

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 73361 / October 15, 2014

INVESTMENT ADVISERS ACT OF 1940
Release No. 3948 / October 15, 2014

INVESTMENT COMPANY ACT OF 1940
Release No. 31288 / October 15, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-16197

In the Matter of

Edward L. Maggiacomo, Jr.

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTIONS 15(b) AND 21C
OF THE SECURITIES EXCHANGE ACT OF
1934, SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940,
AND SECTION 9(b) OF THE INVESTMENT
COMPANY ACT OF 1940, MAKING
FINDINGS, AND IMPOSING REMEDIAL
SANCTIONS AND A CEASE-AND-DESIST
ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”), Section 203(f) of the Investment Advisers Act of 1940 (“Investment Advisers Act”), and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Edward L. Maggiacomo, Jr. (“Maggiacomo” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”), which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the

Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15(b) and 21C of the Exchange Act, Section 203(f) of the Investment Advisers Act, and Section 9(b) of the Investment Company Act, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

These proceedings arise out of the fraudulent activities of Joseph A. Caramadre ("Caramadre"), who devised a scheme to defraud insurance companies. As part of the scheme, Caramadre purchased variable annuities for himself and actively solicited others to invest in variable annuities using terminally-ill individuals as annuitants. The annuities offered certain benefits upon the death of the annuitants. These benefits included a guaranteed return of all of the money that was invested, plus, under certain annuity contracts, interest and other bonuses and enhancements. Because Caramadre had reason to believe that the designated annuitant would die shortly after the purchase of the annuity, these annuities served as short-term investment vehicles that practically guaranteed an immediate return on the investment.

Caramadre was not registered as a broker, so he needed the assistance of a registered representative of a broker-dealer to purchase the variable annuities from insurance companies. Accordingly, he approached Maggiacomo, a registered representative of a broker-dealer. As a registered representative, Maggiacomo brokered the sale of variable annuities. Maggiacomo received a commission for each transaction, which he, in turn, shared with Caramadre knowing that Caramadre was not a registered person. Accordingly, Maggiacomo willfully aided and abetted Caramadre's violation of Section 15(a) of the Exchange Act, which prohibits any broker or dealer from using the mails or any other means of interstate commerce to "effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security" unless that broker or dealer is registered with the Commission in accordance with Section 15(b) of the Exchange Act.

Further, Maggiacomo made certain misrepresentations to his broker-dealer in connection with the sale of the variable annuities. Specifically, Maggiacomo submitted forms to his broker-dealer indicating that annuitants were not compensated, directly or indirectly, in connection with the variable annuity sales that he brokered. However, in certain instances, Maggiacomo met with

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

the terminally-ill individuals and/or their family members and gave them sums of money at or about the time he obtained their signatures and identifying information for the variable annuity applications. Moreover, in other instances, he knew that someone other than Maggiacomo was compensating certain annuitants. Accordingly, Maggiacomo's misrepresentations violate Section 10(b) of the Exchange Act and Rule 10b-5(b) thereunder.

Respondent

1. **Edward L. Maggiacomo, Jr.**, age 50, is a resident of Warwick, Rhode Island. Beginning in or about November 2005 until he was terminated on December 21, 2012, Maggiacomo was a registered representative of a registered broker-dealer and was associated with an investment adviser.

Other Relevant Persons and Entities

2. **Estate Planning Resources, Inc.** ("EPR") was incorporated in Rhode Island in 2006 and its principal place of business was in Cranston, Rhode Island. EPR was not registered with the Commission in any capacity.

3. **Joseph A. Caramadre**, age 54, is a resident of Cranston, Rhode Island. He was the President, Chief Executive Officer and majority owner of EPR. On November 17, 2011, Caramadre was charged in a 66-count federal grand jury indictment alleging that he conspired to steal and to use the identities of terminally-ill patients and elderly individuals to obtain more than 25 million dollars in illicit profits from insurance companies and bond issuers. Caramadre was charged with conspiracy, mail fraud, wire fraud, identity fraud, aggravated identity theft, money laundering and witness tampering. On November 19, 2012, Caramadre pleaded guilty to one count of wire fraud and one count of conspiracy and on December 16, 2013, he was sentenced to six years in prison. Further, on February 3, 2014, the court ordered Caramadre to pay restitution in the amount of \$46,330,077.61, representing the entire loss that the insurance companies sustained since the beginning of the scheme.²

Background

4. From June 2007 through June 2008, Maggiacomo, as a registered representative of a broker-dealer, offered and sold variable annuities, in connection with an investment scheme devised by Caramadre and implemented through Caramadre's company, EPR.

