

GOVERNOR RICK SCOTT

MONTHLY AGENCY ACHIEVEMENT REPORT

OFFICE OF FINANCIAL REGULATION

October 2015

OCTOBER ACHIEVEMENTS

1. Monthly Statistics

- Division of Securities
 - Examinations Opened: 17
 - Examinations Closed: 34
 - Complaints Received: 14
 - Complaints Closed: 17
 - Applications Received: 4,053
 - Applications Approved: 3,933
 - Applications Denied/Withdrawn: 62

- Division of Consumer Finance
 - Examinations Opened: 42
 - Examinations Closed: 44
 - Complaints Received: 145
 - Complaints Closed: 201
 - Applications Received: 1,557
 - Applications Approved: 1,407
 - Applications Denied/Withdrawn: 29

- Division of Financial Institutions
 - Examinations Opened: 12
 - Examinations Closed: 11
 - Complaints Received: 55
 - Complaints Closed: 65
 - Applications Received: 4
 - Applications Approved: 3
 - Applications Denied/Withdrawn: 0

- Bureau of Financial Investigations
 - Investigations Opened: 12
 - Investigations Closed: 10

2. Substantial Sanctions and Fines

Final Order for \$5,000 Fine Against an Investment Adviser Firm for Prohibited Business Practices

On September 28, 2015, the Division of Securities entered a final order against Synergy Capital Inc., for engaging in prohibited business practices by failing to file financial statements and filing financial statements not prepared in accordance with Generally Accepted Account Principles (GAAP). A \$5,000 administrative fine was paid.

Final Order for \$3,000 Fine Against an Investment Adviser Firm and Associated Persons for Prohibited Business Practices

On September 28, 2015, the Division of Securities entered a final order against Mats Financial Services Inc., and Mats Tyloskog for engaging in prohibited business practices by failing to maintain an accurate Form ADV, prepare and maintain written supervisory procedures, maintain and provide accurate advisory contracts and file annual financial statements. Mats Financial Services Inc., and Mats Tyloskog agreed not to seek registration as an investment adviser in Florida for three years. A \$3,000 administrative fine was paid.

Final Order for \$7,500 Fine Against an Investment Adviser Firm and Associated Person for Prohibited Business Practices

On September 28, 2015, the Division of Securities entered a final order against Davenport Investment Advisors, LLC and Jeffrey Davenport for engaging in prohibited business practices by failing to maintain an accurate Form ADV, maintain and provide accurate advisory contracts, accurately disclose prepaid fees in written investment advisory contracts, file audited financial statements, maintain required net capital, timely notify the office of the firm's net capital deficiency and comply with the custody requirements of the Florida Securities and Investor Protection Act, Chapter 517, F.S. A \$7,500 administrative fine was paid.

Final Order for \$12,001 Fine Against a Broker Dealer Firm and Associated Person for Prohibited Business Practices

On October 2, 2015, the Division of Securities entered a final order against Sigma Financial Corporation and Jeffery Darwish for engaging in prohibited business practices. Sigma Financial Corporation failed to enforce the firm's written supervisory procedures when they approved Mr. Darwish's seminar presentation materials. Jeffrey Darwish disclosed false or misleading information regarding his professional designations on his seminar presentation materials. A \$12,001 administrative fine was paid.

Final Order for \$6,000 Fine Against an Investment Adviser Firm and Associated Person for Prohibited Business Practices

On October 5, 2015, the Division of Securities entered a final order against First Palm Beach Advisory Co., Inc., and Thomas B. Walker for engaging in prohibited business practices by failing to maintain an accurate Form ADV, send clients itemized invoices, file audited financial statements, maintain required net capital, timely notify the office of the firm's net capital deficiency and comply with the

custody requirements of the Florida Securities and Investor Protection Act, Chapter 517, F.S. A \$6,000 administrative fine was paid.

