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SEC Charges Real Estate Investment Funds and Executives for Misleading Investors

Litigation Release No. 24184/ July 3, 2018

***Securities and Exchange Commission v. United
Development Funding III, LP, United Development
Funding IV, Hollis M. Greenlaw, Benjamin L. Wissink,
Theodore F. Etter, Cara D. Obert, and David A. Hanson,
(N.D. Tex. filed July 3, 2018)***

The Securities and Exchange Commission today announced charges against two real estate investment funds and four executives in connection with their alleged roles in misleading investors by failing to disclose that it could not pay its distributions and was using money from a newer fund to pay distributions to investors in the older fund. The SEC also charged a fifth executive for allegedly signing false SEC filings.

[► SEC Complaint](#)

According to the SEC's complaint, Texas-based United Development Funding (UDF) is a family of private and publicly-traded investment funds that deploys investor capital as loans to homebuilders and land developers. UDF allegedly solicited investors by advertising annualized returns of up to 9.75 percent as well as regular distributions. According to the complaint, for almost five years, UDF did not tell investors that it lacked the monthly cashflow at times to cover investor distributions in one of its older funds, UDF III. Instead, to pay these distributions, the newer UDF IV fund loaned money to developers who had also borrowed money from UDF III. Rather than using those funds for development projects that were underwritten by UDF IV, UDF directed the developers to use the loaned money to pay down their older loans from UDF III. In most of these cases, the developer never received the borrowed funds at all, and UDF simply transferred the money between funds so that UDF III could make the distributions to its investors. UDF III, UDF IV, and UDF executives Hollis Greenlaw, Benjamin Wissink, Theodore Etter, and Cara Obert knew or should have known that they had misled investors about the use of funds and the nature and status of loans made to developers.

The complaint also alleges that UDF III failed to appropriately impair loans in violation of GAAP, and that UDF IV did not adequately disclose the status of real property within its portfolio. Finally, the complaint alleges that David Hanson signed false and misleading SEC filings and management representation letters without taking sufficient actions to ensure the accuracy of or a sufficient basis for many of their representations.

Without admitting or denying the SEC's allegations, Greenlaw, Wissink, Etter, and Obert agreed to pay \$8.2 million in disgorgement, prejudgment interest, and civil penalties. Hanson agreed to pay a \$75,000 civil penalty. The defendants consented to the entry of final judgments that order them to be permanently enjoined from violating Sections 17(a)(2) and (3) of the Securities Act of 1933, and the disclosure, books and records and internal accounting control provisions of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Securities Exchange Act of 1934 and Rules 12b-20, 13a-1, and 13a-13

thereunder. Greenlaw and Obert consented to also be enjoined from violating the certification provisions of Exchange Act Rule 13a-14.

The SEC's investigation was conducted by David Whipple, David Hirsch, Keith Hunter, and Keefe Bernstein, and supervised by Eric Werner of the SEC's Fort Worth Regional Office.

Modified: July 5, 2018

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