

NEWS

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FOR IMMEDIATE RELEASE
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Monmouth County Financial Advisor Admits \$9 Million Ponzi Scheme

(More)

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TRENTON – A financial advisor and broker from Monmouth County who advised New Jersey clients for more than two decades pleaded guilty today to devising a scheme to defraud investors out of more than \$9 million, U.S. Attorney Paul J. Fishman announced.

Maxwell B. Smith, 69, of Fairhaven, pleaded guilty before U.S. District Judge Mary L. Cooper to a five-count criminal Information charging him with mail fraud. Smith will remain free on \$1 million bail pending sentencing, which is scheduled for Feb. 26.

According to the criminal Information to which he pleaded guilty, Maxwell B. Smith was employed at financial services companies located in Millburn and Tinton Falls, where he provided investment advice to individual clients concerning stocks, bonds, and other investment products.

Smith admitted today that, in 1992, he created a sham entity known as Health Care Financial Partners (HCFP) which purported to be an investment fund with more than \$300 million in assets under management, comprised of loans to healthcare facilities such as nursing homes. Using his relationships with his investor clients, Smith admitted that he sold debt securities in HCFP through sham bond offerings ranging in prices from \$25,000 to \$300,000 per investment.

Smith induced individual investors by creating a phony investment prospectus falsely stating that the total value of HCFP's holdings exceeded \$300 million. To further induce individuals to invest in HCFP, Smith falsely claimed that their money would earn yearly dividend interest of between 7.5 and 9 percent, and that the returns on their investments would be tax-free, similar to municipal bonds.

To lull investors into thinking their investments were legitimate and earning returns, Smith admitted that he used a portion of investors' funds to purchase bank checks, which he then sent to investors as purported earnings on their investments.

Instead of investing the funds as promised, Smith admitted before Judge Cooper that he diverted the investments to his own bank accounts where he used the investors' money for his personal expenses including dining, entertainment, gambling and international travel. In total, Smith admitted defrauding HCFP investors out of more than \$9 million.

The charge to which Smith pleaded guilty carries a maximum statutory penalty of 20 years in prison per count, and a \$250,000 fine.

In determining the sentence, Judge Cooper will consult the advisory sentencing guidelines, which provide appropriate sentencing ranges that take into account the severity and characteristics of the offense, the defendant's criminal history, if any, and other factors. However, the Sentencing Guidelines are only advisory, and Judge Cooper has discretion in imposing sentence. Parole has been abolished in the federal system. Defendants who are given custodial terms must serve nearly all that time.

Smith was also investigated by the Division of Criminal Justice of the New Jersey Attorney General's Office and, in a coordinated effort with the U.S. Attorney's Office, has agreed to plead guilty tomorrow to an accusation charging first-degree money laundering before Morris County Superior Court Judge Thomas V. Manahan.

Fishman credited Special Agents of the United States Postal Inspection Service, under the direction of Postal Inspector in Charge David L. Collins, in Newark, as well as Special Agents of the FBI, under the direction of Weysan Dunn, in Newark.

The government is represented by Assistant United States Attorney Paul B. Matey of the Securities and Health Care Fraud Unit of the U.S. Attorney's Office Criminal Division in Newark.

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Defense Attorney: Robert A. Weir, Jr., Esq.