

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 09-
:
v. : 18 U.S.C. § 1341
: 18 U.S.C. § 2
MAXWELL B. SMITH :
: I N F O R M A T I O N
:

The defendant having waived in open court prosecution by Indictment, the United States Attorney for the District of New Jersey charges:

BACKGROUND

1. At all times relevant to this Information:

a. Defendant MAXWELL B. SMITH was a financial advisor and broker licensed by the Financial Industry Regulatory Authority and the State of New Jersey.

b. Defendant MAXWELL B. SMITH was employed at financial services companies located in Millburn and Tinton Falls, New Jersey where he provided investment advice to individual clients concerning stocks, bonds, and other investment products.

c. Defendant MAXWELL B. SMITH controlled a sham entity known as Health Care Financial Partners 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 (hereinafter "HCFP").

d. Defendant MAXWELL B. SMITH offered and sold debt securities in HCFP to individual clients through sham bond offerings ranging in prices from \$25,000 to \$300,000 per investment (hereinafter the "HCFP Investors").

e. Defendant MAXWELL B. SMITH maintained and controlled a bank account at Merrill Lynch, through which he routed HCFP Investor proceeds (hereinafter the "HCFP Account").

THE SCHEME TO DEFRAUD

2. From at least in or about December 2003 through at least in or about December 2009, in the District of New Jersey, and elsewhere, Defendant

MAXWELL B. SMITH

did knowingly devise and execute a scheme and artifice with the intent to defraud HCFP Investors, and to obtain money and property from HCFP Investors by means of materially false and fraudulent pretenses, representations and promises, which scheme and artifice was in substance as set forth below.

THE OBJECT OF THE SCHEME TO DEFRAUD

3. The object of the scheme and artifice to defraud was for Defendant MAXWELL B. SMITH to use his position as a financial advisor and broker to induce individual clients to invest in a sham healthcare investment fund, and then divert the investor proceeds for his personal benefit.

THE SCHEME AND ARTIFICE TO DEFRAUD

4. It was part of the scheme and artifice to defraud that Defendant MAXWELL B. SMITH established HCFP and would falsely represent to individual clients that the investment fund managed a substantial portfolio of loans issued to health care facilities such as nursing homes.

5. It was further part of the scheme and artifice to defraud that Defendant MAXWELL B. SMITH would inform HCFP Investors that investments in HCFP would pay yearly dividend interest ranging from 7.5 % to as high as 9.0 %.

6. It was further part of the scheme and artifice to defraud that Defendant MAXWELL B. SMITH would mail to individual clients in New Jersey and elsewhere false and misleading prospectuses purporting to summarize the HCFP business model, as well as the financial performance of the fund, including fictitious estimates concerning the loan-to-value ratio of the HCFP holdings, and falsely stating that the total value of HCFP's holdings exceeded \$300 hundred million.

7. It was further part of the scheme and artifice to defraud that Defendant MAXWELL B. SMITH would tout HCFP, both orally and in the prospectus, to individual clients as a safe or low-risk investment based on HCFP's especially strong debt service ratios, and the large percentage of private insurance proceeds received by the HCFP nursing homes.

8. It was further part of the scheme and artifice to defraud that Defendant MAXWELL B. SMITH would inform individual clients that returns on investments in HCFP would be tax free, similar to municipal bonds he had counseled clients to invest in previously.

9. It was further part of the scheme and artifice to defraud that Defendant MAXWELL B. SMITH would direct deposits of the HCFP Investors' funds into the HCFP Account.

10. It was further part of the scheme and artifice to defraud that Defendant MAXWELL B. SMITH would use a portion of the HCFP Investors' funds to purchase bank checks to send HCFP Investors as purported "interest" income on their investment.

11. It was further part of the scheme and artifice to defraud that Defendant MAXWELL B. SMITH would divert the remainder of the HCFP Investors' funds from the HCFP Account for his own personal use.

12. By the above means, Defendant MAXWELL B. SMITH defrauded the HCFP Investors of more than \$9 million dollars.

USE OF THE MAILS

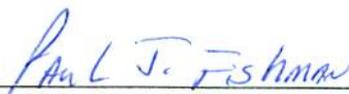
13. On or about the dates set forth below, for the purpose of executing the scheme and artifice to defraud described above, and attempting to do so, Defendant

MAXWELL B. SMITH

did knowingly place and cause to be placed in a post office and authorized depository for mail, certain mail matter as described below, to be sent and delivered by the United States Postal Service and private and commercial interstate carriers:

Count	Date	Mailing
1	December 21, 2004	Confirmation of \$25,000 investment in HCFP by HCFP Investors R.L. and D.L.
2	August 1, 2006	Confirmation of \$150,000 investment in HCFP by HCFP Investors J.S. and E.S.
3	January 22, 2007	Confirmation of \$300,000 investment in HCFP by HCFP Investor L.F.
4	April 9, 2008	Confirmation of \$150,000 investment in HCFP by HCFP Investors R.T. and E.T.
5	June 18, 2008	Confirmation of \$75,000 investment in HCFP by HCFP Investors A.M. and M.M.

In violation of Title 18, United States Code, Section 1341 and Section 2.



PAUL J. FISHMAN
UNITED STATES ATTORNEY

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UNITED STATES OF AMERICA

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MAXWELL B. SMITH

**INFORMATION CHARGING
VIOLATIONS OF**

18 U.S.C. § 1341 & 2

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