

# GOVERNOR RICK SCOTT

## QUARTERLY AGENCY ACHIEVEMENT REPORT

### OFFICE OF FINANCIAL REGULATION

SEPTEMBER 2012

#### JULY THROUGH SEPTEMBER 2012 ACHIEVEMENTS

##### 1. New Additions/Recognitions

On August 27, 2012, the OFR welcomed French Brown as Director of Legislative and Cabinet Affairs. Prior to joining the OFR, Brown was the Deputy Director of Technical Assistance and Dispute Resolution at the Florida Department of Revenue.

On September 11, 2012, Bill Reilly, Division of Securities, was honored with an Outstanding Service Award by the North American Securities Administrators Association (NASAA). NASAA recognized Reilly at its annual conference for his distinguished career and contributions to investor protection in Florida and throughout North America. NASAA acknowledged Reilly's long leadership and contributions to the Broker Dealer Operations Project Group toward the betterment of the securities marketplace, and for his commitment to the NASAA membership for providing the highest levels of professional training.

##### 2. Quarterly Statistics

###### Division of Securities

○ Examinations Opened:	65
○ Examinations Closed:	52
○ Complaints Received:	46
○ Complaints Closed:	52
○ Applications Received:	12,434
○ Applications Approved:	12,278
○ Applications Denied/Withdrawn:	137

###### Division of Consumer Finance

○ Examinations Opened:	81
○ Examinations Closed:	135
○ Complaints Received:	771
○ Complaints Closed:	747
○ Applications Received:	7,543
○ Applications Approved:	7,382
○ Applications Denied/Withdrawn:	205

##### 3. Outreach Programs

On July 13, 2012, representatives from the Division of Consumer Finance attended the [Florida Association of Mortgage Professionals \(FAMP\) Annual Convention in Tampa](#). 420 participants attended the convention.

On July 10, July 13, and August 10, 2012, the Division of Consumer Finance conducted a first time home buyer's seminar. The seminars were conducted in Fort Walton Beach and Pensacola and are part of an ongoing series of seminars conducted by the Division.

On July 30, 2012, Division of Securities staff participated in the *Securities and White Collar Crime Roundtable* meeting held in Miami with the U.S. Securities and Exchange Commission, the Financial Industry Regulatory Authority, the Federal Bureau of Investigation and the United States Attorney's Office.

On August 6-9, 2012, six members of the Division of Securities' staff attended the North American Securities Administrators Association (NASAA) Investment Adviser training. The training provided the Division's staff with ways to strengthen the investment adviser registration process and techniques and guidance for examiners for conducting examinations of investment advisers who recently switched from SEC registration to state registration with assets under management of \$25 - \$100 million dollars.

On September 18, 2012, Division of Securities staff met with representatives of the Financial Planning Association. Among the items discussed were current Division initiatives to streamline the registrations process, an improvement to OFR's website that allows for the filing of anonymous tips and the regulation of investment advisers.

#### **4. Continuity of Operations**

On August 8, 2012, the OFR Interim Commissioner, Linda Charity, issued a [proclamation](#) authorizing state, national, and federally chartered financial institutions located in areas adversely impacted by emergency security measures of the Republican National Convention, to close or remain closed from Friday, August 24, 2012, at 6pm EDT until Friday, August 31, 2012, at 6pm EDT.

On August 24, 2012, the OFR Interim Commissioner, Linda Charity, issued a [proclamation](#) authorizing state, national, and federally chartered financial institutions located in those areas adversely affected by Tropical Storm/Hurricane Isaac to close or remain closed until the officers of such institutions advise the emergency conditions no longer exist. This included institutions in the Miami, Tampa and Florida Panhandle areas.

#### **5. Operational Efficiencies**

On September 16, 2012, the OFR unveiled a redesigned website. The website is more streamlined, user friendly, and easier to navigate. Additionally, the improvements to the website will mean less time on the phone for the OFR staff

as more information is readily available online. The OFR will continue to look for ways to improve the site and offer better services for consumers and the financial industry. It should be further noted, the agency leveraged an existing contract to complete the website redesign at no additional cost.

