

GOVERNOR RICK SCOTT

QUARTERLY AGENCY ACHIEVEMENT REPORT

OFFICE OF FINANCIAL REGULATION

October – December 2016

OCTOBER THROUGH DECEMBER 2016 ACHIEVEMENTS

1. Quarterly Statistics

- Division of Securities
 - Examinations Opened: 52
 - Examinations Closed: 48
 - Complaints Received: 36
 - Complaints Closed: 47
 - Applications Received: 10,895
 - Applications Approved: 10,839
 - Applications Denied/Withdrawn: 214

- Division of Consumer Finance
 - Examinations Opened: 109
 - Examinations Closed: 93
 - Complaints Received: 416
 - Complaints Closed: 425
 - Applications Received: 4,339
 - Applications Approved: 4,253
 - Applications Denied/Withdrawn: 244

- Division of Financial Institutions
 - Examinations Opened: 23
 - Examinations Closed: 17
 - Complaints Received: 112
 - Complaints Closed: 157
 - Applications Received: 19
 - Applications Approved: 12
 - Applications Withdrawn: 1

- Bureau of Financial Investigations
 - Investigations Opened: 48
 - Investigations Closed: 31

2. Communications and Outreach Activities

On October 24, 2016, two members of the Division of Financial Institutions

represented the OFR at the interagency meeting hosted by the FDIC in Atlanta, Georgia.

On October 27, 2016, a member of the Division of Financial Institutions represented the OFR at the South Florida interagency meeting hosted by the FRB Atlanta Miami Branch in Miami.

On October 31, 2016, the OFR issued a press release regarding the adoption of the Uniform State Test for mortgage loan originators.

[Press Release: Office of Financial Regulation Adopts Uniform State Test for Mortgage Loan Originators](#)

On November 1, 2016, the OFR issued a press release regarding the sentencing of Abraham Gutterman for his role in a fraudulent precious metals and stock offering scheme.

[Press Release: Duo to Serve Time for South Florida Investment Scam](#)

On November 18, 2016, a member of the Division of Securities participated in a regulatory panel discussion with the North American Securities Administrators Association (NASAA), and Financial Industry Regulatory Authority (FINRA) at the Securities Industry and Financial Markets Association (SIFMA) Compliance & Legal Society meeting in St. Petersburg. The panel discussed exam and enforcement priorities and how firms can cultivate good/better/best relationships with primary regulators. Approximately 75 securities industry members attended.

On November 29, 2016, Deputy Commissioner Pam Epting participated in a panel discussion with Financial Industry Regulatory Authority (FINRA) at the Florida Securities Dealers Association (FSDA) Industry Outreach Program in Boca Raton. The panel discussed senior & vulnerable investors – dealing with fraud & exploitation. Approximately 120 securities industry members.

On December 8-9, 2016, a member of the Division of Securities and a member of the Bureau of Financial Investigations attended the U.S. Securities and Exchange Commission (SEC) 2016 Southeastern Securities Conference for Regulators, Investigators, and Prosecutors held in Atlanta, GA. The training program focused on recent legal developments, examination risk assessment, coordination with federal and state regulators and enforcement techniques. More than 150 attendees from the southeastern states participated in the training program.

On December 6, 2016, the OFR issued a consumer alert on baby proofing your finances.

[Consumer Alert: How to Baby Proof Your Finances](#)

On December 28, 2016, the OFR issued a press release on the arrest of a Tampa area family and pastor for financial fraud.

[Press Release: Tampa Area Family and Pastor Arrested for Multiple Charges of Financial Fraud](#)

3. Enforcement Actions

Miami Area Loan Broker Arrested in Alleged Advance Fee for Loan Fraud

On October 25th, 2016, Benjamin John Crozier was arrested on a charge of conspiracy to commit wire fraud and four counts of wire fraud based on a federal grand jury indictment entered against him on September 29, 2016. The indictment alleges that from June 2011 through June 2012, Crozier orchestrated an advance fee for loan scheme through which he falsely obtained money from individuals throughout the United States and Canada. The advance fee payments were obtained from prospective borrowers who sought loans to develop various business projects. Crozier is alleged to have made a number of fraudulent representations to these individuals, including that he had the ability to fund the individuals' projects, that the loans could be paid off after 10 years and that he had a working relationship with Banco Santander, a Spanish bank with correspondent banking offices in Florida. Crozier charged the potential borrowers "retainer fees" ranging from \$5,000 to \$20,000, which he guaranteed to refund after 12 months if he could not provide funding for the projects. In order to lure borrowers into paying the retainer fees, Crozier operated a website through which he represented that Capital Finance Group, LLC had the ability to secure funding from "all over the world" for projects in the United States. Crozier also told borrowers that they could terminate their contracts and receive a full refund of their retainer fees within 48 hours. Despite these representations, none of the prospective borrowers received refunds of their advance fees. This joint OFR/HSI investigation found that Crozier did not have the ability to fund any of the borrowers' projects and did not have connections with any national or international financial firms that could provide funding for the borrowers' projects. A review of Crozier's bank account revealed that Crozier and his co-conspirators received approximately \$928,638 from borrowers, which they used for their personal benefit. The OFR worked jointly with U.S. Immigrations and Customs Enforcement's Department of Homeland Security Investigations in bringing this criminal enforcement action.

