

SEC Wins \$68.3 Million Judgment Against Oil Firm in Scheme Targeting Chinese-Americans

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On July 26, 2016, the Honorable Charles Breyer of the United States District Court for the Northern District of California entered a final judgment against Luca International Group and several affiliated entities. The final judgment imposes on the Luca entities a permanent injunction against future violations of certain antifraud provisions of the federal securities laws and orders that they pay \$68.3 million in disgorgement.

In its complaint filed in July 2015, the SEC alleged that the Luca Entities, their CEO Bingqing Yang and her chief fundraiser Lily Lei orchestrated a fraudulent scheme targeting the Chinese American community, as well as investors in Asia to invest in unregistered offerings of securities.

According to the complaint, Yang and Lei represented to investors that their money would be invested in oil and gas drilling operations, that they could expect annual rates of return of 20-30 percent, and that their investments

were risk free.

In reality, as the complaint alleges, Yang, the Luca entities, and Lei deceived investors by misrepresenting that their operations were successful and projecting outsized investment returns, all while knowing the operations were losing millions of dollars and the enterprise was sinking under a mountain of debt.

The SEC further alleges that Yang commingled investor funds to prevent the scheme from collapsing and used money from new investors to make sham profit payments to earlier investors. Besides reaching investors in the Chinese-American community through advertisements on Chinese-language television and radio, and in Chinese-language newspapers, Yang and the Luca entities allegedly targeted Chinese citizens who sought permanent U.S. residence through the EB-5 Immigrant Investor Program, which provides a way for foreign investors to obtain a green card by meeting certain U.S. investment requirements.

In August 2015, the Luca entities filed Chapter 11 bankruptcy petitions in the U.S. Bankruptcy Court for the Southern District of Texas, Houston Division. As stated in the final judgment, the Luca entities agreed, as part of the settlement, that they shall allow and not contest the Commission's bankruptcy claim for \$68.3 million in the jointly administered bankruptcy case, as being the amount allegedly raised from investors.

Under the final judgment, the Luca entities' payment of disgorgement is limited to the dollar amount of funds to be paid to the Commission, and directly allocated to investors, as provided in the joint Chapter 11 plan of liquidation, which was confirmed on July 18, 2016.