

# GOVERNOR RICK SCOTT

## MONTHLY AGENCY ACHIEVEMENT REPORT

### OFFICE OF FINANCIAL REGULATION

MAY 2017

#### MAY ACHIEVEMENTS

##### 1. Monthly Statistics

- Division of Securities
  - Examinations Opened: 14
  - Examinations Closed: 19
  - Complaints Received: 12
  - Complaints Closed: 23
  - Applications Received: 3,165
  - Applications Approved: 3,187
  - Applications Denied/Withdrawn: 77
  
- Division of Consumer Finance
  - Examinations Opened: 17
  - Examinations Closed: 39
  - Complaints Received: 182
  - Complaints Closed: 136
  - Applications Received: 2,372
  - Applications Approved: 2,369
  - Applications Denied/Withdrawn: 99
  
- Division of Financial Institutions
  - Examinations Opened: 9
  - Examinations Closed: 9
  - Complaints Received: 47
  - Complaints Closed: 41
  - Applications Received: 17
  - Applications Approved: 7
  - Applications Denied/Withdrawn: 1
  
- Bureau of Financial Investigations
  - Investigations Opened: 9
  - Investigations Closed: 9

##### 2. Substantial Sanctions and Fines

Final Order for \$10,500 Fine Against an Investment Adviser Firm and Associated Person for Violations of Rules

On April 27, 2017, the Division of Securities entered a final order against Leslie Gale Advisors, LLC and Steven A. Schneider for violations of rules by failing to maintain an accurate Form ADV, file audited financial statements, send itemized invoices, enter into written client investment advisory agreements and maintain current investment advisory client suitability information. In addition, the firm and Mr. Schneider published untrue statements of material facts on the firm's website. A \$10,500 administrative fine was paid.

Final Order for \$3,000 Fine Against an Investment Adviser Firm and Associated Person for Violations of Rules

On April 27, 2017, the Division of Securities entered a final order against Alderman Capital Advisors, LLC and Joseph Michael Alderman, III, for violations of rules by failing to maintain an accurate Form ADV, maintain an accurate Form U-4, file financial statements, send itemized invoices, maintain written supervisory procedures, maintain required net capital, timely notify the OFR of the firm's net capital and comply with the custody and safekeeping requirements of the Florida Securities and Investor Protection Act, Chapter 517, F.S. In addition, the firm entered in to client advisory agreements that did not include the amount of prepaid advisory fee to be returned in the event of contract termination or non-performance. A \$3,000 administrative fine was paid.

Permanent Bar Against an Associated Person for Violations of Rules

On May 4, 2017, the Division of Securities entered a final order against Andrew Todd Yocum permanently barring him from submitting an application or notification for licensure under Florida Securities and Investor Protection Act, Chapter 517, F.S. Mr. Yocum was found to have violated Florida rules by executing trades without being granted discretion, conducting unauthorized trades and making unsuitable investments.

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

On May 5, 2017, the Division of Securities entered a final order against Kelley & Associates, LLC and Sean P. Kelly for violations of rules by failing to maintain an accurate Form ADV, file audited financial statements, send itemized invoices, maintain required net capital, timely notify the OFR of the firm's net capital, 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 Terminating a Deferred Presentment Providers License and Ordering Refunds Be Made to Qualifying Consumers

On May 5, 2017, the Division of Consumer Finance entered a final order against Employee Financial Services, LLC, f/k/a Convenient Payday Lending, LLC and Joseph Lettelleir for failure to include the licensee's registration number on the contract, for charging fees that exceeded 10 percent of the currency provided, for failure to provide the correct annual percentage rate to the drawer, for executing a deferred presentment agreement with a term longer than 31 days or shorter than

seven days, failure to submit the correct date of transaction to the deferred presentment database, failure to implement its anti-money laundering policy, failure to obtain an annual financial audit report and submit it to the OFR within 120 days after the end of the licensee's fiscal year, failure to report a change in bank account information to the OFR within 30 days of the change, and for transacting business under a name which was not licensed by the OFR.

