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Financial Fraud Alert
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US Attorney Files Superseding Indictment Against Costa Rican Company, Its President And Its Auditor for Alleged $670 million Fraudulent Scheme

By Stephen C. Baker and Michael J. Miller

We write today about a superseding criminal indictment (the Superseding Indictment) filed by the U.S. Attorney for the Eastern District of Virginia against Provident Capital Indemnity, Ltd. (PCI), Minor Vargas Calvo (Calvo), and Jorge Luis Castillo (Castillo) for their roles in an alleged fraudulent scheme related to the sale of "approximately $670 million of financial guarantee bonds to life settlement investment companies located in various countries including, but not limited to, the United States, the Netherlands, Germany, and Canada." According to the Superseding Indictment, "PCI, Vargas, Castillo, and other conspirators made, and caused to be made, numerous material misrepresentations and omissions designed to mislead PCI's clients and potential clients regarding PCI's ability to pay claims when due on financial guarantee bonds that PCI issued." The 10-count Superseding Indictment asserts claims for conspiracy to commit wire and mail fraud, wire fraud, mail fraud, and money laundering.

The U.S. Attorney filed the original indictment in the U.S. District Court for the Eastern District of Virginia on January 5, 2011, and subsequently filed the Superseding Indictment on October 4, 2011. According to the Superseding Indictment, "[b]eginning in or about 2004, PCI began selling what it termed as 'financial guarantee bonds' or 'life expectancy guarantee bonds'" which were sold to "life settlement investment companies that sold life settlements or securities backed by life settlements to investors." The Superseding Indictment alleges that "PCI promised purchasers of PCI's financial guarantee bonds that in the event the insured lived beyond his or her life expectancy, PCI would pay the full face amount of the life insurance policy to the purchaser." The Superseding Indictment states that "[p]urchasers of PCI's financial guarantee bonds generally were required to pay up-front payments … to PCI … [that] typically ranged from 6% to 11% of the face amount of the particular underlying life settlement." The Superseding Indictment further alleges that "PCI's financial guarantee bonds were an important marketing tool for the life settlement investment companies' sale of their investment offerings to investors."

According to the Superseding Indictment, "[f]rom in or about 2004 through January 19, 2011, PCI, Vargas, Castillo, and other conspirators told clients and potential clients that PCI had entered into reinsurance contracts with a 'bouquet' of major 'A-rated' reinsurers whereby the reinsurance companies assumed the majority of the risk insured by PCI's financial guarantee bonds." However, the Superseding Indictment alleges that "PCI never actually entered into reinsurance contracts." According to the Superseding Indictment, "[f]rom in or about 2004 through January 19, 2011, PCI, Vargas, Castillo, and other conspirators made numerous material misrepresentations and omissions regarding PCI's purported independently audited financial statements." The Superseding Indictment alleges that "Castillo never performed an audit of PCI's financial statements, and, in fact, Castillo personally created the very financial statements that he claimed to be independently auditing." The Superseding Indictment further alleges that "PCI, Vargas, Castillo, and other conspirators provided and caused to be provided Castillo's fraudulent annual 'Independent Auditors Report' letters and the accompanying financial statements to [Dun and Bradstreet]" upon which Dun and Bradstreet relied in "issu[ing] a '5A' rating of PCI's estimated financial strength."

The Superseding Indictment alleges that "on the basis of these representations about its ability to pay claims, PCI sold hundreds of millions of dollars of financial guarantee bonds to [life settlement investment companies]" who, "in turn sold investments offerings backed by PCI's financial guarantee bonds to thousands of investors around the world." "Upon conviction of one or more of the violations alleged in the Superseding Indictment," the U.S. Attorney seeks, *inter alia*, the forfeiture of "the sum of at least $40,272,495."

If you are interested in receiving a copy of the superseding indictment described above, or updates regarding same, please contact Stephen C. Baker, Michael J. Miller, Timothy J. O'Driscoll or Gregory J. Star at Drinker Biddle & Reath LLP.

Stephen C. Baker
(215) 988-2769
Stephen.Baker@dbr.com

Michael J. Miller
(215) 988-2782
Michael.Miller@dbr.com

Timothy J. O'Driscoll
(215) 988-2865
Timothy.ODriscoll@dbr.com

Gregory J. Star
(215) 988-2734
Gregory.Star@dbr.com

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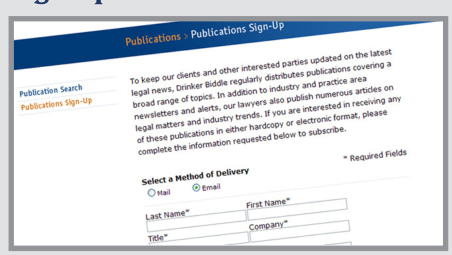

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