

OHIO SECURITIES BULLETIN

A QUARTERLY PUBLICATION OF THE OHIO DIVISION OF SECURITIES

Bob Taft
Governor of Ohio

Doug White
Director of Commerce

Dale Jewell
Commissioner of Securities

Two Men Indicted and Arrested as a Result of Investigation

On July 1, 2005, a Licking County grand jury indicted two men on various securities violations, resulting in their arrests. The indictment was a result of a joint investigation by the Division, the Ohio Department of Insurance, the Licking County Sheriff's Office, as well as the Newark, Heath and Pataskala police departments. Carl G. Fanaro, a former Columbus resident who currently resides in Tampa, Florida, and William H. Mayes of Powell, Ohio were arrested after the indictments were handed down.

Fanaro was indicted on 52 counts and Mayes was indicted on 26 counts in an alleged scam involving the sale of more than \$330,000 in securities to at least 13 investors, mostly living in Licking County. The two men are accused of violating several provisions of the Ohio Securities Act by selling limited partnership interests and bonds in Americable V Partnership of Florida, as well as other companies.

Both Fanaro and Mayes were indicted on 13 counts each of securities fraud and selling unregistered securities. Fanaro was also indicted on 13 counts of the unlicensed sale of securities and 13 counts of making false representations in the sale of securities. All are felony counts. The case will be prosecuted by the Licking County Prosecutor's Office. No trial date has been scheduled.

Long to Oversee Division's Licensing Section

The Division has obtained a new Chief of Licensing, Bradley P. Long. Long will occupy the post formerly held by Dale Jewell, the current Commissioner of Securities. Long commenced his duties on June 27th. As Chief of Licensing, Long will be overseeing a staff of eight people and all operations dealing

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OHIO

DEPARTMENT OF
COMMERCE

DIVISION OF
SECURITIES

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Ohio Securities Bulletin

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Long to Oversee Division's Licensing Section

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with the licensure of brokers, salespeople, investment advisers and investment adviser representatives.

Long brings much experience and a lengthy public service record to his new post. Long formerly served as Assistant to the Director of the Ohio Department of Commerce, coordinating the logistical, fiscal, personnel, legal, graphics, and printing needs of all divisions within the Department. In 1977, he was appointed Chief of the Division of Consumer Protection, prior to its transfer to the Attorney General's office. One of the Division's major functions at that time was administering the Consumer Sales Practices Act.

Long helped establish and manage a firm representing corporate clients and business trade associations in government matters. He served in this capacity for 22 years. In 2001, he joined the Ohio Historical Society as Director of Government Relations.

Long also had been a prominent presence in various civic and charitable organizations, including the Ohio Caring Foundation, which helped raise money to purchase in-

surance for underprivileged children, and Ohio Parents for Drug Free Youth. He was President of the Board of both organizations.

Long received his Bachelor of Science degree from the Ohio State University in 1974 and his Master of Business Administration degree from Capital University in 1980.



OHIO SECURITIES BULLETIN

Desiree T. Shannon, Esq., Editor

The *Ohio Securities Bulletin* is a quarterly publication of the Ohio Department of Commerce, Division of Securities. The primary purpose of the *Bulletin* is to (i) provide commentary on timely or timeless issues pertaining to securities law and regulation in Ohio, (ii) provide legislative updates, (iii) report the activities of the enforcement section, (iv) set forth registration and licensing statistics and (v) provide public notice of various proceedings.

The Division encourages members of the securities community to submit for publication articles on timely or timeless issues pertaining to securities law and regulation in Ohio. If you are interested in submitting an article, contact the Editor for editorial guidelines and publication deadlines. The Division reserves the right to edit articles submitted for publication.

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Ohio Division of Securities

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<http://www.securities.state.oh.us>

Criminal Updates

On April 8, 2005, **George Fiorini** was sentenced in U.S. District Court in Cincinnati to 12 years in prison and ordered to pay \$4.7 million in restitution. The case arose from his sale of promissory notes in the Cincinnati area of the IGW Trust by means of fraud. The Division assisted in the federal investigation leading to the indictment, plea and sentence. The Division had previously brought both an administrative action against Fiorini, and a subsequent injunctive case.