Final Oder for \$10,600 Against a Check Casher for Prohibited Business Practices

On May 5, 2017, the Division of Consumer Finance entered a final order against DW Financial Group, Inc., and Frisnel Diejuste for failure to conduct an independent audit review of its anti-money laundering policy, failure to maintain an acceptable form of identification for customers who cashed a payment instrument over \$1,000, failure to file accurate quarterly reports with the OFR, and for failure report a change in bank account information to the OFR within 30 days of the change being made.

Final Order for \$8,500 and a 20-Day Suspension Against a Check Casher for Prohibited Business Practices

On May 8, 2017, the Division of Consumer Finance entered a final order against Wahnetta Discount Foods, Inc., and Hassan M. Haifa for failure to maintain a complete electronic payment instrument log, and for failure report a change in bank account information to the OFR.

Final Order for \$12,500 and a 30-Day Suspension Against a Check Casher for Prohibited Business Practices

On May 8, 2014, the Division of Consumer Finance entered a final order against Kruti Corporation, d/b/a E-Z Way Food & Beverage, and Ketankumar Patel for failure to maintain a copy of each payment instrument cashed, failure to endorse each payment instrument cashed with its legal name, failure report a change in bank account information to the OFR within 30 days of the change and for failure to implement its Anti-Money Laundering Policy.

Final Order for \$15,142 Against a Check Casher for Prohibited Business Practices

On May 8, 2017, the Division of Consumer Finance entered a final order against Cash Services, Inc., d/b/a Cash Plus and Thomas Moser, for failure to maintain complete customer files for customers who cash corporate payment instruments, failure to maintain copies of valid identification accepted for cashing a payment instrument, failure to maintain a complete electronic log, failure to endorse each payment instrument cashed with its legal name, and failure to implement its anti-money laundering policy.

Final Order Revoking a Check Casher/Deferred Presentment Providers License, and Barring Them from the Industry for 15 years for Prohibited Business Practices

On May 8, 2017, the Division of Consumer Finance entered a final order against Cash City, Inc., Eddie K. Essa, and Judie E. Farhat for failure to maintain and review complete customer files for customer who cash corporate payment

instruments, failure to maintain copies of valid identification accepted for cashing a payment instrument, failure to ensure that each deferred presentment contract complied with the Truth in Lending Act, failure to notify the OFR of a change in bank account information within 30 days.

Final Order for \$15,000 Against a Check Casher for Prohibited Business Practices

On May 8, 2017, the Division of Consumer Finance entered a final order against Buy & Save USA of Seffner, Inc., d/b/a United Check Cashing, Luis Diaz Jr., and Amy Diaz for failure to report a change in its d/b/a name to the OFR within 30 days of the change, failure to maintain complete customer files on customers who cashed third party corporate checks, failure to maintain acceptable forms of identification of customers who cashed a check over \$1,000, failure to maintain a complete electronic log of payment instruments cashed and for transacting business under a name which was not licensed by the OFR.

Final Order Revoking a Check Cashers License for Prohibited Business Practices

On May 8, 2017, the Division of Consumer Finance entered a final order against BMB Corporation of Leesburg, d/b/a Bob's Zippy Market #2, and Mukeshkumar Patel for failure to maintain complete customer files on customers who cashed third party corporate checks, failure to maintain attention of the compliance officer until the independent review of the anti-money laundering policy was completed, failure to endorse payment instruments with its legal name, failure to maintain a complete electronic log of payment instruments cashed, failure to maintain a copy of the customers acceptable form of identification, failure to maintain a copy of the thumbprint taken when cashing a check more than \$1,000, failure to maintain complete of payment instruments it cashed, failure to register or renew registration with FinCEN, failure to implement its anti-money laundering policy and for utilizing its depository institution for the maintenance and storage of its records.

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

On May 8, 2017, the Division of Securities entered a final order against Michael Alan Martin for violation of rules by failing to obtain his employing broker dealer's approval for advertising prior to its use. A \$7,500 administrative fine was paid.

