

**ADMINISTRATIVE PROCEEDING
BEFORE THE
SECURITIES COMMISSIONER OF MARYLAND**

IN THE MATTER OF: *

PERRY C. SANTILLO, JR., * Case No. 2018-0036

PERRY C. SANTILLO, JR. *
d/b/a HIGH POINT WEALTH MANAGEMENT *
a/k/a HIGH POINT INSURANCE SOLUTIONS *

ERIC PAUL BARBARO, *

STEVEN F. COFFEY, *

and *

FIRST NATIONLE SOLUTION, LLC *

Respondents. *

* * * * *

**FINAL ORDER AS TO RESPONDENTS PERRY C. SANTILLO, JR., SANTILLO D/B/A
HIGH POINT WEALTH MANAGEMENT A/K/A HIGH POINT INSURANCE
SOLUTIONS, AND FIRST NATIONLE SOLUTION, LLC**

WHEREAS, the Securities Division of the Office of the Maryland Attorney General (the “Division”), pursuant to the authority granted by section 11-701 of the Maryland Securities Act, Corporations and Associations Article, Title 11, Annotated Code of Maryland (2014 Repl. Vol. and Supp. 2017) (the “Act” or “Securities Act”), conducted an investigation of the Respondents, Perry C. Santillo, Jr. (“Santillo”), Santillo d/b/a High Point Wealth Management a/k/a High Point Insurance Solutions (“High Point”) (collectively “Santillo Respondents”), Eric Barbaro

("Barbaro"), Steven F. Coffey ("Coffey"), and First Nationle Solution, LLC ("FNS") (collectively "Respondents"); and

WHEREAS, on the basis of that investigation on February 1, 2018 and February 14, 2018, respectively, the Maryland Securities Commissioner (the "Commissioner") issued a Summary Order to Cease and Desist and Order to Show Cause and First Amended Summary Order to Cease and Desist and Order to Show Cause ("Amended Order"), which are incorporated by reference, requiring Respondents to show cause why they should not be barred permanently from engaging in the securities and investment advisory business in Maryland and why a statutory penalty of up to \$5,000 per violation should not be entered against them; and

WHEREAS, the Amended Order provided that the failure to file an answer, including a request for a hearing, within fifteen (15) days of service of the Amended Order would result in the entry of a Final Order barring Respondents from engaging in the securities and investment advisory business in Maryland; and imposing on Respondents a monetary penalty of up to \$5,000 per violation of the Act, and

WHEREAS, the Santillo Respondents failed to timely file an answer to the Amended Order pursuant to COMAR .02.02.06.06A or to make a written request for a hearing; and

WHEREAS, on February 28, 2018, the Santillo Respondents' counsel wrote the Division's counsel to ask for an extension of time to answer the Amended Order until April 2, 2018; and

WHEREAS, on March 1, 2018, the Division responded by informing the Santillo Respondents' counsel that pursuant to COMAR .02.02.06.06 the Division's counsel could only extend the time to answer until March 16, 2018, but in order to extend the time to answer, the

Santillo Respondents' counsel would have to get the permission of all parties, including the two parties she did not represent; and

WHEREAS, on March 1, 2018, the Santillo Respondents' counsel replied that she would like the extension and that she would reach out to the other Respondents' counsel to seek their permission; and

WHEREAS, on March 19, 2018, the Division emailed the Santillo Respondents' counsel to ask why they had not answered the Amended Order; and

WHEREAS, on March 20, 2018, the Santillo Respondents' counsel called the Division's counsel and asked for an extension, and Division's counsel again explained that pursuant to COMAR any additional extension could only be granted by order of the Commissioner; and

WHEREAS, on March 20, 2018, the Santillo Respondents' counsel called the Commissioner and asked for an extension and the Commissioner told her that she should submit the request for an extension in writing; and

WHEREAS, to date, the Santillo Respondents' counsel has not submitted a request for an extension of time to answer to the Commissioner in writing; and

WHEREAS, on March 20, 2018, the Division asked counsel to the other Respondents if the Santillo Respondents' counsel had sought their permission to extend the time to answer until March 16, 2018, and he replied that counsel had not; and

WHEREAS, in January and February 2018, Respondents Santillo and FNS transferred over \$150,000 in FNS promissory note holders' funds to the Royal Bank of Canada; and

WHEREAS, the Commissioner has determined that it is in the public interest to issue this

Final Order against Respondents Santillo, High Point, and FNS;

NOW, THEREFORE, pursuant to sections 11-301, 11-302, 11-401, 11-402, 11-501, and 11-701.1(a) of the Act, THE COMMISSIONER FINDS AND ORDERS:

I. JURISDICTION

1. The Securities Commissioner has jurisdiction in this proceeding pursuant to section 11-701.1 and 11-801 of the Act.

II. DEFAULT RESPONDENTS

2. Santillo works from High Point's office in Baltimore County, Maryland. He has never been registered as a broker-dealer, agent, investment adviser or investment adviser representative in Maryland. Santillo is the founder and Chief Executive Officer of High Point.

