

STOA Schemes Face Increased Regulatory Scrutiny

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Increased SEC and Justice Department prosecution is bad news for stranger-originated annuity (STOA) schemes. The SEC recently announced that enforcement actions were taken against brokers Michael A. Horowitz of California and Moshe Marc Cohen of New York. Both brokers fraudulently obtained confidential health information about terminally-ill patients and used it in a STOA scheme beginning in 2007. After designating the patients as annuitants whose deaths would result in death benefits, the brokers sold the annuity contracts to investors who collected lucrative payouts when the patients died. To execute their scheme, the two falsified broker-dealer forms, caused insurance companies to issue annuities they otherwise would not have, and ultimately generated more than \$1 million in sales commissions for themselves. **While SEC litigation continues against Horowitz and Cohen for violations of the securities laws, several others enlisted to help in the scheme have consented to SEC orders alleging securities law violations, settling for a total of \$4.5 million.**

Similarly, the prosecution of two others who conducted a STOA scheme using the identities of terminally-ill patients recently concluded when the District of Rhode Island ordered Joseph Caramadre and Raymour Radhakrishnan to pay a combined \$46 million in restitution to the victims of their crimes, including more than \$20 million to insurance companies. Both were sentenced to prison in December 2013 for their roles in a conspiracy to fraudulently gain information from terminally ill patients, arrange investments in variable annuities that would pay benefits when the patients died, and defraud insurance companies and bond issuers out of millions of dollars. The court refused to limit the victims eligible for restitution to those expressly named in the defendants' plea agreement and instead held the defendants liable to approximately 50 insurance companies and bond issuers. The considerable payments being made in these two cases could have a chilling effect on future STOA schemes.

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