Former Fugitive Defendant Sentenced to 55 Months in Federal Prison for Role in Fraudulent Investment Scheme

On October 27, 2016, Abraham Shraga Gutterman was sentenced by a federal court in Miami to serve 55 months in prison for his role in a fraudulent precious metals and stock offering scheme. Gutterman was arrested in June 2016 by Panamanian authorities as a result of an outstanding international arrest warrant issued by the United States Department of Justice. Subsequently, the Panamanian authorities extradited Gutterman to Miami where he has been held without bond. From January 2010 to July 2010, in Miami-Dade County and elsewhere, Gutterman conspired with co-defendant Walter Caceres and others to defraud investors by making material misrepresentations in connection with their company, Venture Trading and Investments, LLC. Specifically, Gutterman

convinced Caceres to serve as the corporate officer of three companies, Venture Trading and Investments LLC, US Coins & Metals LLC and Global Funding Wealth Management, LLC. In that capacity, Caceres, under the direction of Gutterman, controlled the corporate bank account of Venture Trading and Investments LLC, where investors' money was pooled. Caceres disbursed about 50 percent of investors' funds for the benefit of Gutterman. Gutterman solicited investors by making telephone calls and by hiring other individuals to solicit investors by telephone. During these investor telephone solicitations, Gutterman and others used aliases to hide their true identities and lie to potential investors when they claimed to have had an existing investor-client relationship. Gutterman and others told investors that they could make money by purchasing gold options because the price of gold could rise, or by purchasing pre-IPO stock in Global Funding Wealth Management, LLC because the stock of that company was going to triple in price once it went public. Bank records showed that investors' money was not used to purchase any gold options or any pre-IPO stock. Instead, Gutterman and his co-conspirators used investor funds for other purposes, including for their own personal use and benefit. On December 3, 2015, co-defendant Walter Caceres was sentenced to a 30-month prison term to be followed by three years of probation. The sentence followed Caceres's guilty plea to one count of conspiracy to commit wire fraud in violation of Title 18, United States Code, Section 1349. Caceres was also ordered to pay \$605,900 in restitution to victims.

Margate Couple Arrested in Alleged Mortgage Foreclosure Rescue Scam

On November 18, and November 21, 2016, respectively, Weguel Legentus and his wife Chantale Baptiste were arrested on a charge of grand theft for their roles in an alleged fraudulent home loan modification scheme that caused at least one Florida resident to lose approximately \$15,000. The defendants allegedly promised to assist the homeowner with the loan modification for a fee of \$1,500. After the fee was paid, the defendants requested an additional \$2,300, supposedly to pay an attorney to stop the foreclosure. The defendants then requested \$3,500 to put in an "escrow account." Baptiste is alleged to have told the victim to negotiate a mortgage payment plan with the lender under which the victim would pay \$1,150 a month. When the victim contacted the defendants, Baptiste allegedly told the victim that the agreement was with the foreclosure attorney directly and not with the lender. A review of a bank account controlled by a relative of the defendants revealed that one of the checks requested for escrow was deposited into that account. A review of a call log from the victim's lender showed that the defendants made several telephone calls to the lender, alleging they represented the victim and all correspondence should be addressed to them. The lender's records did not show that the defendants submitted a loan modification package on behalf of the victim. After the victim confronted Baptiste, she agreed to refund all the money she collected from the victim, but never did so. The victim ultimately lost the property to foreclosure. Previously, in January 2011, the OFR initiated an examination after receiving a consumer complaint alleging that the defendants engaged in loan modification services and collected

up-front fees without being licensed either as a mortgage broker, mortgage lender or loan originator. The examination revealed that from at least 2009, the defendants negotiated the terms or conditions of existing mortgage loans on behalf of at least six borrowers for compensation. On November 16, 2012, the defendants entered into an agreement with the OFR to cease and desist from any and all future violations of Chapter 494, Florida Statutes.