3. FNS is a Michigan limited liability company that is selling promissory notes to Maryland residents. FNS has never been registered as a broker-dealer or investment adviser in Maryland. Santillo is a manager for FNS.

4. High Point is a business operating in Baltimore County, Maryland. High Point is a d/b/a for Santillo. High Point has never been registered as a broker-dealer or investment adviser in Maryland.

III. STATEMENT OF FACTS

A. Holding Out as Investment Advisers or Investment Adviser Representatives in the Solicitation of Former Everest Clients.

5. In November 2017, Respondents Santillo and High Point began contacting former clients of Everest Wealth Management, Inc. ("EWM") and Everest Investment Advisors, Inc.

(“EIA”) (collectively, “Everest”).¹

6. On November 18, 2017, High Point emailed the former Everest clients to announce High Point’s recent “purchase” of EWM and to “explain how the transition [to High Point] works in regards to your investments.”

7. High Point’s email included a short video that touted High Point’s “years” of service to clients including, helping them “...plan and manage their finances to achieve both short and long term goals. We start by helping you define success. Whether it’s a better investment return, reducing portfolio risk or minimizing future income or estate tax...”

8. High Point’s email also attached a letter from Santillo explaining that High Point had acquired EWM, and that the clients would be receiving a call from the High Point office to set up a face-to-face meeting to explain their “planning process and custom tailor it to your individual needs.” Santillo’s letter promised clients that High Point would bring them “an enhanced level of management.”

9. On January 18, 2018, High Point and Santillo wrote again to the former Everest clients. This letter explained that Rousseaux “...underwent an extensive and time consuming search to find a *financial advisor* who will be able to seamlessly replicate and enhance the care and dedication that the Everest team provided you with in the past. Phil’s main criterion in the

¹ On March 28, 2017, the Maryland Securities Commissioner’s designee issued a Final Order against EWM, EIA, and their owner, Philip Rousseaux (“Rousseaux”). The Final Order barred EWM from the securities and investment advisory business in Maryland, suspended EIA from the securities and investment advisory business in Maryland for one year, revoked Rousseaux’s investment adviser representative registration in Maryland, and barred him from the securities and investment advisory business in Maryland. The Final Order imposed fines against all three Respondents for violations of the anti-fraud provisions of the Act. Rousseaux appealed the Final Order to the Circuit Court for Baltimore City. His appeal was denied. Rousseaux appealed that decision to the Maryland Court of Special Appeals. That appeal is pending.

selection process was finding an *advisor* that shared his *investment* philosophy...” (Emphasis added.) The letter promised “face to face meetings to review your financial situation, and annual reviews on *all your investments* to ensure your financial objectives are being met.” (Emphasis added.)

10. The “home” page of High Point’s website states, “we provide tailored solutions based on client needs and goals... After your initial financial assessment, our Representatives will provide you with a customized, step-by-step plan that will maintain and help improve your standards of living in retirement.”

11. Respondents Santillo and High Point have been compensated for their investment advice.

12. Respondents Santillo and High Point have not provided the former Everest clients the disclosures required by Form ADV, Part 2, including disclosure of all conflicts of interest, compensation and services offered.

B. Investment Advice to Clients

13. By the end of November 2017, Respondents Santillo and High Point had begun setting up meetings with clients in their Towson, Maryland office, the former office of EWM and EIA.

14. Respondents Santillo and High Point generally had an initial meeting with clients so that the clients could get to know them and so that they could gain the clients’ trust.

15. At a second meeting, Respondents Santillo and High Point would advise clients to sell their securities in their EQIS Capital Management Inc. (“EQIS”) accounts and transfer the

proceeds to new accounts at Quest IRA, Inc. (“Quest”).²

16. If clients’ EQIS accounts were non-qualified accounts, Respondents Santillo and/or High Point would advise clients to sell their securities in their EQIS accounts and have the proceeds sent to the client by check. Respondents Santillo and High Point advised clients to schedule another meeting once the clients received the proceeds from the sale of their securities at EQIS. Respondents Santillo and High Point helped those clients deposit those funds into the clients’ account at Quest or advised the clients to invest funds directly with Respondent FNS.