Paul Rendina pled guilty in U.S. District Court for the Northern District of Ohio in Cleveland on April 21, 2005, to 29 counts of federal felony charges on which he was indicted by a grand jury on July 8, 2004. Rendina died nine days after he entered the plea. The charges included mail fraud, mailing threatening communications, income tax evasion, failure to file tax returns, bank fraud, and use of fire to commit mail fraud. Rendina, of Willoughby Hills, was a C.P.A. and siphoned more than \$1 million from investors, tried to extort life insurance proceeds from a client, lied to a Catholic school so that he could get a reduction on tuition, and burned down two homes to collect insurance money. The charges entailed interconnected financial schemes to fleece clients

and businesses over 14 years. Rendina had been indicted by a Lake County grand jury on November 13, 2002, on three counts of securities fraud, three counts of misrepresentations in the sale of securities, one count of the sale of unregistered securities, six counts of grand theft, and two counts of aggravated theft. Rendina died on April 30, 2005. His sentencing hearing had been scheduled for July 12, 2005.

On June 7, 2005, **David Scott Gale** of Marion, Ohio was sentenced by Judge Jennifer Brunner in Franklin County Court of Common Pleas. Gale was ordered to pay over \$154,000 in restitution, with \$50,000 to be paid on June 7, 2005, and approximately \$10,000 annually for the next 10 years. Gale was placed on five years post-release control and if he violates any of the terms, including not repaying restitution, the judge ordered that his post-release control may be revoked and sentencing of two years on each of the three felony counts, to be served concurrently, will be imposed. Gale posed as a securities salesperson for Merrill Lynch and sold approximately \$154,000 in Krispy Kreme Doughnuts stock to a Dublin, Ohio investor. While not affiliated with Merrill Lynch and not licensed to sell securities, Gale

did not disclose to the investor that he has a criminal history. In addition, Gale allegedly guaranteed the investor at least a 50 percent profit on the purchase price in the event of a sudden loss of the stock's value. Between July 2001 and February 2002, Gale sold the investor stock in nine separate transactions. Gale failed to disclose to the investor that he hadn't purchased shares to fulfill the purchase orders, and he converted the investment funds for his own use. On July 30, 2004, a Bill of Information was filed in the Franklin County Court of Common Pleas alleging that Gale sold securities while unlicensed to sell securities, made false representations while selling securities, and committed theft. All three of these violations are third degree felonies. A Waiver of Indictment was also executed by Gale's attorney and filed with the Bill of Information. Gale entered guilty pleas to the counts on December 22, 2004. On August 2, 2004, the Division also issued a Cease and Desist Order, Division Order No. 04-146, to Gale.

Enforcement Section Reports

Three Star Drilling and Producing Corporation

On May 5, 2005, the Division issued a Consented Cease and Desist Order, Division Order No. 05-080 to Three Star Drilling and Producing Corporation, located in Sumner, Illinois. The company develops and sells interests in oil and gas wells.

On November 9, 2004, the Division issued to Respondent Division Order No. 04-194, a Notice of Opportunity for Hearing, in accordance with Revised Code chapter 119. The order alleged that the Respondent had violated Revised Code section 1707.44(C)(1) by selling unregistered securities. Upon receiving the order, the Respondent requested an adjudicative hearing pursuant to Chapter 119 of the Revised Code. After discussions with the Division, the Respondent withdrew its request for an administrative hearing and entered into a Consent Agreement. In the Consent Agreement, the Respondent consented, stipulated and agreed to the findings, conclusions and orders set forth in the final Cease and Desist Order, Division Order 05-080. The Respondent also waived its right to an appeal as provided by Revised Code section 119.12. The order itself incorporated the allegations set forth in the Notice of Opportunity for Hearing as findings.

Clarence Addison, II; The Addison Group, Ltd.

On May 18, 2005, the Division issued a Cease and Desist Order, Division Order No. 05-083, against Clarence Addison, II and The Addison Group, Ltd., both of whom conducted business from Huber Heights, Ohio.

The Division found that the Respondents had violated the provisions of Revised Code section 1707.44(C)(1) by selling unregistered securities and Revised Code section 1707.44(A)(1) by selling securities without a license. The Division's allegations stem from the offer for sale of investment contracts in the form of foreign currency trading program participation interests during 2002 and 2003 to Ohio residents. The Division notified Respondents of their right to an administrative hearing pursuant to Chapter 119 of the Revised Code, which Respondents waived by failing to timely request a hearing. Therefore, the Division issued Cease and Desist Order No. 05-083.

