S.D. Fla. Sept. 21, 2016).

34. Stenger is apparently being paid $50 an hour for various jobs on the properties. https://vtdigger.org/2017/05/01/stenger-providing-tremendous-value-job-resorts.

35. *SEC v. Quiros et al.*, 16-cv-21301, Order, Dkt. No. 238 (S.D. Fla. Nov. 21, 2016). The court had previously limited the amount of funds for the Quiros legal defense to $80,000, which is a fraction of the fees he has incurred.

36. *SEC v. Quiros et al.,* 16-cv-21301, Motion to Dismiss, Dkt. No. 171 (S.D. Fla. June 24, 2016).

37. *SEC v. Quiros et al.*, 16-cv-21301, Order, Dkt. No. 238 (S.D. Fla. Nov. 21, 2016).

38. *SEC v. Quiros et al.*, 16-cv-21301, SEC Unopposed Motion, Dkt. No. 394-1 (S.D. Fla. Aug. 22, 2017).

39. *SEC v. Quiros et al.*, 16-cv-21301, Order, Dkt No. 318 (S.D. Fla. Apr. 20, 2017).

40. https://jaypeakreceivership.com/wpcontent/uploads/2017/04/41473529_1-2.pdf.

41. *SEC v. Francisco*, 16-cv-02257, Compl., Dkt. No. 1 (C.D. Cal. Dec. 27, 2016).

42. *Id.*

43. *SEC v. Francisco*, 16-cv-02257, Order, Dkt. No. 17 (C.D. Cal. Jan. 5, 2017).

44. https://www.law360.com/articles/909844/atty-gets-sec-s-9-6m-eb-5-fraud-accusations-thrown-out.

45. https://www.law360.com/articles/926200/atty-calls-out-sec-over-lack-of-specifics-in-eb-5-fraud-suit.

46. https://www.law360.com/articles/934531?sidebar=true.

47. https://www.sec.gov/news/press release/2015-274.html; https://www.sec. gov/litigation/admin/2016/34-78658.pdf; https://www.sec.gov/litigation/admin/2016/34-78657.pdf; https://www.sec.gov/litigation/admin/2016/34-78656.pdf.

48. Section 15(a)(1) provides that it is unlawful for any broker or dealer that is either a person other than a natural person or a natural person not associated with a broker or dealer "to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security" unless such broker or dealer is registered in accordance with Section 15(b) of the Exchange Act.

49. Notably, it seems that none of the attorneys who settled appears to have faced any bar discipline, probably because they neither admitted nor denied any wrongdoing.

50. *SEC v. Hui Feng et al.,* 15-cv-09420, Compl., Dkt. No. 1 (C.D. Cal. Dec. 7, 2015).

51. *Id.*

52. *SEC v. Hui Feng et al.,* 15-cv-09420, Defendants' Motion for Summary Judgment, Dkt. No. 66-1 (C.D. Cal. Jan. 31, 2017).

53. https://www.law360.com/articles/940071/immigration-atty-firm-ordered-to-pay-2-7m-for-eb-5-fraud.

54. https://www.oig.dhs.gov/assets/Mgmt/2014/OIG_SLP_14-19_Dec13.pdf.

55. http://www.reuters.com/article/us-china-kushner-qiaowai-idUSKBN18P0J9.

56. https://www.federalregister.gov/documents/2017/01/13/2017-00447/eb-5-immigrant-investor-program-modernization.

57. *Id.* ■