

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO.**

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**v.**

**MARK D. BEGELMAN,**

**Defendant.**

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**COMPLAINT**

Plaintiff Securities and Exchange Commission alleges as follows:

**I. SUMMARY**

1. This case involves insider trading by the Defendant in the securities of Bluegreen Corporation before a November 2011 public merger announcement. Mark D. Begelman, a member of the World Presidents' Organization ("WPO"), abused his relationship of trust and confidence and misappropriated material, non-public information he obtained from a fellow WPO member about the pending merger. It was the specific written policy of the WPO that matters of a confidential nature were to be kept confidential.

2. The WPO member from whom Begelman misappropriated information was a high-ranking executive of both the acquiring company, BFC Financial Corporation, and Bluegreen.

3. Begelman used the information to buy \$57,430.82 of Bluegreen stock for himself just days before the public merger announcement. Begelman profited from these trades by selling the Bluegreen shares at higher prices after the merger was announced.

4. By engaging in the conduct described above and more fully below, Begelman

violated Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5.

## **II. JURISDICTION AND VENUE**

5. The Commission brings this action pursuant to Sections 21(d) and 21A of the Exchange Act, 15 U.S.C. §§ 78u(d) and 78u-1.

6. The Court has subject matter jurisdiction over this action pursuant to Sections 21(e), 21A, and 27 of the Exchange Act, 15 U.S.C. §§ 78u(e), 78u-1, and 78aa.

7. Personal jurisdiction over Begelman and venue in the Southern District of Florida are proper because the acts, transactions, practices, and courses of conduct giving rise to the violations alleged in this Complaint occurred in the Southern District of Florida, and Begelman resides in the Southern District of Florida.

8. In connection with the conduct alleged in this Complaint, the Defendant, directly or indirectly, singly or in concert with others, made use of the means or instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange.

## **III. DEFENDANT**

9. Begelman, 65, is a resident of Delray Beach, Florida. In the early 1990s, Begelman was president and chief operating officer of publicly-traded Office Depot. From December 2011 until January 10, 2013, he was vice-chairman of the board of publicly-traded Canadian issuer Canyon Creek Food Company, Ltd. From 2005 to 2007, Begelman was an officer of publicly-traded BankAtlantic Bancorp, Inc. Begelman and six other individuals, including the WPO member who was an executive at BFC and Bluegreen (“the Insider”), were part of a small, tightly-knit group of WPO members called Forum 91. Begelman was a Forum 91 member from its inception in 1991 until his resignation in 2013.

#### **IV. RELEVANT ENTITIES**

10. Bluegreen is a Massachusetts company involved in the timeshare and resort management industry. Bluegreen's securities were listed on the New York Stock Exchange ("NYSE"). As of November 15, 2012, the BFC-Bluegreen merger was pending. On November 15, 2012, the parties terminated the merger agreement and another entity (related to BFC) agreed to merge with Bluegreen. That merger was completed on April 2, 2013.

11. BFC is a Florida diversified holding company whose assets include Bluegreen and a controlling interest in BankAtlantic Bancorp. BFC's securities are listed on the NYSE.

#### **V. FACTS**

##### **A. Begelman's Relationship With The Insider**

12. Begelman and the Insider have had a close personal relationship as members of Forum 91 for more than 20 years. The Forum 91 members met over dinner monthly and each year convened during a multi-day retreat.

13. The WPO and Forum 91 group are designed to provide presidents of companies with a confidential setting in which to exchange ideas and receive advice regarding business and personal issues. Each Forum 91 member was subject to the WPO's longstanding written mandate that the members "operate in an atmosphere of absolute confidentiality." According to WPO literature, a "breach of confidentiality usually means expulsion from the Forum." Over the years, the Forum 91 members routinely shared personal and professional confidences, including material, non-public information. By virtue of his membership in Forum 91, Begelman had access to material, non-public information from the Insider regarding the planned BFC-Bluegreen merger.

