

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 77727 / April 27, 2016**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-17230**

**In the Matter of**

**TOMAS ALBERTO CLARKE**  
**BETHANCOURT,**

**Respondent.**

**ORDER INSTITUTING ADMINISTRATIVE**  
**PROCEEDINGS PURSUANT TO SECTION**  
**15(b) OF THE SECURITIES EXCHANGE**  
**ACT OF 1934, MAKING FINDINGS, AND**  
**IMPOSING REMEDIAL SANCTIONS**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against Tomas Alberto Clarke Bethancourt (“Clarke” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, Respondent admits the Commission’s jurisdiction over him and the subject matter of these proceedings, and the findings contained in Sections III.2. and III.4. below, and consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

**III.**

On the basis of this Order and Respondent’s Offer, the Commission finds that:

1. Clarke, age 45, also known as “Tomas Clarke,” served as an Executive Vice President in fixed income within DAP Global and worked out of the Miami office of Direct Access Partners, LLC (“DAP”) from October 2008 until May 2013. DAP was at all relevant

times a broker-dealer registered with the Commission and a member of the Financial Industry Regulatory Authority (“FINRA”), New York Stock Exchange (“NYSE”), NYSE MKT, and NASDAQ. Clarke held a FINRA General Securities Representative registration.

2. On April 6, 2016, a final judgment was entered by consent against Clarke, permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933 (“Securities Act”), Sections 10(b), 15(c)(1)(A), and 17(a) of the Exchange Act and Rules 10b-5, 10b-3, 15b7-1, 17a-4(b)(4) and (j) thereunder, in the civil action entitled *Securities and Exchange Commission v. Clarke Bethancourt, et al.*, Civil Action Number 1:13-CV-3074, in the United States District Court for the Southern District of New York.

3. The Commission’s Second Amended Complaint alleged, *inter alia*, that Clarke devised and facilitated sham arrangements to conceal multi-million-dollar kickback payments to the Vice President of Finance at Banco de Desarrollo Económico y Social de Venezuela (“BANDES”), a state-owned and state-controlled economic development bank of the Bolivarian Republic of Venezuela, in exchange for DAP receiving BANDES business. The complaint also alleged that Clarke arranged for and permitted a person not registered with FINRA to be compensated by DAP for effecting or being involved in effecting securities transactions while knowing that such person needed to be registered with FINRA, and to have passed the requisite qualification examinations, in order to conduct such activities. In addition, the complaint also alleged that, as part of an effort to conceal the kickback scheme after the Commission’s Office of Compliance Inspections and Examinations issued document requests for Clarke’s emails during the course of its examination, Clarke deleted certain BANDES-related emails and attachments in personal email accounts and attempted to delete BANDES-related emails from his DAP email account.

4. On August 29, 2013, Clarke pleaded guilty before a Magistrate Judge in the United States District Court for the Southern District of New York in *United States v. Clarke Bethancourt*, Crim. No. 1:13-cr-00670 to: (i) one count of conspiracy to violate the Foreign Corrupt Practices Act (“FCPA”), the Travel Act, and to commit money laundering in violation of 18 U.S.C. § 371; (ii) one count of violating the FCPA in violation of 15 U.S.C. § 78dd-2; (iii) one count of violating the Travel Act in violation of 18 U.S.C. § 1952; (iv) one count of money laundering in violation of 18 U.S.C. § 1956(a)(2)(A); (v) one count of conspiracy to obstruct justice in violation of 18 U.S.C. § 371; and (vi) one count of conspiracy to violate the FCPA in violation of 18 U.S.C. § 371. The guilty plea was accepted by the District Court on November 20, 2015. On December 8, 2015, a criminal judgment was entered against Clarke. He was sentenced to a prison term of 24 months followed by three years of supervised release and to forfeit the amount of \$5,787,824.

5. The counts of the criminal information to which Clarke pleaded guilty alleged, *inter alia*, that Clarke (i) participated in a bribery scheme in which Clarke and others made and caused to be made bribe payments to the Vice President of Finance at BANDES in exchange for the Vice President directing BANDES business to DAP and authorizing BANDES to execute bond trades with DAP; (ii) caused payments to be made to the BANDES official using offshore companies and Swiss banks in an effort to conceal payments to BANDES official; (iii) participated in a conspiracy to destroy documents in an effort to conceal the bribery scheme

during an SEC examination; and (iv) agreed to participate in a separate bribery scheme involving an official at Banfoandes, a state-owned Venezuelan bank.

#### IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Clarke's Offer.

Accordingly, it is hereby ORDERED pursuant to Section 15(b)(6) of the Exchange Act that Respondent Clarke be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and

barred from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock.

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

By the Commission.

Brent J. Fields  
Secretary