

ADMINISTRATIVE PROCEEDING
BEFORE THE
SECURITIES COMMISSIONER OF SOUTH CAROLINA

IN THE MATTER OF:)	ORDER IMPOSING A
)	PERMANENT BAR
David Michael Scaffè,)	FROM REGISTRATION
)	
<u> Respondent.</u>)	File Number 09032

WHEREAS, the Securities Division of the Office of the Attorney General of the State of South Carolina (the "Division"), pursuant to authority granted in the South Carolina Uniform Securities Act of 2005, S.C. Code Ann. § 35-1-101 to 35-1-703 (Supp. 2009) (the "Act"), and the Uniform Securities Act, S.C. Code Ann. § 35-1-10 to 35-1-1550 (Supp. 2005) (the "Prior Act"), issued a "Notice of Intent to Seek Permanent Bar" (the "Notice of Intent") against David Michael Scaffè ("Respondent") on August 11, 2009; and

WHEREAS, the Notice of Intent set forth an alleged factual history and the applicable law and sought to bar Respondent from registering as a broker-dealer agent or investment adviser representative in South Carolina and gave Respondent notice and opportunity for a hearing; and

WHEREAS, the Notice of Intent indicates that in the event written notice requesting a hearing is not received within thirty (30) days from the date of receipt of the Notice of Intent, an Order Issuing a Permanent Bar from Registration may be entered in the proceeding with no further notice; and

WHEREAS, service of process of the Notice of Intent was perfected on Respondent pursuant to S.C. Code Ann. § 35-1-611; and

WHEREAS, more than thirty (30) days have passed since Respondent's receipt of the Notice of Intent and Respondent has not filed a written notice requesting a hearing in this matter and the time to do so has expired; and

WHEREAS, action against Respondent is necessary and appropriate in the public interest, for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act;

NOW THEREFORE, based on the findings of fact and conclusions of law set forth in this Order, Respondent is permanently barred from registration as a broker-dealer agent or investment adviser representative in South Carolina.

FACTUAL HISTORY

1. Respondent, at all times material herein, was a resident of South Carolina.
2. Respondent is a natural person whose last known address, as filed on the Central Registration Depository maintained by the Financial Industry Regulatory Authority ("FINRA"), was 254 Seven Farms Drive, Bldg. 400 Unit 102, Daniel Island, South Carolina 29492.
3. During the time period on or about October 6, 2000, to on or about June 17, 2002, Respondent was employed with Prudential Securities Incorporated ("Prudential") and was registered with the Division as an agent of Prudential.
4. During the time period on or about September 17, 2002, to on or about May 13, 2008, Respondent was employed with Andrew Garrett, Inc. ("Andrew Garrett").
5. During Respondent's employment with Andrew Garrett his primary work locations were the Andrew Garrett offices located at 8725 Old Georgetown Road, McClellanville, South Carolina 29458 and 105 South Cedar Street, Summerville, South Carolina 29483.

6. During Respondent's employment with Andrew Garrett he was registered first with the Division as an agent of Andrew Garrett and, effective September 18, 2007, as an agent and investment adviser representative of Andrew Garrett.
7. In or about September, 2001, while employed with Prudential, Respondent became the financial advisor to a South Carolina resident with the initials CFA ("CFA").
8. Following Respondent's termination of employment with Prudential, CFA opened an account at Andrew Garrett in or about October, 2002.
9. In or about November, 2003, Respondent borrowed \$12,500 from CFA.
10. On or about November 21, 2003, Respondent signed a promissory note evidencing the loan from CFA (the "Note").
11. The Note specified that the \$12,500 would be paid in full eighteen months from the date of the Note.
12. The Note specified an interest rate of nine percent per annum.
13. Respondent paid \$1,830 in interest to CFA during 2004 and 2005.
14. Respondent never repaid the principal of the Note even after the Note's maturity.
15. On or about December 20, 2007, at Respondent's request, CFA gave Respondent \$10,000, allegedly for the purchase of stock in a company Respondent called "Privacy Wear" ("Privacy Wear").
16. On or about December 27, 2007, at Respondent's request, CFA gave Respondent \$12,500, allegedly to purchase additional shares of stock in Privacy Wear.
17. CFA has asked for but never received any confirmation that the \$22,500 given to Respondent for the purchase of shares of Privacy Wear was used to purchase shares.