5. A variable annuity is an insurance contract that functions as a retirement-savings vehicle similar to a 401(k) plan. Variable annuities are long-term investments for retirement savings purposes and other long-range goals. The purchaser of the annuity deposits money. The money is then invested in stock or bond funds and grows tax-deferred. When

² The court found that Caramadre and his co-defendant, Raymour Radhakrishnan, were jointly and severally liable for \$33,197,425.26 and Caramadre was solely liable for the remaining \$13,132,652.35 because these losses were sustained before Radhakrishnan's involvement in the scheme.

opening the annuity, the purchaser identifies an individual as an “annuitant,” *i.e.*, the person whose death would trigger a payout under the variable annuity contract.

6. Caramadre’s investment scheme took advantage of a feature of a variable annuity known as the death benefit. Through the death benefit, insurers promised that the annuity would generate a return of at least the amount that was originally invested, less withdrawals, at the time of the annuitant’s death. So, for example, if an investor paid \$1 million for the annuity, and the market subsequently declined, the beneficiary still received \$1 million when the annuitant died. Further, some insurance companies sold annuities with enhancements to this basic death benefit, including a built-in interest rate equal to 5-8% of the greater of the principal invested or the value of the underlying portfolio at the time of death, which increased the minimum money-back amount for these policies.

7. The investment scheme resulted in nearly guaranteed returns for purchasers of the variable annuities (the investors). If stock prices rose while the annuitant was still alive, the investor profited from the rise in the market. If stock prices fell, the investor received a full refund of his/her original investment at the time of the death of the annuitant, plus any interest offered as part of certain annuity contracts. Because Caramadre and others had reason to believe that the designated annuitant would die in the near future, the scheme allowed investors to invest their money on a risk-free, short term basis, and, depending on the terms of the annuity, guaranteed an immediate 5-8% return.

8. Maggiacomo was responsible for brokering the sale of some of the variable annuities to investors who Caramadre identified because Caramadre himself was not an associated person of a registered broker-dealer. Between June 2007 and June 2008, Maggiacomo submitted at least fourteen applications with the identifying information and signatures of the terminally-ill annuitants identified by Caramadre to his broker-dealer.

9. To obtain the necessary information for the variable annuity applications, Caramadre and others offered terminally-ill individuals sums of money (usually between \$2,000 and \$5,000). Indeed, Maggiacomo spoke directly with some of the terminally-ill individuals and/or their family members and, in certain instances, provided them with sums of money.

10. In January 2008, Maggiacomo’s broker-dealer began requiring the annuitants to complete an “Acknowledgement of the Annuitant” form in which the terminally-ill annuitants certified that they had not received any compensation for allowing the owner to use them as annuitants and that they understood that they would derive no benefit whatsoever from being named annuitants. Maggiacomo submitted these forms along with the variable annuity applications to his broker-dealer, even though he knew that certain of the annuitants and/or their family members had received sums of money from someone other than Maggiacomo at or about the time they provided their signatures and identifying information. Moreover, Maggiacomo knew that if his broker-dealer had been told that the annuitants were compensated, directly or indirectly, in connection with the variable annuity transactions, his broker-dealer would not have approved the transactions.

11. After the broker-dealer approved the sale of the variable annuity and the insurance company issued the variable annuity, the broker-dealer paid Maggiacomo a share of the commission that it received on each variable annuity sale. Maggiacomo, in turn, shared a portion of his commission with Caramadre. Specifically, Maggiacomo received more than \$619,292 in commissions, of which he shared approximately 65% with Caramadre, leaving Maggiacomo with at least \$216,752.21. Thus, Caramadre actively solicited investors in exchange for compensation that was entirely dependent on the successful completion of the securities transactions. Maggiacomo knew that Caramadre was not an associated person of a registered broker-dealer.

12. As a result of the conduct described above, Maggiacomo willfully violated Section 10(b) of the Exchange Act and Rule 10b-5(b) thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities. Further, Maggiacomo willfully aided and abetted Caramadre's violation of Section 15(a) of the Exchange Act, which makes it unlawful for any broker or dealer to use the mails or any other means of interstate commerce to "effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security" unless that broker or dealer is registered with the Commission in accordance with Section 15(b) of the Exchange Act.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Maggiacomo's Offer.

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act, Section 203(f) of the Investment Advisers Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Maggiacomo cease and desist from committing or causing any violations and any future violations of Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder.

B. Respondent Maggiacomo be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization;

prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter; and

barred from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the

issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock

with the right to apply for reentry after five (5) years to the appropriate self-regulatory organization, or if there is none, to the Commission.

C. Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

D. Respondent received at least \$619,292 in commissions, of which he gave \$402,539.82 (or 65%) to Caramadre, leaving Respondent with \$216,752.21. Respondent shall pay disgorgement of \$216,752.21, with prejudgment interest of \$46,445.70, for a total payment of \$263,197.91. However, subject to receipt of proof of payment by Commission staff no later than 30 days from the date of this Order, this amount will be offset by \$263,197.91, the amount that Maggiacomo has agreed to pay to settle related claims. Accordingly, subject to receipt of proof of payment by Commission staff no later than 30 days from the date of this Order, no money is owed to the Commission at this time.

By the Commission.

Brent J. Fields
Secretary