

NEWS RELEASE

**The Ohio
Department of Commerce**

**Ted Strickland, Governor
Kimberly A. Zurz, Director**

FOR IMMEDIATE RELEASE
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OHIO DEPARTMENT OF COMMERCE

PONZI SCHEMES LEAD THIS YEAR'S LIST OF TOP 5 INVESTMENT SCAMS

For the second consecutive year, Ponzi schemes lead the list of the “Top Five Investment Scams” prepared by the Ohio Department of Commerce’s Division of Securities. Director of Commerce Kimberly Zurz today released the list as part of April’s observance of National Financial Literacy Month. She urged Ohioans to be vigilant in guarding against investment fraud.

Ponzi schemes are named for Charles Ponzi, a con artist who in the early 1900s promised high returns on short-term investments. Under his scheme, nearly 40,000 people invested approximately \$15 million, with only one-third of that amount returned to the investors. Ponzi used money from later investors to pay returns to earlier investors.

“In the wake of the Bernard Madoff scandal, Ponzi schemes are front and center as an example of investment fraud,” Director Zurz said. “Ohioans should always be on guard against investment promoters who pitch their ability to guarantee high returns with little or no risk to the investor.”

Ohio Securities Commissioner Andrea Seidt encourages investors to be skeptical of any investment promoter’s claims – no matter how well it seems they know the promoter. “Investors should always take the time to understand the investment and check the promoter’s licensing and enforcement history before investing,” she said.

The Division of Securities warns the public of the following investment scams:

- 1. Ponzi schemes.** A Ponzi scheme promises high returns to investors and uses money from new investors to pay earlier investors. These schemes eventually collapse with the later investors losing their entire investment. Many of these schemes include unregistered and even fictitious securities.
- 2. Investments involving real estate.** These schemes target investors with pitches that can include the buying, rehabbing, selling and leasing of real estate. Investors should be particularly leery of these investments in the aftermath of the subprime mortgage crisis and the record number of foreclosures.

(more)

- 3. Investment adviser fraud.** The term investment adviser describes a broad range of people who are in the business of giving advice about securities. Many investors give their investment advisers discretionary authority over their investments. This means that the investment adviser can manage the investor's money without obtaining prior approval for changes. Investment Adviser fraud occurs when the advisers take advantage of the investor's confidence in them and allows them to have too much control over their money. The Division suggests maintaining control over your investments, and not granting discretionary authority over all of your funds.
- 4. Affinity fraud.** Affinity fraud occurs when an investment promoter takes advantage of people's tendency to trust those who share similarities with them, such as attending the same place of worship, being a member of the same race or ethnic group, or sharing common friends or hobbies. Investors should be especially wary of testimonials from family, friends and acquaintances who express enthusiasm for their investment's success.
- 5. Oil and gas.** These scams often follow the headlines. Not all oil and gas deals are fraudulent, but with unstable oil prices, con artists pitch schemes that promise quick profits in oil and gas ventures. Like many fraudulent schemes, oil and gas scams may also be unregistered securities sold by unlicensed individuals.

Before investing, Director Zurz urges investors to call the Division's Investor Protection Hotline at 1-800-788-1194 to ask:

- Is the brokerage firm and salesperson licensed to sell securities in Ohio?
- Have any enforcement actions been taken against them?
- Has the security been properly registered with the Division of Securities?

The Division of Securities offers investor education presentations, which can help Ohioans to identify and avoid investment fraud. The presentations are tailored to the age and investing experience of the audience. Last year, the Division's staff made 75 presentations to more than 4,500 participants. Organizations that want to schedule a Division speaker at senior centers, community organizations, service groups, schools or other locations should call the Investor Protection Hotline at 1-800-788-1194 or send an e-mail to Kelly.Igoe@com.state.oh.us

The Division also offers a variety of investor education publications, which can be obtained on its website at www.com.ohio.gov/secu/ or by calling the hotline.

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Information on recent Division enforcement cases illustrating the top five scams is attached.

OHIO DIVISION OF SECURITIES
RECENT ENFORCEMENT ACTIONS IN COMBATTING THE TOP FIVE SCAMS

1. Ponzi Schemes. On June 25, 2008, the Montgomery County Common Pleas Court issued a temporary restraining order against The Dillabaugh Group; the estate of Roy G. Dillabaugh; Alice Jane Dillabaugh; Mary Johanna Long; Lorne Lee Dillabaugh; and Hartford Life and Accident Insurance Company. The TRO was issued at the same time a complaint was filed by the Ohio Division of Securities. On July 17, 2008, the court issued a preliminary injunction maintaining the status quo of the TRO. Roy Dillabaugh, who died on November 27, 2007, was the CEO of The Dillabaugh Group, a Dayton business that purported to offer investment services.

Mr. Dillabaugh was a licensed insurance salesperson from 1985 until his death, but he had not been licensed to sell securities in Ohio since April 13, 2001. The Division alleged that from 1994 to 2007 Mr. Dillabaugh sold \$12.4 million in “The Dillabaugh Group” securities to 146 investors, located primarily in the Greater Dayton area and Indiana. None of the securities were registered with the Division. The Division also alleged that Mr. Dillabaugh did not invest any of the investors’ money and instead operated a Ponzi scheme which depended on new investments to pay the purported “interest” earned on earlier investments. The Division claimed that Mr. Dillabaugh used investor funds to pay for approximately 60 life insurance policies on himself valued at approximately \$11 million, naming his wife, son, and secretary as beneficiaries of the policies.