18. Upon information and belief, the money CFA gave Respondent in December, 2007, to purchase shares of stock in Privacy Wear was not used for the purpose intended.
19. On or about April 22, 2008, Respondent solicited from CFA an investment of \$60,000. In return, Respondent guaranteed CFA the greater of \$70,000 or 30,000 shares of a company Respondent represented as Best Energy Services (“Best Energy Services”) by November 1, 2008.
20. On or about May 15, 2008, CFA entered a written agreement with Respondent pursuant to which Respondent was to use CFA’s investment of \$60,000 described directly above to purchase 30,000 shares of Best Energy Services for CFA.
21. As of July 2, 2009, CFA had not received either shares or the monetary return promised in April, 2008, or the shares of Best Energy Services promised in the May, 2008, written agreement, though Respondent indicated CFA was to receive a return from Respondent by November 1, 2008.
22. Scaffè was designated as the “Financial Consultant” on statements reflecting activity in the individual accounts belonging to CFA.
23. On or about May 13, 2008, Respondent was discharged from Andrew Garrett.
24. The “Termination Comment” section of the Central Registration Depository maintained by FINRA indicates, “Employee terminated for violating his fiduciary responsibilities and the Firm’s written supervisory procedures prohibiting the making of loans from firm clients. This was determined, and not denied, pursuant to an investigation initiated after employee was arrested for illegal gambling activities.”

APPLICABLE LAW

25. S.C. Code Ann. 35-1-412(c) authorizes the Securities Commissioner to impose a bar from registration against a registrant if the Securities Commissioner finds the bar to be in the public interest and S.C. Code Ann. § 35-1-412(d) (1) through (6), (8), (9), (10), or (12) and (13) authorizes the action.

An order barring Respondent from registration as a broker-dealer agent or investment adviser representative in South Carolina is necessary and appropriate in the public interest, for the protection of investors and is authorized by S.C. Code Ann. § 35-1-412(d) as set forth in more detail in item 26 below and in the factual history of the case found earlier in this Order.

26. S. C. Ann. § 35-1-412(d)(13) authorizes the Securities Commissioner to discipline a person under S.C. Code Ann. § 35-1-412(a) through (c) if the person has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance or insurance business within the previous ten (10) years.

The Respondent has engaged in multiple instances of dishonest or unethical practices in the securities business within the previous ten (10) years, as set forth in the undisputed factual history associated with this case.

ORDER IMPOSING PERMANENT BAR FROM REGISTRATION

27. Pursuant to S.C. Code Ann. § 35-1-412, IT IS HEREBY ORDERED that Respondent is permanently barred from registration as a broker-dealer agent or investment adviser representative in the State of South Carolina.

CONTINUING TO ENGAGE IN ACTS DETAILED BY THIS ORDER AND/OR SIMILAR ACTS MAY RESULT IN THE DIVISION'S FILING ADDITIONAL ADMINISTRATIVE ACTIONS AND/OR SEEKING ADMINISTRATIVE FINES. WILLFUL VIOLATION OF THIS ORDER COULD RESULT IN CRIMINAL PENALTIES UNDER S.C. CODE ANN. § 35-1-508. REGARDING MATTERS DESCRIBED HEREIN, THIS ORDER DOES NOT PRECLUDE THE FILING OF PRIVATE CAUSES OF ACTION OR THE FILING OF CRIMINAL CHARGES UNDER S.C. CODE ANN. § 35-1-508.

IT IS SO ORDERED.

Executed and entered, this the 14 day of December, 2009.


Henry McMaster
Securities Commissioner