## **6. Substantial Sanctions**

### **FINAL ORDER FOR \$100,000 FINE AND OFFER OF RESCISSION TO FLORIDA CUSTOMERS AGAINST AN UNREGISTERED ISSUER DEALER AND AGENTS FOR OFFERING AND SELLING UNREGISTERED SECURITIES**

On July 2, 2012, the Division of Securities issued a Final Order against LendingClub Corporation, Renaud Laplanche and Patrick Gannon for engaging in securities business in Florida without being registered to conduct securities business and for offering and selling unregistered securities. From September 21, 2010 to January 8, 2012, LendingClub, Mr. Laplanche and Mr. Gannon offered and sold 849 member notes valued at initial issuance of \$9,571,075 to Florida residents without being registered with the Office. LendingClub has agreed to offer rescission to their Florida customers who purchased the unregistered member notes and to pay a \$100,000 administrative fine to the Office. Pursuant to the Final Order, LendingClub shall be registered as an Issuer Dealer and Mr. Laplanche shall be registered as an Issuer Dealer Agent.

### **FINAL ORDER FOR \$697,250 FINE AND PERMANENT BAR AGAINST A FUND ISSUER AND MANAGER FOR FRAUD**

On July 20, 2012, the Division of Securities entered a Final Order against Jose Salvador Rubio and Rubio Wealth Management, LLC, for the following: omissions and misrepresentations of material fact to investors regarding the Rubio Trading Group, LP Hedge Fund (RTG Hedge Fund); converting investors' monies in the RTG Hedge Fund to pay personal expenses; commingling investor funds with non-investor funds; and failing to provide investors with an audit of the RTG Hedge Fund. Administrative fines of \$346,750 and \$350,500 were assessed against Mr. Rubio and Rubio Wealth Management, LLC, respectively. Mr. Rubio and Rubio Wealth Management, LLC are permanently barred from submitting any application or notification for a license or registration with the Office.

### **REVOCACTION OF LICENSE**

On August 22, 2012, the Division of Consumer Finance revoked the license of Ft. Lauderdale-based Coastal States Mortgage Corporation for having poor financial condition and bouncing checks from escrow funds. The Division ordered Coastal States Mortgage Corporation and its President Patrick J. Mansell to cease and desist from soliciting or obtaining new mortgage loans and from using mortgage payoff or escrow funds for its operating expenses. The company has 30 days to prove that it satisfied the liabilities of the 600 checks to clients by forwarding payments to them.

### PERMANENT BAR AND \$293,625 FINE AGAINST AN UNREGISTERED AGENT

On September 5, 2012, the Division of Securities entered a Final Order against Andrew C. Powell for engaging in securities business in Florida without being registered to conduct securities business. Mr. Powell was permanently barred from submitting any application or notification for a license or registration with the Office. A \$293,625 administrative fine was assessed.

### FINAL ORDER FOR \$18,500 FINE AGAINST AN INVESTMENT ADVISER FIRM AND AGENT FOR UNREGISTERED ACTIVITY

On September 13, 2012, the Division of Securities issued a Final Order against Martin Douglas Parlato and Lighthouse Financial Services for engaging in an investment advisory business without being registered, engaging in misleading advertising, failing to comply with safekeeping requirements, failing to offer clients a pro-rata refund of their pre-paid fees, and charging clients an unreasonable start-up fee. He was fined \$18,500 and ordered to hire a compliance consultant.

### FINAL ORDERS FOR \$25,500 IN FINES AGAINST INVESTMENT ADVISER FIRMS FOR FAILURE TO FILE FINANCIAL STATEMENTS

From July 1 to September 26, 2012, the Division of Securities entered Final Orders against 14 Investment Adviser firms for failure to file annual financial statements. Six firms voluntarily terminated their registration in Florida. A total of \$25,500 in administrative fines was paid.