17. During this second meeting, clients were also sometimes advised to surrender their annuities, causing them to incur losses of as much as \$34,434.72 in surrender fees, and transfer the proceeds from the annuity surrender to Quest.

18. It was not until after clients had sold their securities at EQIS and surrendered their annuities, that Respondents Santillo and High Point would advise the clients of what they were actually recommending to clients as a new investment.

19. Because Respondents Santillo and High Point did not disclose the services they provided or the type of securities they sold at the start of their relationship with clients, the clients were prevented from making an informed decision about whether to sell their securities, surrender their annuities, or accept Respondent Santillo’s and High Point’s investment advisory services.

² Quest’s website describes a self-directed IRA as “one that permits the account owner to invest their IRA in what they know best, free from the investment restrictions imposed by a more traditional brokerage style account.” Quest’s website touts its lack of investment limitations proclaiming, “Quest IRA gives you the freedom to purchase almost any type of investment. Common investment choices include all types of real estate, newly created and existing promissory notes, LLCs, limited partnerships, private stock, trusts, oil and gas, tax liens, and much more.”

20. Between November 2017 and January 2018, Respondents Santillo and High Point advised at least 99 Maryland residents to sell their securities in their EQIS accounts and transfer the proceeds to new accounts at Quest. Respondents Santillo and High Point have recommended that Maryland residents transfer at least \$6,290,000 from EQIS to Quest. Respondent Santillo is named as an “interested party” in the Quest account opening forms.

21. The advice Respondents Santillo and High Point provided to the former Everest clients to transfer their funds to a self-directed IRA account is not suitable. The former Everest clients generally rely on the advice of registered investment advisers to help them make investment decisions and do not manage their own assets. The Securities and Exchange Commission and the North American Securities Administrators Association have warned about the risks of self-directed IRAs. See <https://www.sec.gov/investor/alerts/sdira.pdf>, *Investor Alert: Self-Directed IRAs and the Risk of Fraud*.

22. Respondents Santillo and High Point are not registered to provide investment advice.

C. Use of Third Party Adviser’s Performance Figures

23. Respondents High Point and Santillo met with former Everest clients, TD and his wife, and advised them to sell their securities at EQIS and transfer the funds to new accounts at Quest.

24. At a second meeting, Respondents High Point and Santillo provided TD and his wife with performance figures for an unnamed third party adviser. The performance figures are marked “INTERNAL USE ONLY” and do not include required disclosures, including the name

of the third party adviser. (Emphasis in original.)

25. Respondents High Point and Santillo recommended that TD and his wife invest with the third party adviser. Respondents High Point and Santillo gave TD and his wife a proposed “asset allocation” for an “Income with Moderate Growth” portfolio. The portfolio recommendations included investments in at least sixteen different mutual funds.

26. Respondents High Point and Santillo did not provide TD and his wife with the third party adviser’s Form ADV, Part 2 brochure as required.

27. Respondents High Point and Santillo are not registered to recommend third party investment advisers to clients.

D. Offer and Sale of Pooled Real Estate Investments and/or Promissory Notes

28. Once the clients’ funds were transferred to Quest, Respondents Santillo and High Point recommended the clients invest in promissory notes issued by Respondent FNS. At least 21 former Everest clients who are Maryland residents have invested \$1,247,000 in promissory notes issued by FNS.

29. In exchange for their investment, clients were issued unsecured promissory notes by FNS. The notes promise a 3% annual return for three years plus a 10% bonus. None of the Respondents made disclosure to their clients/investors about the use of the loan proceeds, the risks involved with the investment or the compensation paid to the Respondents.

30. Respondents did not disclose to clients/investors that Respondent Santillo controlled FNS and that their investments would be used to fund his other companies.

31. The “home” page of FNS’s website refers to the investments in FNS as

“investments” and makes statements like “proper planning is needed to have a comfortable retirement. Were [sic] here to help.”

32. The “about us” page of FNS’s website states, FNS is “engaged in leveraging investments, holdings, and other assets, while building value for investors... FNS currently manages diverse assets and holdings including insurance based organizations, real estate developments, and more.”