Mutual Benefits Corporation

On May 27, 2005, the Division issued a Cease and Desist Order, Division Order No. 05-084, against Mutual Benefits Corporation of Ft. Lauderdale, Florida. The company markets and sells viatical settlement interests.

On March 26, 2004, the Division had issued to the Respondent a Notice of Opportunity for Hearing, Division Order 04-077. The order alleged that the Respondent violated R.C. section 1707.44(C)(1) by selling unregistered securities. The Division maintained that between March 27, 2001 and December 29, 2001 the Respondent sold unregistered viatical settlement interests to 38 Ohio investors. Upon receiving the order, the Respondent, through counsel, requested an adjudicative hearing pursuant to Chapter 119 of the Revised Code. On May 4, 2004, the Securities and Exchange Commission obtained a Temporary Restraining Order against the Respondent, and a Receiver was appointed. The Receiver withdrew the Respondent's hearing request on May 24, 2005, thereby enabling the Division to issue its Cease and Desist Order, Division Order No. 05-084, which incorporated the allegations set forth in the Notice of Opportunity for Hearing as findings.

Enforcement Section Reports

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Calvin Wilder

On May 27, 2005, the Division issued Division Order No. 05-085, a Cease and Desist Order against Calvin Wilder. Respondent conducted business from Worthington, Ohio.

The Division found that Respondent violated Revised Code section 1707.44(C)(1) by selling unregistered securities, and that Respondent further violated Revised Code section 1707.44(A)(1) by selling securities without a license. The Division's allegations stem from the same sales of investment contracts in the form of foreign currency participation interests described in Division Order No. 05-083 during 2002 and 2003. (*See previous page.*) The Division notified Respondent of his right to an administrative hearing pursuant to Chapter 119 of the Revised Code. Respondent first requested a hearing and then withdrew that request. Therefore, the Division issued Cease and Desist Order No. 05-085.

Todd Smith and Heritage Home Buyers, LLC

On June 6, 2005, the Division issued Order No. 05-093, a Cease and Desist Order, against Todd Smith and

Heritage Home Buyers LLC. Mr. Smith and his company, Heritage Home Buyers, LLC, operated a website. Through their website they solicited individuals to invest in promissory notes secured by real estate. The Respondents represented on the website that the earnings on the investment were guaranteed. The claim that the earnings were guaranteed was determined to be a misrepresentation. Therefore, on February 27, 2004, the Division issued Order No. 04-046 a Notice of Opportunity for Hearing, against the Respondents for allegedly violating Revised Code section 1707.44(B)(4), misrepresenting a material and relevant fact with respect to selling securities. The Respondents requested a hearing pursuant to Chapter 119 of the Ohio Revised Code and one was subsequently held on June 1, 2004. On October 13, 2004, the hearing examiner issued his report and recommendation that the Respondents be found to have violated Revised Code section 1707.44(B)(4). On June 6, 2005, the Division accepted the findings of fact and conclusions of law of the hearing examiner along with the recommendation and thereby issued its Cease and Desist Order No. 05-093.

Cook and Mitchell Power Systems

On June 10, 2005, the Division issued a Cease and Desist Order and Consent Agreement, Division Order No. 05-097, to Cook & Mitchell Power Systems of Piqua, Ohio.

The Division found that Cook & Mitchell Power Systems violated the provisions of Revised Code section 1707.44(C)(1) by selling unregistered stock to Ohio investors. On January 14, 2005, the Division issued a Notice of Opportunity for Hearing, Division Order 05-008, to Cook & Mitchell Power Systems.

The Division notified Cook & Mitchell Power Systems of its right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A request for an adjudicative hearing was received. The request for the hearing was later withdrawn. Cook & Mitchell Power Systems entered into a Consent Agreement with the Division, and the Cease and Desist Order was issued on June 10, 2005.

Capital Formation Statistics*

Because the Division's mission includes enhancing capital formation, the Division tabulates the aggregate dollar amount of securities to be sold in Ohio pursuant to filings made with the Division. As indicated in the notes to the table, the aggregate dollar amount includes a value of \$1,000,000 for each "indefinite" investment company filing. However, the table does not reflect the value of securities sold pursuant to "self-executing exemptions" like the "exchange listed" exemption in R.C. 1707.02(E) and the "limited offering" exemption in R.C. 1707.03(O). Nonetheless, the Division believes that the statistics set out in the table are representative of the amount of capital formation taking place in Ohio.