14. During all relevant times, the Insider and Begelman shared a relationship of trust and confidence.

**B. Bluegreen Merger Discussions**

15. From August through early November 2011, the Insider and BFC's board held non-public discussions concerning a possible merger in which BFC would acquire the portion of Bluegreen it did not already own.

16. On September 21, 2011, the Insider, on behalf of BFC, wrote to the Bluegreen board concerning BFC's interest in a transaction to increase its stake in Bluegreen from 52% to 100%.

17. On September 21, 2011, Bluegreen's board formed a Special Committee to evaluate the possible merger. Bluegreen's Special Committee commenced due diligence on October 13, 2011 and concluded it on November 10, 2011.

18. On October 31, 2011, BFC's board met and the Insider announced that Bluegreen's Special Committee and its investment bankers had advised BFC's investment bankers that Bluegreen was prepared to negotiate merger terms.

19. On November 2, 2011, after negotiations, BFC proposed an 8-for-1 exchange ratio of BFC shares for Bluegreen shares.

20. The parties entered into a definitive merger agreement reflecting the 8-for-1 exchange ratio on November 11, 2011.

21. On November 14, 2011, BFC issued a press release publicly announcing the merger agreement. That same day, Bluegreen's share price closed at \$2.98, a 46% increase over the prior day's closing price.

**C. Begelman Misappropriates Information About Bluegreen**

22. Begelman and his fellow Forum 91 members gathered for their annual retreat in the Florida Keys from November 1 through November 3, 2011.

23. Begelman obtained information from the Insider during the retreat that BFC was planning to merge with Bluegreen.

24. On November 2, 2011 during the retreat, Begelman emailed his stockbroker instructing him to buy 25,000 shares of Bluegreen.

25. The next day, Begelman and his stockbroker spoke on the telephone, and within minutes of their conversation Begelman's stockbroker entered an unsolicited limit order to purchase 25,000 Bluegreen shares at \$2.25 per share.

26. Begelman's Bluegreen purchase order was filled by November 9, 2011.

**D. The Merger Announcement**

27. On the same day BFC issued the press release announcing it was acquiring Bluegreen (November 14), Begelman sold all 25,000 shares he had acquired in the previous several days for a profit of \$14,949.34.

**VI. VIOLATIONS**

**Violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)]  
And Rule 10b-5 [17 C.F.R. § 240.10b-5]**

28. Paragraphs 1 through 27 are re-alleged and incorporated herein by reference.

29. At all relevant times, Begelman knew or was extremely reckless in not knowing the information concerning the possible acquisition of Bluegreen was material, confidential, and non-public. In breach of the duty of trust and confidence he owed to the Insider, and while in possession of this information, he purchased shares of Bluegreen.

30. By his conduct described above, Begelman, in connection with the purchase or sale of securities, by the use of means or instrumentalities of interstate commerce or of the mails, directly or indirectly, (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices, or courses of business which operated as a fraud or deceit upon other persons. By reason of the foregoing, Begelman violated and, unless enjoined, is reasonably likely to continue to violate, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5.

## **VII. PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court:

### **I.**

#### **PERMANENT INJUNCTION**

Permanently restrain and enjoin Begelman and his agents, servants, employees, representatives, attorneys-in-fact, and assigns and those persons in active concert or participation with him, and each of them, from violating Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5.

### **II.**

#### **DISGORGEMENT AND PREJUDGMENT INTEREST**

Order Begelman to disgorge the profits from his illegal trade, including prejudgment interest thereon.

**III.**

**CIVIL PENALTY**

Order Begelman to pay a civil penalty pursuant to Section 21A of the Exchange Act, 15 U.S.C. § 78u-1.

**IV.**

**OFFICER AND DIRECTOR BAR**

Issue an order pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] barring Begelman from serving as an officer or director of a public company.

**V.**

**OTHER RELIEF**

Grant such other relief as this Court may deem just and appropriate.

Dated: April 22, 2013

Respectfully submitted,

/s/Robert K. Levenson

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