The Division asserted that the proceeds of the life insurance policies rightfully belong to investors because the premiums were paid with fraudulently obtained investor funds. In granting the TRO and preliminary injunction, the court restrained the defendants from disposing or dispersing any insurance proceeds in their possession from Roy Dillabaugh’s life insurance policies, with limited exceptions, until the court rules upon the State’s Verified Complaint for Permanent Injunction, Appointment of a Receiver, and Order of Restitution. The court restrained all but \$500,000 of the insurance proceeds held by Alice Jane Dillabaugh, most of the proceeds (\$200,000) held by Lorne Dillabaugh, and all of the proceeds held by Mary Johanna Long. The matter is set for trial on November 16, 2009.

2. Investments involving Real Estate. In a complaint filed with the Butler County Common Pleas Court on December 30, 2008, the Division of Securities alleged that James D. Powell; the estate of David L. Colwell; Midwest Marketing; Capital Investments; Great Miami Real Estate, LLC; and Great Miami Debenture LLC sold approximately \$11 million in securities to about 100 investors located mostly in the Hamilton and Cincinnati areas. Investors had been told that their investments were safe and would be used to acquire and develop real estate.

The Division alleged that the defendants sold unregistered securities; sold securities without a license; misrepresented to investors that the investments were safe, risk-free, and backed by the Federal Deposit Insurance Corporation (FDIC) or otherwise insured; and failed to disclose to investors that they were not licensed, the securities were unregistered, and that Mr. Colwell and Mr. Miller had previously been issued cease and desist orders by the Division.

The court subsequently issued a temporary restraining order against the defendants and an agreed preliminary injunction against Hubert Jackson Rials of Cunningham, Kentucky; Stephen Chatsworth Jacobs of Hamilton, Ohio; and Kevin Miller of Fairfield, Ohio. The Division had alleged that Colwell, Rials, Jacobs, and Miller sold investments for the companies owned and operated by Powell.

On February 4, 2009, the Court issued a preliminary injunction against James D. Powell, Capital Investments, Great Miami Real Estate, LLC, and Great Miami Debenture LLC. The court also appointed Attorney Steven R. Watts of Dayton as Receiver to manage and operate the companies for the benefit of investors and creditors. The temporary restraining order and preliminary injunction bar the defendants from selling, offering to sell, or transferring any securities; buying, selling or transferring any real estate without the court's prior approval; and engaging in any deceptive, fraudulent, or manipulative act. Defendants are also prohibited from destroying or altering records or divesting any assets derived from the sale of securities.

3. Investment Adviser Fraud. On July 31, 2008, a Franklin County grand jury handed down a 35-count indictment against Lawrence Nallie, formerly of Columbus. Nallie currently resides in Hudson, Ohio. The charges included 11 counts of investment adviser fund mishandling; nine counts of investment adviser fraud; nine counts of theft; three counts of acting as an unlicensed investment adviser; two counts of securities fraud; and one count of making false representations in the sale of securities.

Nallie was licensed by the Division as a securities salesperson from October 10, 1996 through November 21, 2003, and as an investment adviser representative from November 26, 1999 through November 21, 2003. Mr. Nallie's offenses involved the alleged mishandling of approximately \$187,070 in funds and securities while licensed as an investment adviser representative and securities salesperson, and after he was no longer licensed. Thirteen of Nallie's clients, located primarily in central Ohio, were affected.

On March 5, 2009, Mr. Nallie pleaded guilty to six felony counts, consisting of three counts of investment adviser fund mishandling and three counts of acting as an unlicensed investment adviser. He is scheduled to be sentenced on April 17, 2009.

4. Affinity Fraud. On January 14, 2009, James A. Stamp, of Norton, was indicted by a Summit County grand jury on 13 felony counts in connection with sales of "membership certificates" in his company, Shema Capital Partners LLC. The investments were sold to three Ohio residents located in the Akron area. The charges included three counts each of selling unregistered securities; securities fraud; false representations in the sale of securities; deception to secure documents; and one count of grand theft.

In addition, a supplemental indictment containing an additional 25 felony counts was issued against Mr. Stamp following a second grand jury held on February 18, 2009. The additional charges reflect Stamp's alleged illegal sale of securities to six investors who came forward after seeing news reports about the initial indictment. The supplemental indictment consists of six counts each of selling unregistered securities; securities fraud; false representations in the sale of securities; deception to secure documents; and one count of grand theft.

Most of the investors were previous tax clients of Mr. Stamp. Mr. Stamp's license as a certified public accountant was revoked by the Accountancy Board of Ohio in 2007.

5. Oil & Gas. In 2008, the Division of Securities issued 27 cease and desist orders in connection with oil and gas investments offered to investors throughout Ohio. Twenty six of the orders involved Key Resource Group, LLC, located in Wichita, Kansas, and numerous affiliated entities and salespeople. The Division determined that investors located across Ohio had invested close to \$1 million in five oil and gas joint venture programs offered by Key Resources. Of the 27 orders issued, the Division found that all involved the sale of unregistered securities, 10 involved sales of securities without a license, and 26 found that fraudulent practices had occurred in connection with sales of oil and gas investments to Ohio residents. Specifically, many of the orders found that Key Resources and its affiliates failed to disclose to investors that it had paid commissions to its salespeople of nearly 50% of the amount invested; did not provide investors with financial information relating to the performance of past joint venture programs; and failed to inform investors that several states had issued cease and desist orders against them.

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