*Categories reflect amount of securities registered, offered, or eligible to be sold in Ohio by issuers.

**Investment companies may seek to sell an indefinite amount of securities by submitting maximum fees. Based on the maximum filing fee of \$1100, an indefinite filing represents the sale of a minimum of \$1,000,000 worth of securities, with no maximum. Consequently, for purposes of calculating an aggregate capital formation amount, each indefinite filing has been assigned a value of \$1,000,000.

| Filing Type | 2nd Qtr 2005 | YTD 2005 |
|-----------------------------|-------------------------|--------------------------|
| Exemptions | | |
| Form 3(Q) | \$66,458,515 | \$99,362,895 |
| Form 3(W) | -0- | 4,020,000 |
| Form 3(X) | 73,794,095,065 | 157,722,469,787 |
| Form 3(Y) | 5,100,000 | 5,993,000 |
| Registrations | | |
| Form .06 | 344,223,592 | 1,614,419,417 |
| Form .09/.091 | 17,258,809,660 | 27,651,642,028 |
| Investment Companies | | |
| Definite | 112,599,500 | 237,234,000 |
| Indefinite** | 405,000,000 | 1,134,000,000 |
| TOTAL | \$91,986,306,332 | \$188,469,141,127 |

Registration Statistics

The following table sets forth the number of registration, exemption, and notice filings received by the Division during the second quarter of 2005, compared to the number of filings received during the second quarter of 2004. Likewise, the table compares the year-to-date filings for 2005 and 2004.

| Filing Type | 2nd Qtr '05 | YTD '05 | 2nd Qtr '04 | YTD '04 |
|--------------|-------------|---------|-------------|---------|
| 1707.03(Q) | 38 | 68 | 31 | 57 |
| 1707.03(W) | 0 | 5 | 3 | 8 |
| 1707.03(X) | 410 | 798 | 351 | 708 |
| 1707.03(Y) | 2 | 7 | 3 | 5 |
| 1707.04/.041 | 0 | 0 | 1 | 1 |
| 1707.06 | 25 | 42 | 20 | 47 |
| 1707.09/.091 | 32 | 62 | 50 | 96 |
| Form NF | 1180 | 2460 | 1053 | 2224 |
| Total | 1687 | 3442 | 1511 | 3146 |

Licensing Statistics

| License Type | YTD 2005 |
|------------------------------------|----------|
| Dealers | 2,384 |
| Salespersons | 128,667 |
| Investment Adviser/Notice Filers | 1,829 |
| Investment Adviser Representatives | 10,780 |

OHIO SECURITIES CONFERENCE 2005

October 21, 2005

**Executive Conference and Training Center
Vern Riffe Center
77 South High Street, 31st Floor
Columbus, Ohio 43215**

SECURITIES LITIGATION UPDATE

Thomas E. Geyer
Bailey & Cavalieri

Michael J. Early
Chicago Underwriting Group, Inc.

Patrick F. Fischer
Keating Muething & Klekamp

VENTURE CAPITAL/THIRD FRONTIER

William J. Kelly, Jr.
Porter, Wright, Morris & Arthur

Will Indest
Ohio Department of Development

Mark Richey
Draper Triangle Venture Capital

John Huston
USPrivatecompanies, LLC

OHIO SECURITIES CONFERENCE 2005

THE SEC'S NEW OFFERING RULES

Howard M. Friedman

University of Toledo, College of Law

Michael D. Stovsky

Ulmer & Berne

Matthew T. Klaben

Calfee, Halter & Griswold

RECENT DEVELOPMENTS AT THE OHIO DIVISION OF SECURITIES

Dale Jewell

Commissioner

Robert K. Lang

Attorney Inspector

Caryn A. Francis

Licensing Counsel

Michael P. Miglets

Control Bid Attorney

Presented by The Ohio Division of Securities & The Cybersecurities Law Institute at the University of Toledo College of Law.

- This course has been approved by the Ohio Supreme Court Commission on Continuing Legal Education for 5.50 total CLE credit hours, with 0.00 of ethics, 0.00 hours of professionalism and 0.00 of substance abuse instruction.
- The meetings of the Ohio Division of Securities Advisory Committees will be held in conjunction with this Conference during the lunch break. Box lunches will be available for those attending a Committee meeting.
- The Conference brochure and registration form will be available at www.securities.state.oh.us on August 15, 2005 or you may call (614) 466-3440 to request a copy.