Final Order for \$35,000 Fine Against a Broker Dealer Firm

On October 5, 2015, the Division of Securities, in conjunction with a multi-state settlement, entered a final order against Citigroup Global Markets Inc., for failing to establish, maintain, and enforce supervisory procedures, failing to enforce the firm's written procedures and not properly registering sales assistants with the State of Florida. In accordance with the terms of the settlement, Citigroup Global Markets Inc., agrees to establish and maintain reasonable supervisory policies and procedures for the firm's sales assistants and to pay an administrative fine of \$35,000 to the State of Florida.

Final Order for \$4,000 Fine Against an Investment Adviser Firm for Prohibited Business Practices

On October 5, 2015, the Division of Securities entered a final order against Hammer and Company, LLC for engaging in prohibited business practices by failing to maintain an accurate Form ADV and maintain accurate investment advisory contracts. A \$4,000 administrative fine was paid.

Permanent Bar and \$10,000 Fine Against Associated Person for Prohibited Business Activity

On October 7, 2015, the Division of Securities entered a final order against Kevin Luby permanently barring him from engaging in, affiliating with, or seeking future registration as a dealer, investment adviser or associated person under the Florida Securities and Investor Protection Act, Chapter 517, Florida Statutes. Mr. Luby was found to have 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. A \$10,000 administrative fine was assessed. Pursuant to the final order, the final order issued on April 7, 2015, is vacated.

Termination of Investment Adviser President's Registration for FINRA Sanctions

On October 15, 2015, the Division of Securities entered a final order against Financial One Inc., and Howard Schwartz, requiring the termination of Mr. Schwartz's associated person's registration. Howard Schwartz was the subject of a suspension and fine by FINRA, a national securities association. Mr. Schwartz as the president, direct owner and chief compliance officer, agreed to terminate his registration with Financial One Inc., and to not submit an application for registration for six months.

Final Order for \$2,000 Fine Against an Associated Person for Failure to Disclose Regulatory Sanctions

On October 16, 2015, the Division of Securities entered a final order against Robert A. Kiesling for failing to timely report the suspension of his insurance license, by the Florida Department of Financial Services, in March 2014. Pursuant to the final order, Mr. Kiesling's registration as an associated person will be subject to a registration agreement. A \$2,000 administrative fine was paid.

Final Order for \$5,000 Fine Against an Investment Adviser Firm and Associated Person for Prohibited Business Practices

On October 16, 2015, the Division of Securities entered a final order against Marketwise Private Asset Management LLC, and Jesus Alberto Pinedo for engaging in prohibited business practices by failing to maintain an accurate Form ADV, to send clients itemized invoices file audited financial statements, maintain required net capital, timely notify the office of the firm's net capital deficiency and comply with the custody requirements of the Florida Securities and Investor Protection Act, Chapter 517, F.S. A \$5,000 administrative fine was paid.

Final Order for \$5,000 Fine Against an Associated Person for Prohibited Business Practices

On October 27, 2015, the Division of Securities entered a final order against Timothy Wayne Baldwin for engaging in prohibited business practices by communicating with clients via his personal e-mail account, which is a violation of his employing broker dealer firm's policy. A \$5,000 administrative fine was paid.

Permanent Bar of an Investment Adviser and Associated Person

On October 27, 2015, the Division of Securities entered a final order against Sarris Financial Group, Inc., and Emanuel Louis Sarris, Sr., for failing to provide books and records after a written request by the OFR. Sarris Financial Group, Inc., agreed to terminate its registration as an investment adviser with the state of Florida. Pursuant to the final order, Sarris Financial Group, Inc., and Emanuel Louis Sarris, Sr., are permanently barred from affiliating or seeking future registration as a dealer, investment adviser, or associated person under the Florida Securities and Investor Protection Act, Chapter 517, Florida Statutes.

Denial of Associated Person Applications

From September 30 to October 27, 2015, the Division of Securities denied two applications for registration as an associated person. The notices of intent to deny, in each case, alleged that the associated person made a material misrepresentation or misstatement on their application for registration as an associated person.

