

**OFFICE OF THE MISSISSIPPI SECRETARY OF STATE
SECURITIES DIVISION**

IN THE MATTER OF

DAVID TILLER CASTILLO

**Administrative Order
Number LS-23-6044**

Respondent

ORDER TO CEASE AND DESIST

WHEREAS, the Secretary of State of the State of Mississippi (“Administrator”) has the authority to administer and provide for the enforcement of all provisions of the Mississippi Securities Act (“Act”), codified at Mississippi Code Annotated Sections 75-71-101 to -701 (2020); and

WHEREAS, David T. Castillo (“Castillo” or “Respondent”) has violated provisions of the Act; and

WHEREAS, the Securities Division of the Mississippi Secretary of State’s Office (“Division”) is authorized to issue an order to direct any person to cease and desist from engaging in an act, practice, or course of business when the Administrator determines a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of the Act or a rule adopted or order issued under the Act; and

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

NOW, THEREFORE, the Division hereby enters its Order to Cease and Desist.

I. FINDINGS OF FACT

Parties

1. The Secretary of State has the authority, pursuant to the Act, to administer and enforce the Act and to regulate the offer and sale of securities in Mississippi as well as the firms and persons who offer or sell securities or who provide investment advice regarding securities.
2. Castillo is an individual with a last known Mississippi address of 429 Jackson Liberty Dr., Brookhaven, MS 39601. Castillo is not and has not at any time been registered with the Division in any capacity.

Events

3. The Division was notified by the Miami office of the Securities and Exchange Commission ("SEC") regarding Respondent being flagged in a Suspicious Activity Report. The SEC informed the Division that it had information indicating that Castillo was receiving funds from at least one Mississippi investor ("Investor 1"), and possibly others, by way of acting as an unregistered and unlicensed investment adviser.
4. Investor 1's account was flagged for suspicious activity by the bank when he initiated a wire transfer of \$50,000 to Castillo. The memo line on the wire transfer said it was to be used to open an investment account. Soon after, another transfer was sent from Investor 1's account to Castillo for an additional \$5,000.
5. Upon review of Castillo's bank records, the Division discovered that after investor money was deposited, Castillo made many purchases including, but not limited to, two automobiles, multiple all-terrain vehicles, and various other lavish expenditures. Additionally, Castillo would make large cash withdrawals and, in some instances, pay back previous investors.

6. To the best of the Division's knowledge, Castillo has now received over \$850,000 from investors. The Division has not found one single transaction indicating that Castillo is investing the funds in securities.
7. Three investors interviewed by the Division confirmed that they believed Castillo was investing their funds in securities so that they could earn a return on their principal invested.
8. Castillo told investors that he would deduct his fee and all applicable taxes owed by the investors from the return he would make on their investments.
9. At no time has Castillo ever been registered with the Division in any capacity.

II. APPLICABLE LAW

10. Miss. Code Ann. Section 102 sets forth:

Definitions.

- (1) "Administrator" means the Secretary of State.

...

- (15) "Investment adviser" means a person that, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. The term includes a financial planner or other person that, as an integral component of other financially related services, provides investment advice to others for compensation as part of a business or that holds itself out as providing investment advice to others for compensation.

11. Miss. Code Ann. Sections 75-71-403 to -404 state:

§ 75-71-403. Investment adviser registration requirement and exemptions.

- (a) **Registration requirement.** It is unlawful for a person to transact business in this state as an investment adviser unless the person is registered under this chapter as an investment adviser or is exempt from registration as an investment adviser under subsection (b).

§ 75-71-404. Investment adviser representative registration requirement and exemptions.

- (a) **Registration requirement.** It is unlawful for an individual to transact business in this state as an investment adviser representative unless the individual is registered under this chapter as an investment adviser representative or is exempt from registration as an investment adviser representative under subsection (b).

12. Sections 75-71-501 and -502(a) of the Act state:

§ 75-71-501. General fraud.

It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly:

- (1) To employ a device, scheme, or artifice to defraud;
- (2) To make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (3) To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

§ 75-71-502. Prohibited conduct in providing investment advice.

- (a) **Fraud in providing investment advice.** It is unlawful for a person that advises others for compensation, either directly or indirectly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as part of a regular business, issues or promulgates analyses or reports relating to securities:
 - (1) To employ a device, scheme, or artifice to defraud another person; or
 - (1) To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

13. Section 75-71-601(a) of the Act states that “[t]he administrator shall administer this chapter”—that is, the Mississippi Securities Act.

14. According to Section 75-71-604 of the Act:

§ 75-71-604. Administrative enforcement.