33. The “our focus” page of FNS’s website states, “[t]he FNS model was designed by its Principals to achieve performance in spite of uncertain economic conditions by taking advantage of the unique opportunities that exist within today's real estate sector. FNS along with its affiliates works with ... fixed income vehicles for our investors.” The “our focus” page also states, “[t]o further diversify our model, FNS also serves as a holding company for several sales affiliates that represent a group of companies who offer a rich portfolio of premier Insurance and Impaired Risk products that help individuals and corporations across the nation to achieve financial security and peace of mind. These subsidiaries manage over \$145 million in assets... Our model's ultimate purpose and desire is to provide a formidable solution that will assist in supplementing your financial goals and objectives.”

34. The “philosophy” or “our objective” page of FNS’s website states, “[t]he main ambition of the FNS model is to offer a solution that may help your portfolio outpace the rate of inflation through minimal volatility, and performance that is not directly correlated to the movements within the traditional market. **OUR OBJECTIVE is to ensure that an investment in FNS will help aide you and your family in achieving financial security and stability**

today, and from now on.” (Emphasis in original)

35. Respondents Santillo and High Point also advised clients to invest in real estate investments. Respondents Santillo and High Point described the investments as pooled real estate investments in which Santillo and his company would purchase and own the real estate and investors would provide the money to improve the real estate. Respondent Santillo and/or his company would manage the real estate, including renting it, and clients would receive revenues from the rental income.

36. Santillo told one client that he had already sold \$70 million in similar real estate investments.

37. Respondents did not disclose to investors that they were not registered as a broker-dealer, broker-dealer agent, investment adviser or investment adviser representative.

38. Respondents did not disclose to the investors that the pooled real estate investment and promissory notes were not registered as securities and that no exemption filing or claim that the securities were federal covered securities had been filed with respect to the offer and sale in Maryland.

E. Employment of Unregistered Agents and Investment Adviser Representatives

39. Respondents Santillo and High Point have compensated or agreed to compensate Rousseaux, a person barred from the securities and investment advisory business in Maryland, for advising his former clients to engage Respondents Santillo and High Point as their new “financial advisor who will be able to seamlessly replicate and enhance the dedication that the Everest team provided...[for] all your investments...”

40. Rousseaux contacted former Everest clients by telephone and email and advised them to engage Respondents Santillo and High Point as their new “financial advisor.”

41. Respondents Santillo and High Point employed Steven F. Coffey (“Coffey”) and Eric Barbaro (“Barbaro”) as unregistered investment adviser representatives.

42. Respondents Santillo, FNS and High Point employed Coffey and Barbaro as unregistered agents.

IV. CONCLUSIONS OF LAW

The Commissioner concludes that:

43. Respondents Santillo, High Point and FNS violated section 11-501 of the Act by offering and selling unregistered securities.

44. Respondents Santillo and High Point violated section 11-401(b) of the Act by acting as an unregistered investment adviser or investment adviser representative to at least 99 advisory clients by among other things:

- a. holding themselves out as an investment adviser by referring to themselves as a “financial advisor” and including in the name of their company the term “wealth management,”
- b. recommending that advisory clients sell securities and invest in pooled real estate investments and/or promissory notes,
- c. providing or offering to provide financial and investment counseling or advice, and
- d. gathering information relating to investments, establishing financial goals

and objectives and by processing and analyzing the information gathered and recommending a financial plan.

45. Respondents Santillo and High Point violated section 11-402(b) of the Act by employing or associating with unregistered investment adviser representatives, Santillo, Barbaro, Coffey, and Rousseaux.

46. Respondents Santillo, FNS, and High Point violated section 11-401(a) of the Act by effecting or attempting to effect securities transactions in pooled real estate investments and/or promissory notes while they were not registered with the Division as a broker-dealer or agent.

47. Respondents Santillo and FNS violated section 11-402(a) of the Act by employing or associating with unregistered agents, Santillo, Barbaro and Coffey.

48. Respondents Santillo, FNS, and High Point violated section 11-301(1) of the Act by offering and selling unregistered, non-exempt securities that are not federal covered securities to at least 21 investors, and by failing to disclose to those investors the risks associated with the securities, including that the FNS promissory notes are unsecured.

49. Respondents Santillo and High Point violated section 11-301(1) of the Act by providing at least 2 clients with false and/or misleading performance figures in connection with the offer of securities.

50. Respondents Santillo, FNS, and High Point violated section 11-301(2) of the Act by failing to disclose to at least 21 investors material facts, including:

- a. Respondents' lack of registration as a broker-dealer, issuer, agent, investment adviser, or investment adviser representative,

- b. the registration statuses of the securities offered and sold by them, and
- c. the risks related to the securities offered and sold by them.

51. Respondents Santillo and High Point violated section 11-301(2) of the Act by failing to disclose material facts about the performance figures provided to at least 2 clients in connection with the offer of securities.