3. Enforcement Actions

Jacksonville Man Pleads Guilty in Foreign Currency Trading Scam

On September 25, 2015, Joshua Carrol Gilliland entered a plea of guilty to one count of conspiracy to commit wire fraud in United States District Court for the

Middle District of Florida. In March 2015, federal indictments against Gilliland and Chawalit Wongkhiao were filed by the United States Attorney's Office in Jacksonville. The two men were charged with one count of conspiracy to commit wire fraud and one count of conspiracy to commit money laundering for their alleged roles in a foreign currency trading scam, operating from March 2012 until July 2014. Wongkhiao pleaded guilty to one count of conspiracy to commit wire fraud on August 25, 2015. Gilliland and Wongkhiao, doing business as Allied Markets, LLC are alleged to have solicited money from at least four investors for purported investments in foreign currency exchange (Forex) transactions. Based on promises of guaranteed returns of between seven and 10 percent annually, investors purchased more than \$1 million in investment contracts from the men. According to those investors, Gilliland and Wongkhiao represented that investment returns would come from profits generated through Forex trading. The investigation revealed, however, that the two men only invested about one-fifth of investors' funds in Forex transactions. A large portion of the funds was used for personal expenses or withdrawn by the men in the form of cash. The two are also alleged to have used funds acquired from more recent investors to pay returns to earlier investors in typical Ponzi fashion. The guilty plea carries a maximum penalty of up to 20 years in prison and fines of up to twice the loss resulting from the offense. This case was developed jointly with the FBI, IRS- Criminal Investigation, Jacksonville Beach Police Department and the U.S. Commodity Futures Trading Commission. The U.S. Attorney's Office in Jacksonville is prosecuting the case. A separate OFR administrative complaint was issued against Gilliland, Wongkhiao and Allied Markets on February 25, 2015, for violations of Chapter 517, F.S. Both Gilliland and Wongkhiao are scheduled to be sentenced on January 11, 2016.

Naples Man Sentenced to Four Years' Imprisonment in Advance Fee for Loan Fraud

October 13, 2015, defendant James Spillers entered a plea of guilty in Collier County Circuit Court to one count of grand theft and 13 counts of taking advance fees as a loan broker in violation of Chapter 687, Florida Statutes. Spillers was sentenced to a four-year prison term to be followed by 10 years' probation. Spillers was also ordered to pay \$114,100 in restitution to victims along with nearly \$10,000 in investigative, prosecutorial and court costs. On September 12, 2014, Spillers was arrested in connection with an elaborate advance fee for loan fraud through which more than \$185,000 in advance fees was collected from prospective borrowers on the promise of obtaining commercial loans. Evidence obtained during the course of the investigation estimated the loss to prospective borrowers both within and outside the state at greater than \$900,000. Simultaneous to the arrest, and with assistance from the Collier County Sheriff's Office, a search warrant was executed at Spillers' home in Naples. Evidence obtained from the search was used in support of all charges. From December 2012 through March 2014, Spillers and his co-defendant, Douglas Carter, are alleged to have used websites such as "lendinguniverse.com" to offer loans to prospective borrowers via the internet. They are believed to have victimized over

100 prospective borrowers throughout the U.S. and Canada with at least 20 of those residing in Florida. No loans were ever funded or materialized. The OFR is the lead investigative agency in this case, teaming principally with the Volusia County Sherriff's Office and Collier County Sherriff's Office. The Office of Statewide Prosecution is prosecuting the case. Co-defendant Douglas Carter's trial is scheduled for November 30, 2015.

4. Communications and Outreach Activities

On September 30, 2015, the OFR issued a consumer alert on ATM skimmers.

[Consumer Alert: Beware of ATM skimmers](#)

On October 6, 2015, the OFR issued a press release announcing the new Deputy Commissioner of the OFR.

[Commissioner Breakspear Announces Deputy Commissioner Appointment](#)

On October 13 - 16, 2015, three members of the Division of Financial Institutions represented the OFR at the District III Interagency Meeting in Atlanta, Georgia.

On October 27, 2015, the OFR released a consumer alert on cybersecurity tips for small businesses.

[Consumer Alert: Cybersecurity Tips for Small Businesses](#)