

Guggenheim Partners Investment Management LLC Settles Charges it Failed to Disclose Conflict to Clients

FOR IMMEDIATE RELEASE

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Washington D.C., Aug. 10, 2015 — The Securities and Exchange Commission today announced that Guggenheim Partners Investment Management LLC has agreed to settle charges it breached its fiduciary duty by failing to disclose a \$50 million loan that one of its senior executives received from an advisory client.

Santa Monica, California-based Guggenheim, a subsidiary of global financial services firm Guggenheim Partners LLC, will pay \$20 million to settle charges for the disclosure failure and other violations.

According to the SEC's order instituting a settled administrative proceeding, a senior Guggenheim executive obtained the loan in July 2010 so he could fund his personal investment in a corporate acquisition led by Guggenheim's parent company. In August 2010, Guggenheim invested certain of its advisory clients in two transactions in which the client who made the loan also had invested, but on different terms. The Guggenheim executive and the client who made the loan discussed the two transactions and the Guggenheim executive played a role in structuring them.

The order finds that multiple senior officials at Guggenheim and its parent company knew of the loan, but none of them informed the firm's compliance staff. According to the order, Guggenheim did not disclose the loan or the potential conflict of interest created by the executive's receipt of it to its other clients involved in the transactions.

"As fiduciaries, investment advisors must be vigilant about disclosing all material facts to their clients, including actual and potential conflicts of interest," said Andrew J. Ceresney, Director of the SEC Division of Enforcement. "Guggenheim unlawfully failed to disclose the conflict of interest created by the outside business activity of one of its senior executives and the \$20 million penalty reflects the significance of this and other regulatory failures."

The SEC's order also finds that Guggenheim inadvertently categorized certain investments of an institutional advisory client as managed assets when they were not and charged the client approximately \$6.5 million in asset management fees it did not earn. According to the order, after Guggenheim identified the error, it did not issue a credit to the client until November 2014, nearly two years later.

In addition, the order finds that Guggenheim's compliance program was not reasonably designed to prevent violations of the federal securities laws. The order further finds that Guggenheim failed to enforce its code of ethics, including with respect to Guggenheim employees taking dozens of unreported trips on clients' private airplanes.

"Guggenheim's violations spanned multiple areas of its operations," said Michele Wein Layne, Director of the SEC's Los Angeles Regional Office. "Guggenheim fell short in preventing these violations in numerous core areas of its investment advisory business."

Without admitting or denying the findings, Guggenheim agreed to pay a \$20 million penalty, to be censured, and to engage an independent compliance consultant. It also agreed to cease and desist from committing or causing any further violations of certain provisions of the Investment Advisers Act of 1940 and related SEC rules that the SEC found it had willfully violated.

The SEC's investigation was conducted by Peter Altman and Ryan Hinson and supervised by Diana Tani of the Los Angeles office. Examinations of Guggenheim that led to the investigation were conducted by Mr. Hinson, Nicholas Mead, Ernest Tang, Daniel Jung, and Charles Liao of the Los Angeles office, and George DeAngelis and William Delmage of the New York office.

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Related Materials

- [SEC order](#)