

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 90625 / December 10, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19597

In the Matter of

**Bethany Liou and
Golden California Regional
Center, LLC**

Respondents.

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**ORDER APPROVING PLAN OF
DISTRIBUTION**

I.

On November 4, 2019, the Commission issued an Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-and-Desist Order (the “Order”)¹ against Bethany Liou and Golden California Regional Center, LLC (collectively, the “Respondents”). According to the Order, beginning in July 2016, the Respondents offered securities under the Immigrant Investor Program² (“EB-5 securities”) in the form of limited partnership interests in the GCRC Cupertino Fund (the “Cupertino Fund”), raising funds from at least 90 investors to partially finance the acquisition, development, and operation of a mixed-use residential, commercial, and hotel development in Cupertino, California (the “Cupertino-based project”). Each partnership unit cost \$500,000, plus up to \$55,000 for an administrative fee. In the Order, the Commission found that Liou never transferred the investment funds to the developer of the Cupertino-based project but rather, transferred investor funds to a bank account in her name, and later used investor funds as collateral for a line of credit unrelated to the Cupertino-based project. The Commission ordered the Respondents to pay, jointly and severally, \$50,295,232 in disgorgement and prejudgment interest to the Commission pursuant to a payment schedule, with the final payment due within three hundred sixty (360) days of the entry of the Order.

¹ Securities Act Rel.No. 10725 (Nov. 4, 2019).

² The United States Congress created the Immigrant Investor Program, also known as the “EB-5 Program,” in 1990 to stimulate the U.S. economy through job creation and capital investment by foreign investors. The EB-5 Program is administered by the United States Citizenship and Immigration Services (“USCIS”). At the time of the misconduct described in the Order, the EB-5 Program offered EB-5 visas to foreign individuals who invested \$500,000 in a new enterprise located in a rural area or an area of high unemployment). A certain number of EB-5 visas are set aside for foreign investors in designated regional centers. A regional center is defined as “any economic unit, public or private, which is involved with the promotion of economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.” 8 C.F.R. § 204.6(e) (2015)

A total of \$48,340,835.64 has been collected pursuant to the Order (the “Distribution Fund”), and accrued interest and earnings, as well as additional funds received pursuant to the Order, will be added to the Distribution Fund.

By Order dated March 20, 2020, the Commission appointed JND Legal Administration as the fund administrator for the Distribution Fund (the “Fund Administrator”) and set the administrator’s bond amount at \$48,315,833.25.³

On September 2, 2020, the Secretary, pursuant to delegated authority, published a Notice of Proposed Plan of Distribution and Opportunity for Comment (“Notice”),⁴ pursuant to Rule 1103 of the Commission’s Rules on Fair Fund and Disgorgement Plans (the “Commission Rules”),⁵ and simultaneously posted the Proposed Plan of Distribution (the “Proposed Plan”). The Proposed Plan proposes to distribute the Distribution Fund, less administrative costs and taxes, directly to investors who purchased limited partnership interests in the Cupertino Fund, and who suffered losses due to the Respondents’ conduct described in the Order. The Notice advised all interested persons that they may obtain a copy of the Proposed Plan from the Commission’s public website at <http://www.sec.gov/litigation/fairfundlist.htm> or by submitting a written request to Catherine E. Pappas, Senior Advisor, United States Securities and Exchange Commission, One Penn Center, 1617 JFK Blvd., Ste. 520, Philadelphia, PA 19103. All persons who desired to comment on the Proposed Plan could submit their comments, in writing, no later than October 2, 2020. The Commission received four (4) comments during the comment period.

After consideration, the Commission has concluded that the Proposed Plan should be approved without modification.

II.

A. Background to Public Comments on the Proposed Plan

The issue raised by the comments to the Proposed Plan is whether the Proposed Plan should be modified to permit Eligible Investors⁶, through a receiver appointed in a related state court action⁷ (the “Receiver”), to direct their Distribution Payment to a third-party seeking to continue the Cupertino-based Project. If the third-party completed the Cupertino-based Project and the USCIS accepted the participating investors’ EB-5 petitions in connection with that project, the participating Eligible Investors would achieve their citizenship goals faster and with

³ See Order Appointing Fund Administrator and Setting Administrator Bond Amount, Exchange Act Rel. No. 88442 (Mar. 20, 2020).

⁴ Exchange Act Rel. No. 89755 (Sept. 2, 2020).

⁵ 17 C.F.R. § 201.1103.

⁶ Capitalized terms not defined in this Order are used as defined in the Proposed Plan.

⁷ *Long Teng Gao v. Bethany Liou, Golden California Regional Center, LLC, GCRC Cupertino Fund, LP, and Does 1-100*, 19-cv-348624 Cal. Super.

a smaller investment than if they sought to invest in a new EB-5 project with funds returned to them by the Commission.⁸

The Commission staff, working with the Receiver, considered an approach similar to that sought by the commenters in which the Receiver would act as an intermediary and perform due diligence on third-party proposals to continue the Cupertino-based project. Ultimately, however, upon confirming that only a small subset of Eligible Investors were interested in reinvestment, the Commission staff, with input from the Receiver, deemed the approach infeasible.

In view of the wishes of the majority of potentially Eligible Investors to have their distribution payment made directly to them, and in the absence of a mechanism by which the Distribution Payment to the Potentially Eligible Investors seeking to reinvest could be protected, the Proposed Plan does not permit Eligible Investors a choice to reinvest; all distribution payments will be sent directly to Eligible Investors.

B. Public Comments on the Proposed Plan

The Commission received comments on the Proposed Plan from four investors: Yan Lv, Longteng Gao, Huanxi Wu, and Yuhao Pao (collectively, the “Commenters”). Although separate submissions were submitted September 16, 2020, September 17, 2020, September 21, 2020, and September 25, 2020, respectively, they seek the same relief, and are addressed together below.

The Commenters are among the fifteen potentially Eligible Investors who expressed interest in continuing in the EB-5 Program. The letters from Messrs. Lv, Gao, and Wu are substantively identical and request that the Commission modify the Proposed Plan to permit them the choice to proceed through the Receiver to continue their investment in the EB-5 program so that they do not have to invest the additional funds, start the process over again, and potentially have their children “age out” of the EB-5 program. Mr. Pan similarly requests a modification that would permit the Receiver to assist in “pav[ing] the way for a possible re-investment mechanism.” As discussed above, this approach was determined to be infeasible and, accordingly, the Proposed Plan cannot be modified as requested.

The Commission has considered these comments and concludes that there is no modification to the Proposed Plan to accommodate the request of the commenting parties.

⁸ Effective November 21, 2019, the USCIS published a final rule raising the required investment in a new enterprise located in a rural area or an area of high unemployment from \$500,000 to \$900,000. 84 FR 35750 (July 24, 2019); 84 FR 35750 (Jul. 24, 2019); <https://www.uscis.gov/news/news-releases/new-rulemaking-brings-significant-changes-to-eb-5-program>. The effect of this change is that investors seeking to reinvest in the EB-5 Program will be required to invest \$900,000 (plus administrative fees), not \$500,000. Also, the time necessary to process EB-5 petitions is currently estimated between 37 to 73.5 months from the time USCIS receives the case. <https://egov.uscis.gov/processing-times/>.

III.

Accordingly, it is hereby ORDERED, pursuant to Rule 1104 of the Commission's Rules,⁹ that the Proposed Plan is approved without modification, and the approved Plan of Distribution shall be posted simultaneously with this Order on the Commission's website at www.sec.gov.

By the Commission.

Vanessa A. Countryman
Secretary

⁹ 17 C.F.R. § 201.1104.