

ADMINISTRATIVE PROCEEDING

File No. 3-17263

SEC Charges Former Miami-based Investment Adviser and Its Principals With Failure to Disclose Multiple Conflicts of Interest to Clients

May 27, 2016 – The Securities and Exchange Commission today filed fraud charges against Biscayne Capital International LLC (BCI), formerly a Miami-based U.S. registered investment adviser, based on its recommendation and sale of proprietary products to non-U.S. clients between August 2010 and March 2012. Four BCI principals, Roberto G. Cortes, Ernesto H. Weisson, Juan Carlos Cortes, and Frank R. Chatburn also were charged in the matter. All settled without admitting or denying the findings in the SEC’s order.

An SEC investigation found that:

- Roberto Cortes, Weisson, and Juan Cortes formed private offshore investment companies that issued securities to finance South Bay Holdings LLC, a Florida-based residential real estate developer beneficially owned by Roberto Cortes and Weisson that in turn beneficially owned BCI.
- Roberto Cortes, Weisson and Juan Cortes marketed the securities through their financial advisors, five of whom, including Chatburn, they knew were employed by both BCI and the affiliated offshore entities.
- Roberto Cortes, Weisson and Juan Cortes each failed to prohibit the sales of the proprietary products through BCI or, in the alternative, failed to train BCI investment adviser representatives to make adequate disclosures concerning the conflicts of interest and South Bay’s financial condition when recommending proprietary products to BCI clients.
- BCI failed to disclose Roberto Cortes’, Weisson’s, and Juan Cortes’ beneficial ownership interest and role in the creation of the offshore proprietary products issuers, and material information concerning South Bay’s financial condition.
- Chatburn, an investment adviser representative for BCI and an investment adviser for the offshore affiliated entities, recommended and sold approximately \$3.5 million in proprietary products to 29 non-U.S. BCI clients without making adequate disclosures or investigating red flags regarding the proprietary product issuers and South Bay’s financial condition. BCI, Roberto Cortes, and Juan Cortes each failed reasonably to supervise Chatburn.

The SEC’s order finds that BCI violated Sections 206(1), 206(2), and 207 of the Investment Advisers Act of 1940, and Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, also known as the “Compliance Rule”; Roberto Cortes, Weisson, and Juan Cortes each aided and abetted and caused BCI’s violations of Section 206(2) of the Advisers Act; Juan Cortes aided and abetted and caused BCI’s violations of the Compliance Rule; Roberto Cortes and Juan Cortes aided and abetted and caused BCI’s Form ADV violations of Section 207 of the Advisers Act; and

Chatburn aided and abetted and caused BCI's violations of Section 206(1) and 206(2) of the Advisers Act.

BCI agreed to settle the charges by paying a \$125,000 penalty, disgorgement of \$30,024 and prejudgment interest of \$3,063. BCI also was censured and ordered to cease and desist from committing or causing any future violations of the securities laws. Chatburn agreed to settle the charges by paying a \$100,000 penalty, disgorgement of \$78,924, and prejudgment interest of \$8,052. Chatburn also was barred from working as an investment adviser or with an investment company with a right to reapply in four years and was ordered to cease and desist from committing or causing any future violations of the securities laws. Roberto Cortes, Weisson and Juan Cortes agreed to settle the charges by each paying a \$50,000 penalty. Each also was barred from working as an investment adviser or with an investment company with a right to reapply in three years and was ordered to cease and desist from committing or causing any future violations of the securities laws.

See also: [Order](#)