Brothers Plead Guilty to Investment Fraud

On December 21, 2016, Eric Ager entered a plea of guilty to federal charges of conspiracy to commit mail and wire fraud in connection with a fraudulent investment scheme operating as Tri-Med Corporation. A sentencing hearing has been set for March 13, 2017. The defendant's plea follows a previous guilty plea to the same charges by his brother, Irwin Ager, on December 2, 2016. Irwin Ager's sentencing is set for February 27, 2017. The two brothers, together with at least three other co-conspirators, were responsible for orchestrating the scheme which involved the sale of unregistered securities to mostly elderly Florida residents. The securities were said to be backed by purported medical receivables which the pair claimed to have purchased from medical services providers throughout the country. Both Agers marketed and sold the company's securities to hundreds of people, creating losses of more than \$17 million to investors, \$10.3 million of which was included in the US. Attorney's charges. The company remains under a court-appointed receivership following an OFR civil injunctive action. Evidence obtained to date revealed that very few receivables were purchased and the majority of the investors' funds were used for the personal benefit of the Agers and other co-conspirators. Criminal enforcement action against other defendants is still pending. This case was developed jointly with the United States Secret Service and is being prosecuted by the United States Attorney's Office in Orlando. The OFR is responsible for the majority of the investigative work leading up to these criminal convictions.

4. Substantial Sanctions and Fines

Final Order for \$19,500 Fine Against an Investment Adviser Firm for Violations of Rules

On September 29, 2016, the Division of Securities entered a final order against Gulati Asset Management, LLC for violations of rules by failing to maintain an accurate Form ADV, maintain current written client advisory agreements, file audited financial statements, maintain written investment advisory client suitability information for all of its clients and comply with the safekeeping and custody requirements of the Florida Securities and Investor Protection Act, Chapter 517, F.S. A \$19,500 administrative fine was paid.

Final Order for \$8,500 Fine Against an Investment Adviser Firm and Associated Person for Violations of Rules

On September 29, 2016, the Division of Securities entered a final order against TSL Investment Management, LLC and Sean M. Leder for violations of rules by failing to advise the division that the firm had custody of its clients' assets,

provide client itemized invoices, maintain an accurate Form ADV, maintain an accurate Form U4, file audited financial statements and comply with safekeeping and custody requirements of the Florida Securities and Investor Protection Act, Chapter 517, F.S. A \$8,500 administrative fine was paid.

Final Order for \$6,000 Fine Against an Investment Adviser Firm and Associated Person for Violations of Rules

On October 6, 2016, the Division of Securities entered a final order against Investment Management Services Group, LLC and Thomas Markosky for violations of rules by failing to maintain an accurate Form ADV, maintain an accurate Form U4, maintain accurate professional designation information on the firm's website and establish and maintain written supervisory policies and procedures pertaining to the firm's branch offices. In addition, Mr. Markosky misrepresented his certification and professional designations by improperly identifying himself as a certified financial planner. A \$6,000 administrative fine was paid.

Permanent Bar and \$5,000 Fine Against Investment Adviser Firm for Violations of Florida Statutes and Rules

On October 6, 2016, the Division of Securities entered a final order against Sine Capital, Inc., permanently barring the firm from applying for registration as a dealer or investment adviser under the Florida Securities and Investor Protection Act, Chapter 517, F.S., after the firm failed to request a hearing. The final order follows an administrative complaint, which alleged that Sine Capital, Inc., failed to produce books and records pursuant to the division's written request. A \$5,000 administrative fine was assessed.

Permanent Bar and \$46,500 Fine Against Investment Adviser Firm and Associated Person for Fraud

On October 6, 2016, the Division of Securities entered a final order against Carhart Capital Management, LLC and Owen Thomas Carhart permanently barring the firm and Mr. Carhart from applying for registration as a dealer, investment adviser or associated person under the Florida Securities and Investor Protection Act, Chapter 517, F.S., after the they failed to request a hearing. The final order follows an administrative complaint, which alleged that Carhart Capital Management, LLC and Owen Thomas Carhart failed to maintain an accurate Form ADV, file audited financial statements, maintain required net capital, timely notify the OFR of the firm's net capital deficiency and comply with the safekeeping and custody requirements of the Florida Securities and Investor Protection Act, Chapter 517, F.S. In addition, the administrative complaint alleged that Carhart Capital Management, LLC and Owen Thomas Carhart engaging in fraudulent transactions by overcharging one or more clients excessive advisory fees. A \$46,500 administrative fine was assessed.

