

GOVERNOR RICK SCOTT

MONTHLY AGENCY ACHIEVEMENT REPORT

OFFICE OF FINANCIAL REGULATION

APRIL 2014

APRIL ACHIEVEMENTS

1. Monthly Statistics

- Division of Securities
 - Examinations Opened: 40
 - Examinations Closed: 27
 - Complaints Received: 13
 - Complaints Closed: 27
 - Applications Received: 3,912
 - Applications Approved: 3,833
 - Applications Denied/Withdrawn: 65

- Division of Consumer Finance
 - Examinations Opened: 24
 - Examinations Closed: 29
 - Complaints Received: 255
 - Complaints Closed: 254
 - Applications Received: 2,001
 - Applications Approved: 1,956
 - Applications Denied/Withdrawn: 76

- Division of Financial Institutions
 - Examinations Opened: 17
 - Examinations Closed: 12
 - Complaints Received: 107
 - Complaints Closed: 109
 - Applications Received: 69
 - Applications Approved: 39
 - Applications Denied/Withdrawn: 1

- Bureau of Financial Investigations
 - Investigations Opened: 11
 - Investigations Closed: 11

2. Substantial Regulatory Actions

Final Order for \$71,380 Fine Against a Broker Dealer

On March 26, 2014, the Division of Securities entered a Final Order against RBC Capital Markets, LLC, for failing to establish an adequate system to monitor the registration status of client services associates and to enforce established written

procedures. The Final Order follows an investigation into the registration of RBC's client service associates and supervisory system by the North American Securities Administrators Association (NASAA) Multi-State Working Group. A \$71,380 administrative fine was paid.

Permanent Bar and \$ 3,125,000 in Total Fines Against an Unregistered Broker Dealer and Associated Person for Fraud

On March 31, 2014, the Division of Securities entered a Final Order against Neofat Industries, Inc., k/n/a Microlipid Technologies, Inc., and Gus Papathanasopoulos permanently barring the firm and him from seeking future registration as a dealer, investment adviser or associated person under the Florida Securities and Investor Protection Act, Chapter 517, F. S., after they failed to request a hearing. The Final Order follows an Administrative Complaint, which alleged Mr. Papathanasopoulos and Neofat Industries, Inc., offered and sold unregistered securities; engaged in securities business in Florida without being registered and conducted fraudulent securities transactions. A total of \$3,125,000 in administrative fines was assessed.

Permanent Bar and \$10,000 Fine Against an Unregistered Associated Person for Fraud

On April 8, 2014, the Division of Securities entered a Final Order against Donald L. Braxton, permanently barring Mr. Braxton from registration with the Office, after he failed to timely request a hearing. The Final Order follows an Administrative Complaint, which alleged Donald L. Braxton offered and sold unregistered securities, engaged in securities transactions in Florida without being registered, operated a boiler room and conducted fraudulent securities transactions. An administrative fine of \$10,000 was assessed.

Final Order for Fines Totaling \$16,500 Against an Investment Adviser Firm and Associated Persons for Prohibited Business Practices and Unregistered Activity

On April 15, 2014, the Division of Securities entered a Final Order against Brokaw Rice Investment Advisors, Inc., James Michael Rice and Anna Brokaw Rice, for failing to file annual financial statements; maintain an accurate Form ADV; maintain required net capital; and send clients itemized invoices. In addition, James Michael Rice engaged in investment advisory activity in Florida without being registered. Fines totaling 16,500 were paid.

Final Order for \$4,500 Fine Against an Associated Person for Unregistered Activity

On April 18, 2014, the Division of Securities entered a Final Order against Gerald Kenneth Lowe for engaging in unregistered investment advisory activities. A \$4,500 administrative fine of was paid.

Permanent Bar and \$465,000 in Total Fines Against Unregistered Broker Dealers and an Associated Person for Fraud

On April 28, 2014, the Division of Securities entered a Final Order against Alan Drew Messina, Global Capital Funding, LLC, and Ephesians 6:11, LLC, permanently barring him and the firms from seeking future registration or

licensure with the OFR. The Final Order follows an Administrative Complaint, which alleged Mr. Messina, Global Capital Funding, LLC, and Ephesians 6:11, LLC, offered and sold unregistered securities, engaged in securities business in Florida without being registered, and conducted fraudulent securities transactions. A total of \$465,000 in administrative fines was assessed.

