

Massachusetts Securities Division Expands Jurisdiction to Non-Securities

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The Enforcement Section of the Massachusetts Securities Division (“MSD”) recently filed an Administrative Complaint against Ryan Patrick Skinner (“Skinner”) and related entities Summit Financial Partners and Summit Financial Ptrs Inc of Woburn, MA (together, “Summit”)^[1]. Summit is not a broker-dealer or investment advisor licensed by the MSD.^[2] Further, Skinner is not a registered representative. Interestingly, the products at issue – fixed annuities – are not securities.

Despite these distinctions, the MSD asserts jurisdiction over Skinner and Summit alleging that they “transact business as investment advisors while encouraging Massachusetts residents to liquidate their retirement accounts to purchase high-commission insurance products.” The MSD posits that the recommendations made by Skinner and Summit to clients to liquidate securities in order to purchase fixed/indexed annuities gives the MSD jurisdiction, even though the new product purchased is not a security. As a result, the MSD alleges that Skinner acted as an unregistered investment advisor representative and Summit acted as an unregistered investment advisor. Simply put, the MSD has claimed jurisdiction over an unregistered individual, working for an unregistered entity, for selling non-securities.

The Administrative Complaint alleges that Skinner enticed consumers to attend “free lunch” seminars where he would convince clients, mostly seniors, to liquidate their securities holdings in order to purchase annuities from Skinner. Further, the Administrative Complaint alleges that Skinner held himself out as a “retirement specialist” and “financial consultant” – both terms that the MSD claims have no particular significance in the financial services industry.

This is not the first time that the MSD has taken the position that it retains such broad jurisdiction, nor will it be the last. With the MSD’s proposed Fiduciary Conduct Standard, as well as the coming implementation of SEC Regulation BI, it is highly likely that we will see similar administrative complaints filed by the MSD in the future. Firms and individuals would do well to ensure that sales practices related to all products, even insurance products, satisfy state blue sky laws in addition to applicable insurance regulations.

[1] According to the Administrative Complaint, Skinner is the sole shareholder, officer and director of

Summit.

[2] Summit Financial Ptrs Inc has been licensed with the Mass. Division of Insurance (“DOI”) since October 25, 2019. The DOI monitors its licensees “to promote a healthy, responsive and willing marketplace for consumers who purchase insurance products”. See <https://www.mass.gov/orgs/division-of-insurance> .96590333v.1

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