'Buckets of Money' advisor Ray Lucia Sr. charged by SEC

By Editor Test *Thu, Sep 13, 2012*

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The Securities and Exchange Commission today charged an investment advisor, author, and syndicated radio personality for spreading misleading information about his "Buckets of Money" strategy at investment seminars that he and his firm hosted for prospects.

The SEC's Division of Enforcement alleges that investment adviser Ray Lucia, Sr. claimed that the wealth management strategy he promoted at the seminars had been empirically "backtested" over actual bear market periods. Backtesting is the process of evaluating a strategy, theory, or model by applying it to historical data and calculating how it would have performed had it actually been used in a prior time period.

Lucia, who lives in the San Diego area, and his company formerly named Raymond J. Lucia Companies Inc. (RJL) allegedly presented a lengthy slideshow at the seminars indicating that extensive backtesting proved that the Buckets of Money strategy would provide inflation-adjusted income to retirees while protecting and even increasing their retirement savings. However despite the claims they made publicly, Lucia and RJL performed scant, if any, actual backtesting of the Buckets of Money strategy.

"Lucia and RJL left their seminar attendees with a false sense of comfort about the Buckets of Money strategy," said Michele Wein Layne, Regional Director of the SEC's Los Angeles Regional Office. "The so-called backtests weren't really backtests, and the strategy wasn't proven as they claimed."

According to the SEC's order instituting administrative proceedings against Lucia and RJL, they held the seminars highlighting their Buckets of Money strategy in an effort to obtain advisory clients who would be charged fees in return for their advisory services. They promoted the seminars on Lucia's radio show and on Lucia's personal and company websites.

According to the SEC's order, a backtest must utilize actual data from the time period in order to get an accurate result. Lucia and RJL have admitted during the SEC's investigation that the only testing they actually performed were some calculations that Lucia made in the late 1990s – copies of which no longer exist – and two 2-page spreadsheets.

According to the SEC's order, the two cursory spreadsheets that Lucia claims were backtests used a hypothetical 3% inflation rate even though this was lower than actual historical rates. Lucia admittedly knew that using the lower hypothetical inflation rate would make the results look more favorable for the Buckets of Money strategy. These alleged backtests also failed to account for the negative effect that the deduction of advisory fees would have had on the backtesting of their investment strategy, and their "backtesting" did not even allocate in the manner called for by Lucia's Buckets of Money strategy. The slideshow presentation that Lucia and RJL used during the seminars failed to disclose the flaws in their alleged backtests and was materially misleading.

According to the SEC's order, Lucia and RJL also failed to maintain adequate records of the backtesting as they were required to do under an SEC rule. The pair of 2-page spreadsheets was the only documentation of their backtesting calculations, and those spreadsheets failed to duplicate their advertised investment strategy.

The SEC's order finds that RJL violated Sections 206(1), 206(2) and 206(4) of the Investment Advisers Act of 1940 and Rule 206(4)-1(a)(5) thereunder. The order finds that Lucia willfully aided and abetted and caused RJL's violations of Sections 206(1), 206(2) and 206(4) of the Advisers Act and Rule 206(4)-1(a)(5) thereunder. The SEC's Division of Enforcement is seeking financial penalties and other remedial action in the proceedings.

The SEC's investigation was conducted by Peter Del Greco of the Los Angeles Regional Office. John Bulgozdy will lead the litigation. Bryan Bennett and John Kreimeyer conducted the SEC examination that prompted the investigation.