(a) **Issuance of an order or notice.** If the administrator determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter, the administrator may:

(1) Issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with this chapter;

(b) **Summary process.** An order under subsection (a) is effective on the date of issuance. Upon issuance of the order, the administrator shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered, in accordance with Section 75-71-611. The order must include a statement of any civil penalty or other administrative remedy to be imposed under subsection (a) or costs of investigation the administrator will seek, a statement of the reasons for the order, and notice that, within fifteen (15) days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the administrator within thirty (30) days after the date of service of the order, the order, including the imposition of a civil penalty or other administrative remedy to be imposed under subsection (a) or requirement for payment of the costs of investigation if a civil penalty or costs were sought in the statement accompanying the order, becomes final as to that person by operation of law. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

- (c) **Procedure for final order.** If a hearing is requested or ordered pursuant to subsection (b), a hearing must be held pursuant to the administrative hearing procedures set forth in the rules. A final order may not be issued unless the administrator makes findings of fact and conclusions of law in a record in accordance with the administrative hearing procedures set forth in the rules. The final order may make final, vacate, or modify the order issued under subsection (a).

III. CONCLUSIONS OF LAW

15. The Administrator, after consideration of the facts set forth above, finds and concludes that the Secretary has jurisdiction over the Respondent in this matter and that the following is in the public interest, necessary for the protection of public investors, and consistent with the purposes intended by the Act.

16. When Castillo, for compensation, engaged in the business of advising others as to the value of securities and the advisability of investing in, purchasing, or selling securities, specifically receiving funds from numerous clients to purchase securities, he acted as an investment adviser as defined in Miss. Code Ann. Section 75-71-102(15).

17. When Castillo transacted business as an investment adviser without being registered with the Division, he violated Miss. Code Ann. Section 75-71-403(a).

18. Castillo made misrepresentations to investors by claiming he was using investor funds to invest in the securities market when in fact he knew he was paying back other investors or spending the investment funds for personal use. In making these misrepresentations, Castillo violated Miss. Code. Ann. Sections 75-71-501 and 502(a).

IV. ORDER

IT IS HEREBY ORDERED:

19. That Respondent immediately CEASE AND DESIST from offering investment advice and obtaining funds from any clients, by any means, including, but not limited to, mail, website, internet, social media, or any electronic communications to or from the State of Mississippi;
20. That Respondent immediately CEASE AND DESIST from making fraudulent statements and other misrepresentations that operate or would operate as a fraud upon investors.

V. RIGHT TO AN ADMINISTRATIVE HEARING

If the Respondent wishes to contest the allegations set forth above or offer evidence and arguments to mitigate the allegations, then the Respondent must file a request for hearing. Such request shall be made in writing to Eric S. Slee, Assistant Secretary of State, Securities Division, Mississippi Secretary of State's Office, Post Office Box 136, Jackson, MS 39205, within thirty (30) days from the date of receipt of this Order to Cease and Desist. Within fifteen (15) days after the request, the matter would be scheduled for a hearing. In the event such a hearing is requested, the Respondent may appear, with or without the assistance of an attorney, on a date and at a time and place to be specified and cross-examine witnesses, as well as present testimony, evidence, and argument relating to the matters contained herein. Upon request, subpoenas may be issued for the attendance of witnesses and for the production of books and papers on the Respondent's behalf at the hearing relating to the matters contained herein. If an administrative hearing is requested, written notice of the date, time, and place will be given to all parties by certified mail, return receipt requested. Said notice will also designate a Hearing Officer. If a request for hearing is not timely filed, this Order becomes final, without any further action, by operation of law.

VI. RIGHT TO AMEND

The Secretary of State hereby reserves the right to amend this Order to Cease and Desist.

ISSUED, this the 25th day of October 2023.

Michael Watson
Secretary of State

BY:



Eric S. Slee
Assistant Secretary of State
Securities Division

CERTIFICATE OF SERVICE

I, Eric S. Slee, do hereby certify that I have this day, mailed a true and correct copy, via certified mail, return receipt requested, of the Order to Cease and Desist to the following:

David T. Castillo
429 Jackson Liberty Dr.
Brookhaven, MS 39601

David T. Castillo
c/o Secretary of State of Mississippi
Securities Division
Post Office Box 136
Jackson, MS 39205

Marc E. Brand
Marc E. Brand and Associates
125 S Congress St
Ste 1500
Jackson, MS 39201

Sean R. Guy
MMQN Attorneys at Law, PLLC
602 Steed Rd
Ste 200
Ridgeland, MS 39157

This the 25th day of October, 2023.


Eric S. Slee
Assistant Secretary of State
Securities Division

Eric S. Slee, MSB #106525
Mississippi Secretary of State's Office
Post Office Box 136
Jackson, Mississippi 39205
(601) 359-1334
(601) 359-9050