## **7. Significant Enforcement Actions**

### MAN SENTENCED TO FIVE YEARS FOR PRECIOUS METALS FRAUD

On July 23, 2012, Defendant Julio Mercado, a resident of Wellington, Fla., was sentenced to five years in prison after he pled guilty to grand theft and organized scheme to defraud. From 2009 through 2010, Mercado stole a total of \$304,500 from six investors by soliciting them to purchase precious metals and individual stocks by masquerading as a representative of Lexington Financial Group, a Massachusetts based investment firm with the same name. The investigation revealed Mercado never purchased metals or stocks; instead, he converted the investor funds for his personal benefit.

### FINE FOR SALE OF UNREGISTERED SECURITIES

On July 25, 2012 a final order was issued against Jack A. Arnold ordering him to cease and desist from the sale of unregistered securities and assessing a fine of \$255,000. The investigation revealed that he sold \$4.8 million of unregistered securities to 68 Floridians.

### MAN CHARGED WITH SALE OF UNREGISTERED SECURITIES

On August 8, 2012, Michael Thomas Hardman was arrested on state charges of two counts of sale of unregistered securities, and sale of securities by an

unregistered dealer. It is alleged that since at least March 2005, Hardman sold notes issued by Tech Support Systems, Inc., a company he owned and controlled, to friends and acquaintances he met primarily through Alcoholics Anonymous. He also found investors through the preparation of their income tax returns. Hardman is further alleged to have told investors their money would be invested in a guaranteed fund and assured them their money was not at risk.

#### INDICTMENT ISSUED IN PRECIOUS METALS FRAUD

On August 9, 2012, a federal indictment was unsealed in Miami charging Arthur John Schlecht, Frederick Gomer, Carlos Rodriguez and Ricardo Padron with conspiracy to commit mail and wire fraud in connection with an elaborate precious metals investment fraud scheme through Global Bullion Trading Group and WJS Funding, Inc. The indictment alleges the defendants operated an in-house telemarketing operation which solicited the general public to invest in precious metals with leveraged/margin accounts. The telemarketing operation brought in more than \$48 million from investors. The joint state and federal investigation revealed the defendants did not purchase precious metals nor did they maintain individual accounts on behalf of investors and instead diverted substantial sums for their personal benefit.

#### MAN CONVICTED OF FRAUD BY JURY

On August 17, 2012, Alipio Estruch was convicted after a trial in state court of one count of grand theft and one count of organized scheme to defraud. The jury found that from January 2010 through June 2010, Estruch solicited \$53,400 from six investors nationwide to purchase precious metals. The victims were solicited through telephone cold calls from Estruch in his boiler room. Estruch told the investors they could make a lot of money if they purchased gold and silver bullion. Investigators determined that precious metals were never purchased and instead, Estruch used investors' funds for his own benefit.

#### EIGHT PERSONS SENTENCED FOR MORTGAGE FRAUD

On August 20, 2012, eight persons were sentenced as part of a complex, \$10.2 million mortgage fraud scheme. The joint OFR/FBI investigations revealed the defendants, many of whom are from Trinidad, committed mortgage fraud in Broward, Palm Beach, Miami-Dade, Collier, Polk, and St Lucie counties. The fraud ring identified residential properties to be purchased and then conspired with a loan processor, a bank employee, and multiple straw buyers to submit loan applications containing grossly inflated statements of the loan applicant's earnings and employment to lenders. Most of the homes that were purchased were left in foreclosure. The case was unique in that the straw buyers, who are not commonly charged, were sentenced to terms ranging from 26 to 33 months in federal prison.

