

DAP Global / Tomas Alberto Clarke Bethancourt (Senior Vice President)

Case ID:

ST-439

Case Cluster :

Direct Access Partners (DAP) Global

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Securities and Exchange Commission

Jurisdiction of Foreign Public Official(s) :

Venezuela

Year of Settlement:

2016

Month/Day of Settlement (or Notes):

4/6

Other Jurisdictions of Settlement:

Unknown

Settlement with Individual or Legal Person?:

Individual

Type of Settlement:

Civil

Legal Form of Settlement:

Permanent Injunction

Monetary Sanctions (Types):

Disgorgement of Profits, Prejudgment Interest

Total Monetary Sanctions (US\$):

\$0

Civil Disgorgement of Profits (US\$) :

\$0

Civil Prejudgment Interest (US\$) :

\$0

Civil Fine / Penalty (US\$):

\$0

Monetary Sanctions Returned / Ordered Returned (US\$):

\$0

Monetary Sanctions Returned / Ordered Returned (Explanation):

NA

UNCAC Articles(s) Implicated:

Art.16

OECD Anti-Bribery Convention Articles Implicated:

Art. 1, Art. 7

Offenses - Alleged:

Bribery of Foreign Officials; Securities Fraud

Offenses - Settled:

Bribery of Foreign Officials; Securities Fraud

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to the US Securities and Exchange Commission, "the global markets group at broker-dealer Direct Access Partners (DAP) executed fixed income trades for customers in foreign sovereign debt. DAP Global generated more than \$66 million in revenue for DAP from transaction fees - in the form of markups and markdowns - on riskless principal trade executions in Venezuelan sovereign or state-sponsored bonds for Banco de Desarrollo Económico y Social de Venezuela (BANDES). A portion of this revenue was illicitly paid to BANDES Vice President of Finance, María de los Ángeles González de Hernandez, who authorized the fraudulent trades. [] The SEC's complaint charges the following individuals for the roles in the kickback scheme: Tomas Alberto Clarke Bethancourt, who lives in Miami and is an executive vice president at DAP. Known as "Tomas Clarke," he was responsible for executing the fraudulent trades and maintaining spreadsheets tracking the illicit markups and markdowns on those trades. Iuri Rodolfo Bethancourt, who lives in Panama and received more than \$20 million in fraudulent proceeds from DAP via his Panamanian shell company, which then paid Gonzalez a portion of this amount. Jose Alejandro Hurtado, who lives in Miami and served as the intermediary between DAP and Gonzalez. Hurtado was paid more than \$6 million in kickbacks disguised as salary payments from DAP, and he remitted some of that money to Gonzalez. Haydee Leticia Pabon, who is Hurtado's wife and received approximately \$8 million in markups or markdowns on BANDES trades that were funneled to her from DAP in the form of sham finders' fees. [] According to the SEC's complaint, the scheme began in October 2008 and continued until at least June 2010. BANDES was a new customer to DAP brought in by DAP Global executives through their connections to Hurtado. As a result of the kickbacks to Gonzalez, DAP obtained BANDES' lucrative trading business and provided Gonzalez with the incentive to enter into trades with DAP at considerable markups or markdowns without regard to the prices paid by BANDES. Gonzalez used her senior role at the Caracas-based bank to ensure that its bond trades would continue to be steered to DAP. As the scheme evolved over time, the traders deceived DAP's clearing brokers, executed internal wash trades, inter-positioned another broker-dealer in the trades to conceal their role in the transactions, and engaged in massive roundtrip trades to pad their revenue. For example, the SEC alleges that in January 2010, the traders and Gonzalez arranged for two fraudulent roundtrip trades with BANDES as both buyer and seller. These trades - which lacked any legitimate business purpose - caused BANDES to pay DAP more than \$10 million in fees, a portion of which was diverted to Gonzalez for authorizing the blatantly fraudulent trades. The SEC further alleges that, giving rise to the adage of no honor among thieves, Clarke and Hurtado frequently falsified the size of DAP's fees in their reports to Gonzalez, which enabled the traders to retain a greater share of the fraudulent profits." (Source: US SEC Press Release, "SEC Charges Traders in Massive Kickback Scheme Involving Venezuelan Official," May 7, 2013.) In April 2014, Benito Chinaea and Joseph DeMeneses were added to the SEC's complaint. In 2016, seven defendants in the case were ordered to forfeit \$42,506,171, which was deemed satisfied by the criminal judgments imposed against them. (Source: US Securities and Exchange Commission, Litigation Release No. 23513 / April 8, 2016, "SEC Obtains Settlement in Kickback Scheme to Secure Business of Venezuelan Bank.")

Sources :

US Securities and Exchange Commission, Litigation Release No. 23513 / April 8, 2016, "SEC Obtains Settlement in Kickback Scheme to Secure Business of Venezuelan Bank," at <https://www.sec.gov/litigation/litreleases/2016/lr23513.htm>; US Securities and Exchange Commission v. Clarke Bethancourt, Bethancourt, Hurtado and Pabon, Case No. 13-cv-3074

(SDNY), Complaint filed May 7, 2013, at <https://www.sec.gov/litigation/complaints/2013/comp-pr2013-84.pdf>; SEC Press Release, "SEC Charges Traders in Massive Kickback Scheme Involving Venezuelan Official," May 7, 2013, at <https://www.sec.gov/News/PressRelease/Detail/PressRelease/1365171514248>