Final Order for \$25,000 Fine Against an Associated Person for Violation of Rules

On May 10, 2017, the Division of Securities entered a final order against Keith H. Schienberg after he failed to request a hearing. The final order follows an administrative complaint, which alleged Mr. Schienberg violated rules by failing to update the Form ADV in a timely manner and timely file annual financial statements. A \$25,000 administrative fine was assessed.

Final Order for \$154,000 Fine Against an Unregistered Dealer for Unregistered Activity

On May 10, 2017, the Division of Securities entered a final order against

Assurity Capital, Inc., for engaging in securities business in Florida without being registered, selling unregistered securities and failing to provide each investor a prospectus prior to the sale of securities. A \$154,000 administrative fine was assessed.

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

On May 15, 2017, the Division of Securities entered a final order against Seeman Holtz Financial Corp., for violations of rules by failing to maintain an accurate Form ADV, file audited financial statements, send itemized invoices and enter into written investment advisory contracts. A \$7,500 administrative fine was paid.

Final Order for \$44,500 in Total Fines Against an Investment Adviser Firm and Associated Person for Violations of Rules

On May 15, 2017, the Division of Securities entered a final order against Phillips Advisory Group, LLC and Sarah Ruth Phillips-Frangioni after they failed to request a hearing. The final order follows an administrative complaint, which alleged Phillips Advisory Group failed to maintain an accurate Form ADV, file audited financial statements, maintain required net capital, maintain accurate and current records and comply with the custody and safekeeping requirements of the Florida Securities and Investor Protection Act, Chapter 517, F.S. In addition, the administrative complaint alleged Sarah Ruth Phillips-Frangioni failed to maintain an accurate Form U-4. A total of \$44,500 in administrative fines was assessed.

Final Order for \$6,750 Fine Against an Investment Adviser Firm for Violations of Rules

On May 15, 2017, the Division of Securities entered a final order against Enhance Advisors, LLC for violations of rules by failing to maintain an accurate Form ADV, file audited financial statements, send itemized invoices and maintain required net capital. In addition, the firm entered in to client advisory agreements that did not include the amount of prepaid advisory fee to be returned in the event of contract termination or non-performance. A \$6,750 administrative fine was paid.

Permanent Bar and \$1,375,000 Fine Against Unregistered Associated Person for Fraud

On May 15, 2017, the Division of Securities entered a final order against A.J. Brent, Jr., permanently barring him from submitting an application or notification for registration with the OFR, after he failed to request a hearing. The final order follows an administrative complaint, which alleged that Mr. Brent offered and sold unregistered securities, engaged in securities business in Florida without being registered and obtained money by means of fraud. A \$1,375,000 administrative fine was assessed.

Permanent Bar and \$950,000 Fine Against Unregistered Associated Person for Fraud

On May 15, 2017, the Division of Securities entered a final order against John Leo Parker permanently barring him from submitting an application or notification for registration with the OFR, after he failed to request a hearing. The final order follows an administrative complaint, which alleged that Mr. Parker offered and sold unregistered securities, engaged in securities business in Florida without being registered and obtained money by means of fraud. A \$950,000 administrative fine was assessed.

Permanent Bar and \$600,000 Fine Against Unregistered Associated Person for Fraud

On May 15, 2017, the Division of Securities entered a final order against Elliott Seth Simon permanently barring him from submitting an application or notification for registration with the OFR, after he failed to request a hearing. The final order follows an administrative complaint, which alleged that Mr. Simon offered and sold unregistered securities, engaged in securities business in Florida without being registered and obtained money by means of fraud. A \$600,000 administrative fine was assessed.

Final Order for \$2,500 Fine and \$5,683.98 in Refunds to Florida Consumers Against a Motor Vehicle Retail Installment Seller for Prohibited Business Practices

On May 15, 2017, the Division of Consumer Finance entered a final order against WOW Auto Deals, LLC and Jose Cortavarria for failure to pay, use or disburse all listed charges for the purposes stated, failing to refund the balance to customers, or present proof thereof, and for failure to maintain documentation showing proof of payment of the documentary stamp tax.