#### DEFENDANT SENTENCED FOR BANK FRAUD CONSPIRACY SCHEME

On August 23, 2012, On 08/23/2012 Wifredo A. Ferrer, United States Attorney for the Southern District of Florida; and Michael B. Steinbach, Acting Special

Agent in Charge, Federal Bureau of Investigation (FBI), Miami Field Office, announce that defendant Linda Irene Rovetto, 69, of Lake County, was sentenced in federal court for her participation in a bank fraud conspiracy scheme. Rovetto had previously pled guilty to converting and misdirecting more than \$3.5 million of real estate escrow funds. Rovetto was sentenced to 42 months in prison, to be followed by five years of supervised release. In addition, Rovetto was ordered to pay restitution in the amount of \$2,040,343.14 to the banks defrauded by her conduct. Mr. Ferrer commended the investigative efforts of the FBI. Mr. Ferrer also thanked the State of Florida Office of Financial Regulation, Bureau of Finance, West Palm Beach Regional Office, for their work on this investigation.

#### [FL Woman Sentenced on Bank Fraud Charges Involving Real Estate Escrow Funds](#)

#### DEFENDANTS SENTENCED FOR MORTGAGE FRAUD

On September 5, 2012, five defendants were sentenced in the U.S. District Court, Northern District of Florida, for their roles in a multimillion dollar mortgage fraud scheme targeting properties in Bay County, Florida. Four of the defendants plead guilty. The fifth defendant, Avinie M. Bates III (the owner of Right Choice Housing), was convicted following a jury trial. Bates was sentenced to 147 months in prison; Jill B. Newman-Zuravel (an attorney) was sentenced to 48 months; Meredith L. King (a title agent) was sentenced to 30 months; and Alan J. Nathan and Joann V. Walter (both previously licensed mortgage brokers) were sentenced to 32 months and 20 months, respectively.

#### OPERATOR OF PONZI SCHEME SENTENCED TO SEVEN YEARS

On September 7, 2012, Juan Carlos Rodriguez (Rodriguez) was sentenced to 84 months in federal prison. Rodriguez, a CPA who operated a tax service business in Miami-Dade County, solicited money from individuals by representing his company invested in high yield stocks and precious metals which generated a 20 percent to 50 percent return on a monthly basis for investors. Rodriguez never invested any money collected from investors. Instead, he operated a Ponzi scheme in which money from newer investors was used to make payments to earlier investors. The investigation also determined that Rodriguez used approximately \$1 million of investor funds for his own benefit.

#### DEFENDANT SENTENCED IN \$113 MILLION PONZI SCHEME

On September 20, 2012, Lydia Cladek was sentenced to 30 years in prison for masterminding a \$113 million Ponzi scheme. Cladek's scheme involved the sale of promissory notes allegedly secured by high interest rate automobile loans. The joint OFR/FBI investigation found that Cladek made misrepresentations to investors concerning the collateral purportedly securing their promissory notes. Investigators also determined that Cladek misappropriated investor funds to support her lavish lifestyle and to repay earlier investors.

#### FORMER MORTGAGE BROKERS CHARGED IN FRAUD SCHEME

On September 21, 2012, defendants Roslyn Wolff and Uriel Yudewitz were arraigned on information charging them each with two counts of making false statements on a loan application. The joint state/federal investigation revealed the defendants, both former mortgage brokers, purportedly located various properties to purchase and employ straw buyers to apply for loans. The defendants then allegedly prepared and submitted fraudulent loan applications in the straw buyers' names. Once the loans were made and the properties were purchased, Wolff used quit claim deeds to transfer ownership of the properties to businesses she controlled. She then took out home equity loans, stripping any remaining equity out of the properties. Eventually, she defaulted on the loans and the properties went into foreclosure.

#### MAN ARRESTED FOR PRECIOUS METALS FRAUD

On September 25, 2012, Scott Hewel was arrested on fraud and theft charges filed by the Broward County State Attorney. The OFR investigation determined that four victims were solicited to invest in a leveraged precious metals program. The investors were purportedly told their investment would be safe and grow. A review of bank records revealed Hewel used investor money for his own benefit.