

GOVERNOR RICK SCOTT

WEEKLY AGENCY REPORT

OFFICE OF FINANCIAL REGULATION

WEEK ENDING APRIL 16, 2015

Successes for Week Ending April 16, 2015

1. Licensing and Registration

- Division of Securities
 - Applications Received: 1,080
 - Applications Approved: 1,128
 - Applications Denied/Withdrawn: 7

- Division of Consumer Finance
 - Applications Received: 192
 - Applications Approved: 187
 - Applications Denied/Withdrawn: 11

- Division of Financial Institutions
 - Applications Received: 0
 - Applications Approved: 1

2. Regulatory Actions

Permanent Bar and \$62,500 Fine Against an Associated Person

On April 7, 2015, the Division of Securities entered a final order against Kevin Luby permanently barring him from registration with the OFR, after he failed to request a hearing. The final order follows an administrative complaint, which alleged Mr. Luby engaged in prohibited business practices by failing to disclose and obtain approval from his employing broker dealer firm for his outside business activity. The activity included being appointed co-personal representative, co-successor and beneficiary of a customer's revocable trust. An administrative fine of \$62,500 was assessed.

Permanent Bar and \$110,000 in Total Fines Against Unregistered Broker Dealers and Associated Person for Fraud

On April 7, 2015, the Division of Securities entered a final order against Pinnacle Investments, LLC, and Jose Anthony Valenzuela permanently barring them from registration with the OFR, after they failed to request a hearing. The final order follows an administrative complaint, which alleged Pinnacle Investments, LLC, and Mr. Valenzuela offered and sold unregistered securities, engaged in securities business in Florida without being registered and conducted fraudulent securities transactions. A total of \$110,000 in administrative fines was assessed.

Final Order for \$11,000 Fine Against an Investment Adviser Firm and Associated Person for Prohibited Business Practices

On April 14, 2015, the Division of Securities entered a final order against Anderson Investment Management, LLC, and Kurt Lewis Anderson for engaging in prohibited business practices by failing to file audited financial statements, maintain required net capital, maintain an accurate Form ADV, send clients itemized invoices and comply with the custody requirements of the Florida Securities and Investor Protection Act, Chapter 517, F.S. An \$11,000 administrative fine was paid.

3. Enforcement Actions

Two South Florida Men Arrested in Fraudulent Tax Refund Check Cashing Scheme

On April 10, 2015, Gamanuel Chervin and Roosevelt Thermido were arrested and charged with racketeering and identity theft in connection with the use of their formerly licensed money services business to cash fraudulently obtained tax refund checks. Chervin's business, C & F Check Cashing (C & F), was licensed to conduct business as a check casher in Florida until December 31, 2012, when its license expired and was not renewed due to renewal application deficiencies. Investigators allege that Chervin, in order to conceal the criminal activity, ceased submitting quarterly reports to the OFR that would show the volume and amount of checks being cashed by C & F prior to the license expiring. From January 2012 through April 2012, Chervin and his business partner Thermido are alleged to have deposited over 260 checks totaling \$857,903.00 into their business accounts. The checks are known to investigators to represent the proceeds of fraudulent tax returns filed in the names of identity theft victims. Investigative analysis of the company's bank records revealed that Chervin and Thermido kept all of these fraudulently obtained monies for their personal use. Searches of Chervin's home and an affiliated company, JK Tax & Multi Services, were conducted simultaneous to the arrests. Evidence obtained through those searches will be analyzed and used in the prosecution of the defendants. A third principal in the scheme has been identified and a warrant has been issued for his arrest. This case is being developed jointly with IRS Criminal Investigation and the Ft. Lauderdale Police Department. The Broward County State Attorney's Office is prosecuting the case with support from the United States Attorney's Office for the Southern District of Florida.

Fraud Charges Filed Against Boca Raton Based Boiler Room Operation

With substantial assistance from the OFR, on April 9, 2015, the Securities and Exchange Commission (SEC) filed civil fraud charges against eCareer Holdings Inc., and its executives, alleging the online staffing company defrauded more than 400 investors out of \$11 million by selling the company's unregistered securities and misrepresenting the company's profit potential. In addition to the fraud charges, the SEC initiated an asset freeze against company principal Joseph J. Azzata and three other operators of the company who had been barred from the securities industry by a previous SEC action. The SEC complaint

alleged that investors, including several elderly unaccredited investors, were defrauded in cold calls placed to them through a boiler room (Viper Asset Management, LLC) comprised of several sales agents spearheaded by brokers Dean A. Esposito, Joseph DeVito and Frederick Birks. Investors were told their money would be used as working capital to develop eCareer's online staffing business, but approximately 30 percent of the investor proceeds were instead diverted to pay exorbitant fees to Esposito, Birks and DeVito. Out of the \$11 million the defendants raised since August 2010, \$3.5 million was paid out to Viper's brokers. Records also reveal that Azzata diverted \$650,000 to pay personal expenses related to his motor sports hobby as well as to pay other personal expenses including private school tuition and shopping expenses incurred by his wife. The SEC complaint further alleged that Viper brokers entered into agreements that effectively hid their compensation under "advisory fees" and "finder's fees" so as not to be found to have violated the existing ban against selling securities. An OFR Investigator worked closely with the SEC to collect and present the evidence upon which this enforcement action was based. The OFR will continue to work closely with the FBI and the United States Attorney's office to bring criminal enforcement action against the principals in this case if warranted.

Purported Futures Trader Pleads Guilty to Wire Fraud in \$700,000 Investment Scam

On Tuesday, April 14, 2015, Dante Stephen Giovannetti entered a guilty plea in federal court to a charge of wire fraud for his role in defrauding three investors out of approximately \$700,000. Giovannetti, a purported equity futures trader, lured investors with promises of returns of nearly 300 percent from profitable trades. A joint OFR/FBI investigation, however, found no evidence of such returns. Instead, investigation revealed that Giovannetti created false trading account statements to support his many misrepresentations to investors. The false account statements were used by Giovannetti to induce at least three individuals to invest and showed tens of millions of dollars in fictitious profits from trading "E-mini" S&P 500 futures contracts and over \$53 million in cash on deposit. Late in 2014, investors realized that Giovannetti was not investing their funds, but was instead using them for his personal living expenses. Investors filed a complaint with the National Futures Association (NFA) where Giovannetti was previously registered as an Associated Person. The NFA conducted a site audit at Giovannetti's residence in Orlando and discovered wrongdoing. This resulted in a referral of the matter to the Commodities Futures Trading Commission which filed a civil complaint in federal court seeking injunctive relief against Giovannetti. Giovannetti, however, fled the jurisdiction as the civil proceedings were in process. While the CFTC's enforcement case was underway, the OFR and FBI continued their parallel criminal investigation of the allegations, resulting in Giovannetti's indictment by the U.S. Attorney's Office. The Honorable Paul G. Byron, United States District Judge, adjudicated Giovannetti guilty of wire fraud upon the entry of his plea. Giovannetti is

scheduled to be sentenced on July 8, 2015. He remains in the custody of the United States Marshalls Service while awaiting sentencing.

New Issues

No new issues to report this week.