Permanent Bar Against an Associate Person for Violation of Rules

On May 18, 2017, the Division of Securities entered a final order against Dean Emmets permanently barring him from submitting an application or notification for registration under Chapter 517, F.S., after he failed to request a hearing. The final order follows an administrative complaint, which alleged that Mr. Emmets provided false and/or misleading advertising, misrepresented his qualifications and failed to maintain his Form U4.

Final Order for \$10,000 Fine Against an Associated Person for Violation of Registration Agreement and Rules

On May 23, 2017, the Division of Securities entered a final order against Daniel S. Pikula for violations of rules by exercising discretionary power in a customer's account without first obtaining written authority and for violating the terms of his June 25, 2015 registration agreement with the OFR. A \$10,000 administrative fine was paid.

Suspension of an Associated Person's Registration

On May 23, 2017, the Division of Securities entered a final order against Michael C. Ahlberg, suspending his registration as an associated person for 12 months for making a material misrepresentation or misstatement on his application for registration.

Final Order for \$3,000 Fine Against an Associated Person for Violation of Rules

On May 23, 2017, the Division of Securities entered a final order against Howard Materetsky for violating rules by failing to maintain an accurate Form U4. A \$3,000 administrative fine was paid.

Permanent Bar Against an Investment Advisor Firm for Violation of Rules

On May 23, 2017, the Division of Securities entered a final order against Crescendo Wealth Advisors, LLC permanently barring the firm from submitting an application or notification for registration under Chapter 517, F.S., after the firm failed to request a hearing. The final order follows an administrative complaint, which alleged Crescendo Wealth Advisors, LLC violated rules by failing to maintain written supervisory procedures, update the Form ADV, maintain required net capital, timely notify the OFR of the firm's net capital deficiency, comply with financial reporting requirements, maintain accurate and current records, amend inaccurate Form U4 and comply with the Investment Advisors Act of 1940. In addition, Crescendo Wealth Advisors, LLC engaged in prohibited business practices by misrepresenting the qualifications of the firm's owner and sole associated person, Jean-Robert Latortue, Jr.

Final Order for \$60,000 Fine Against an Unregistered Issuer Dealer and an Associated Person for Fraud

On May 25, 2017, the Division of Securities entered a final order against Social Voucher.Com, Inc., Mobile App Technologies, Inc., and Gerald C. Parker for offering and selling unregistered securities, engaging in securities business in Florida without being registered and obtaining money by means of fraud. A \$60,000 administrative fine was assessed.

Denial of Applications

From May 1- 25, 2017, the Division of Securities denied five associated persons' 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.

**3. Enforcement Actions**

On May 4, 2017, Phillipe Bourciquot was sentenced to five years in prison following his entry of a guilty plea to charges of racketeering, securities fraud and grand theft. Bourciquot was arrested by FDLE agents on July 14, 2014, for his role in the creation and promotion of a Ponzi scheme targeting the Haitian-American community in South Florida. Bourciquot operated a daily radio program in South Florida through which he solicited potential investors to "lend" him money to make investments in the currency markets in exchange for a fixed rate of return

of 8 percent per month. More than \$3 million in investor funds were invested with Bourciquot through his scheme. On February 20, 2014, an undercover operation was executed with FDLE in which Bourciquot was recorded delivering an investment pitch to an OFR investigator. Bourciquot's representations to the investigator included a promise of 50 percent returns on his investment. A search of Bourciquot's home and two storefront business locations in Lake Worth were conducted pursuant to a search warrant obtained simultaneous to the warrant for Bourciquot's arrest. The Attorney General's Office of Statewide Prosecution prosecuted the case. A final restitution hearing has been set for May 31, 2017.