Denial of Associated Person

On April 29, 2014, the Division of Securities entered a Final Order against William J. Wilson, denying his application for registration as an associated person after he failed to request a hearing. The Final Order follows a Notice of Intent to Deny, which alleged Mr. Wilson made a material misrepresentation or misstatement on his application for registration.

National Bank Converts to State Chartered Bank

On April 25, 2014, Calusa National Bank converted to a Florida state-chartered financial institution effective close of business. Calusa Bank (current name) holds nearly \$156 million in assets.

[Press Release: Calusa National Bank becomes state-chartered financial institution](#)

3. Enforcement Actions

Two Arrested for Role in Fraudulent Factoring Scheme

On April 7, 2014, Brian Newton and Vicki Snow were arrested and charged with mail and wire fraud and conspiracy to commit mail and wire fraud resulting from their alleged involvement in a \$6 million fraudulent factoring scheme. Newton and Snow, while working for Dataforce International, Inc., are alleged to have fraudulently factored invoices through Amerifactors Financial Group and Prestige Funding. The investigation revealed that from 2003 through August 2009, Newton and Snow allegedly submitted a series of inflated invoices for factoring. Newton and Snow were also allegedly engaged in “double factoring,” which involved submitting the same Dataforce invoices for factoring to both Amerifactors and Prestige. Investors were defrauded for more than \$6 million. This case is being prosecuted by the U.S. Attorney’s Office for the Middle District of Florida and was developed jointly by the OFR and the FBI.

Fernandina Beach Man Sentenced in Fraudulent Land Development Scheme

Furman Otis Clark, Jr., 65, was sentenced on April 24, 2014, to 20 years in state prison for his role in a fraudulent land development scheme after being found guilty by a jury. A joint investigation conducted by the OFR and the State Attorney’s Office in Nassau County revealed that from January 2008 through April 2009, Clark, operating through his company, Novus Ordo Investments, LLC, obtained at least \$250,000 from investors in Florida and Georgia who were told they would receive interests in limited liability companies. Clark falsely represented that their funds would be used for real estate projects and that he had exclusive rights to purchase the properties to be developed. Contrary to representations, investigators found that much of the investors’ money was used by Clark for his personal expenses and not for land or real estate development.

Clark also failed to tell the investors that he had a history of financial problems and is a convicted felon.

[Press Release: Fernandina Beach man sentenced in fraudulent land development scheme](#)

4. Communications and Outreach Activities

On March 26, 2014, two members of the Division of Financial Institutions represented the OFR at a regulator roundtable at the League of Southeastern Credit Union's Government Affairs Conference in Tallahassee with NCUA Regional Director Myra Toeppe. There were approximately 60 people in attendance.

On April 9, 2014, the OFR issued a consumer alert on prohibited debt collection practices.

[Consumer Alert: Prohibited Debt Collection Practices](#)

On April 9, 2014, the OFR issued a press release on a Florida man convicted in fraudulent land development scheme.

[Press Release: Florida man convicted in fraudulent land development scheme](#)

On April 9, 2014, Commissioner Drew J. Breakspear taped an interview with Beth Switzer for an episode of *Florida Face to Face*. The interview aired multiple times on PBS stations statewide.

On April 10, 2014, a member of the Division of Financial Institutions represented the OFR on a regulatory panel at the National Association of Corporate Directors' Annual Bank Directors Workshop in Ft. Lauderdale. There were approximately 60 people in attendance.

On April 22, 2014, OFR Commissioner Drew J. Breakspear issued a statement on the passage of legislation related to money services businesses.

[Commissioner Breakspear's Statement on the Passage of Legislation Related to Money Services Businesses](#)

On April 24, 2014, an opinion editorial written by OFR Commissioner Drew J. Breakspear was published by *Sunshine State News*.

[Sunshine State News: Education, Preventive Measures Help Combat Financial Fraud](#)

On April 25, 2014, Bureau Chief of Enforcement for the Division of Securities participated in a panel discussion at the Financial Planning Association of Greater Fort Lauderdale's Annual Conference. Other participants included the U.S. Securities and Exchange Commission (SEC) and FINRA. The panel discussed fraud detection, cyber security, risk management, marketing and sales practices, compliance responsibilities and communications between regulatory agencies. Approximately 65 securities industry members attended.

On April 27, 2014, a letter to the editor by OFR Commissioner Drew J. Breakspear was published by the *Tallahassee Democrat*.

[Tallahassee Democrat: Kids need to know the basics of finance](#)