Final Order for \$17,500 Fine Against an Investment Adviser Firm and Associated Person for Violations of Rules

On October 27, 2016, the Division of Securities entered a final order against The Alyri Corporation d/b/a The Ducoat Financial Group and Bradley Adam Ducoat for violations of rules by failing to maintain an accurate Form ADV, maintain an accurate Form U4, maintain required net capital, timely notify the OFR of the firm's net capital deficiency, send clients itemized invoices, maintain true and accurate investment advisory contracts and comply with the custody and safekeeping requirements of the Florida Securities and Investor Protection Act, Chapter 517, F.S. A \$17,500 administrative fine was paid.

Final Order for \$7,500 Fine Against an Investment Adviser Firm and Associated Person for Violations of Rules

On November 1, 2016, the Division of Securities entered a final order against Tatco Private Wealth Management, LLC and Tarkan Toksu for violations of rules by failing to maintain an accurate Form ADV, send client itemized invoices, maintain written client advisory agreements, file audited financial statements, maintain written investment advisory client suitability information for all of its clients and maintain books and records in the firm's principal office. A \$7,500 administrative fine was paid.

Final Order for \$12,000 Fine Against an Investment Adviser Firm and Associated Person for Violations of Rules

On December 6, 2016, the Division of Securities entered a final order against Commoncents Wealth Advisors, LLC and Cheryl McCarthy for violations of rules by failing to send clients itemized invoices, maintain required net capital, timely notify the OFR of the firm's net capital deficiency, maintain accurate investment advisory agreements, file audited financial statements, file accurate financial statements, to maintain solicitor disclosure for clients, maintain an accurate Form U-4 and comply with the custody and safekeeping requirements of the Florida Securities and Investor Protection Act, Chapter 517, F.S. A \$12,000 administrative fine was paid.

Final Order for \$15,000 Fine Against an Investment Adviser Firm for Violations of Rules

On December 21, 2016, the Division of Securities entered a final order against Tegesta Capital, LLC for violations of rules by failing to disclose the advisory fee calculation method in client investment advisory contracts. A \$5,000 administrative fine was paid.

Permanent Bar and \$50,000 Fine Against an Unregistered Associated Person

On December 22, 2016, the Division of Securities entered a final order against Alfonso J. Palladino, permanently barring him from affiliating or seeking future registration as a dealer, investment adviser or associated person under the Florida Securities and Investor Protection Act, Chapter 517, F.S. Mr. Palladino was found to have offered and sold unregistered securities and engaged in securities business in Florida without being registered. A \$50,000 administrative fine was assessed.

Permanent Bar and \$100,000 Fine Against an Unregistered Associated Person

On December 23, 2016, the Division of Securities entered a final order against James M. Palladino, permanently barring him from affiliating or seeking future registration as a dealer, investment adviser or associated person under the Florida Securities and Investor Protection Act, Chapter 517, F.S. Mr. Palladino was found to have offered and sold unregistered securities and engaged in securities business in Florida without being registered. A \$100,000 administrative fine was assessed.

Permanent Bar Against an Unregistered Associated Person

On December 23, 2016, the Division of Securities entered a final order against Nick C. Arroyo, permanently barring him from affiliating or seeking future registration as a dealer, investment adviser or associated person under the Florida Securities and Investor Protection Act, Chapter 517, F.S. Mr. Arroyo was found to have offered and sold unregistered securities and engaged in securities business in Florida without being registered.

Final Order for \$6,000 Fine Against an Investment Adviser Firm and Associated Person for Violations of Rules

On December 23, 2016, the Division of Securities entered a final order against Mugarian Investment Group, LLC and John Michael Mugarian for violations of rules. The firm's advertising materials attributed statements to third parties about John Michael Mugarian that were misleading without further describing the context or their source and the firm failed to concurrently send clients invoices itemizing the fees. Mr. Mugarian failed to disclose his other outside business on the Form U-4. A \$6,000 administrative fine was paid.

Fines Totaling \$54,980 for Unregistered Activity

From October 1 to December 30, 2016, the Division of Securities fined four associated persons and one firm for engaging in unregistered investment advisory or securities activities in the state of Florida. Fines totaling \$54,980 were paid.

Denial of Applications

From October 1 to December 30, 2016, the Division of Securities denied seven associated person applications for registration. The notices of intent to deny, in each case, alleged that the applicant made a material misrepresentation or misstatement on their application for registration as an associated person.