On May 12, 2017, Chantale Baptiste and her husband Weguel Legentus were arrested on a federal charge of conspiracy to defraud the government in relation to a \$6 million fraudulent tax refund scheme. Baptiste and Legentus were arrested by agents of IRS Criminal Investigation with assistance from the Coral Springs Police Department, the Margate Police Department, and the Broward County Sheriff's Office. The arrest follows a May 5, 2017, grand jury indictment which alleges that from at least 2013 through 2016, Baptiste and Legentus operated CMB Financial Group, Inc., a tax preparation business with offices in Broward and Palm Beach Counties through which they prepared and submitted fraudulent federal income tax returns to the IRS on behalf of clients who often had no knowledge of the false claims. The investigation showed that Baptiste and Legentus provided their clients with a copy of their prepared tax returns while falsely submitting a different copy to the IRS with inflated figures. As a result, the IRS disbursed funds to a third party's bank account from which funds were transferred to various bank accounts controlled by Baptiste and Legentus. Baptiste and Legentus sometimes provided their clients third party checks for lesser refund amounts than what the IRS refunded and retained the remaining funds for their own use and benefit. The investigation also showed that many of the victims' income tax refund checks were cashed at a check cashing business in Pompano Beach, which several victims claimed was unknown to them. In a separate case, on November 21, 2016, Baptiste and Legentus were arrested and charged with one count of grand theft in the third degree in violation of Florida Statutes, 812.014(2)(c)(3), for defrauding a Broward County resident out of more than \$15,000 in a loan modification scheme. That investigation revealed that on or about May 2015, the victim went to CMB seeking assistance with a home loan modification due to a pending foreclosure. The victim alleges she met with Baptiste and Legentus and during the initial conversation the defendants promised to assist her with the loan modification for a fee of \$1,500. Once the fee was paid, the defendants continued to demand more fees from the victim and managed to collect an additional \$5,800 from her in payment of supposed attorney's fees and escrow requirements. Baptiste is alleged to have told the victim she had negotiated a mortgage payment plan with the lender under which the victim would pay \$1,150 a month. The victim made approximately five payments to the defendants until she contacted her lender and learned that she was not in a payment plan at all. 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 her property to foreclosure. The state's criminal case against the defendants is still pending, with a warrant still outstanding for their arrests for failing to appear in court. Separately, 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. This case was developed jointly with IRS-Criminal Investigation, the Margate Police Department and the Broward County Sheriff's Office.

On May 15, 2017, Philip Jon-Luke St. John, founder and president of Capital Strategy Investments Inc. (CSI), was sentenced and placed into state's custody. St. John entered a plea of no contest in Charlotte County Circuit Court to charges of securities fraud and grand theft for his role in an investment fraud scheme that victimized two out-of-state investors. St. John was sentenced to 36 months in prison to be followed by 120 months of probation and ordered to pay restitution to his two victims as well as all associated court costs. St. John was arrested in August 2016, for defrauding investors with promises that he would triple their money in 34 business days through an exclusive trading platform. Following his arrest, St. John was interviewed in jail by OFR investigators and admitted that he was operating under an assumed name. He admitted that his real name was Peter John Barberio and that his criminal record included convictions for robbery and tampering with witnesses; convictions for which he served prison sentences in the State of New Jersey. St. John also admitted to taking investors' money and using it for personal expenses. The OFR investigation found that the two investors relied on St. John's representations that their funds would be used to generate large returns on his exclusive platform. Bank records analysis, however, revealed that the investors' money was not used towards any investment, but was instead appropriated by St. John for his personal use. The OFR was the sole investigative agency in this criminal enforcement action. The Charlotte County Sheriff's Office & Punta Gorda Police Department are credited with St. John's arrest. The case is being prosecuted by the State Attorney's Office for the 20th Judicial Circuit of Florida in Charlotte County.

#### **4. Communications and Outreach Activities**

On April 25, 2017, several members of the Division of Financial Institutions attended the National Credit Union Administration Region III meeting.

On April 27-28, 2017, two members of the OFR attended the Conference of State Bank Supervisors District III spring meeting in Asheville, North Carolina.

On May 9-10, 2017, two members of the OFR attended the Spring Interagency Meeting hosted by the Federal Reserve Bank in Atlanta, Georgia.

On May 9, 2017, two members of the Division of Financial Institutions participated as presenters at the Small Asset Size Credit Union Workshop hosted by the League of Southeastern Credit Unions in Tallahassee.

On May 17, 2017, a member of the Division of Financial Institutions represented the OFR on a regulatory panel focusing on the Bank Secrecy Act, anti-money laundering and the Office of Foreign Assets Control. The event was hosted by the South Florida Banking Institute in Miami.