52. Respondents Santillo, FNS and High Point violated section 11-301(3) of the Act by offering and selling unregistered, non-exempt securities that are not federal-covered securities to at least 21 investors, and by making misrepresentations, or failing to disclose material facts, with respect to the offers and sales to those investors.

53. Respondents Santillo and High Point violated section 11-302(a)(1) of the Act by advising at least 21 clients to invest in securities that were unregistered, non-exempt securities that are not federal covered securities, and failing to disclose the risks associated with the investments.

54. Respondents Santillo and High Point violated section 11-302(a)(1) of the Act by providing false and/or misleading performance figures to at least 2 clients or potential clients.

55. Respondents Santillo and High Point violated section 11-302(c) of the Act by failing to disclose to at least 99 advisory clients material facts, including:

- a. Respondents' lack of registration as a broker-dealer, agent, investment adviser, or investment adviser representative,
- b. the registration statuses of the securities offered and sold by them,
- c. disclosures required by Form ADV when providing investment advice,

- d. all conflicts of interest,
- e. compensation arrangements between them and clients and/or FNS and other entities controlled by Santillo, and
- f. the nature and limitations of their services as a result of their lack of registration.

56. Respondents Santillo and High Point violated section 11-302(c) of the Act by failing to disclose to at least 99 advisory clients material facts, including advising clients to sell their securities or surrender their annuities and incur material surrender fees, without first advising clients what they recommended as a replacement.

57. Respondents Santillo and High Point violated section 11-302(c) of the Act by failing to disclose material facts to clients, including disclosures to at least 2 clients required when providing performance figures.

58. Respondents Santillo and High Point violated section 11-302(a)(2) of the Act by advising at least 21 clients to purchase unregistered, non-exempt securities that are not federal-covered securities, and making misrepresentations of or failing to disclose material facts with respect to the recommended securities.

59. Respondents Santillo and High Point engaged in dishonest and unethical practices in violation of section 11-302(a)(3) of the Act by failing to disclose to at least 99 clients material facts, including:

- a. all conflicts of interest
- b. compensation arrangements between them and client and/or FNS or other

entities controlled by Santillo, and

- c. the nature and limitations of their services as a result of their lack of registration.

60. Respondents Santillo and High Point engaged in dishonest and unethical practices in violation of section 11-302(a)(3) of the Act by advising clients to sell their securities or surrender their annuities and incur material surrender fees, without first advising clients what they recommended as a replacement.

61. Respondents Santillo and High Point violated section 11-302(a)(3) of the Act by giving at least 2 clients or potential clients, performance figures that did not comply with the requirements of COMAR 02.02.05.03B(13), including identifying the third party adviser and other required disclosures for performance figures.

V. SANCTIONS

66. NOW, THEREFORE, IT IS HEREBY ORDERED that:

- a. Respondents Santillo, High Point, and FNS shall cease and desist from violating sections 11-501, 11-401, 11-402, 11-301 and 11-302 of the Act.

- b. Respondents Santillo, High Point, and FNS are permanently barred from engaging in the securities or investment advisory business in Maryland for or on behalf of any others, or from acting as principal or consultant in any entity so engaged.

- c. Respondents Santillo and High Point, jointly and severally, are assessed a civil monetary penalty pursuant to section 11-702 of the Act in the amount of \$3,990,000, and Respondents Santillo and FNS, jointly and severally, are assessed a civil monetary penalty

pursuant to section 11-702 of the Act in the amount of \$435,000 for the violations set forth in this Order. Payment shall be by certified check payable to the Office of the Attorney General. Said penalty shall be paid within ninety (90) days of the date of this Order. However, this penalty shall be reduced dollar for dollar by the amount of restitution made, within forty-five (45) days of the date of this Order, by Respondents to investors in FNS promissory notes whose investment was made or solicited in Maryland. Payment of restitution shall be by certified check payable to the Office of the Attorney General and then distributed by the Office of the Attorney General in a manner within its discretion.

VI. JURISDICTION RETAINED

67. Jurisdiction shall be retained by the Commissioner for such further orders and directions as may be necessary or appropriate for the construction or enforcement of this Order.

VII. APPEAL RIGHTS

68. Respondents Santillo, High Point, and FNS may appeal this Final Order to the appropriate Circuit Court of the State of Maryland within 30 days from the date this Order is mailed by the Securities Division.

SO ORDERED:

**Commissioner's Signature on File
w/Original Documents**

DATED: March 29, 2018

Melanie Senter Lubin
Securities Commissioner