

Professional Insights

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Interview with Richard Szuch



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Richard Szuch

Enforcement Chief
New Jersey Bureau of Securities**

What’s your backstory?

I’m a Jersey guy, and I never wanted to live or work outside the state. I have law in my DNA. My father was a well-known and fierce litigator who managed one of the state’s largest firms. I learned to be a trial lawyer arguing with him at the dinner table when I was young. So what I do comes naturally to me.

I’ve been interested in the financial markets since I was 13. For my Bar Mitzvah, a family friend gave me 10 shares of RCA stock, and I watched its value rise and fall. When I had a decent profit, I sold the stock, rolled the proceeds into Seatrain, which then went bankrupt, and I lost everything. So I understood investment risk by age 15. More than 40 years later, I’m still fascinated by the financial markets.

Why migrate to public service after almost 30 years in private practice?

Many people take regulatory positions at the front end of their career. Some, like me, gain experience on the defense side and then work in securities regulation, either because it is more meaningful work, or they are burnt out from being on the “sell side” of the law. I always thought I would go back into government service at some point. When the opportunity to run enforcement in my home state came along, it felt like a gift. It’s like a working sabbatical and is certainly the most interesting and rewarding work that I’ve ever done.

Did COVID influence your decision?

It did not. I took my current position in October 2019, before COVID arrived. My timing was fortunate, because I think there would be much more competition for it now, with the Great Resignation. I talk to a lot of people about career development in the law and finance, and many of them my age are looking for an off-ramp to more meaningful work. They’re going through a reassessment of how they want to spend the last part of their career. I’m grateful to have had the opportunity to apply my talents to this new endeavor when it came along.

Did you have to make adjustments when transitioning from private practice?

The skills required for securities defense are the same as for prosecution. You’re just looking at it from the other side. I think my entire career prepared me for this role, but there are differences. Understanding how federal and state agencies work together, and separately, takes time. It has taken me two years to understand that, and I still have much to learn. I also had to get to know the staff of investigators who I oversee, to determine how to best apply their talents. Overall though, the adjustment has been much easier than I expected.

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What's the scope of your responsibility as Enforcement Chief?

I oversee all enforcement investigations conducted by the investigators in our unit. It's actually not a law job, it's an investigative job. We have lawyers who support us from New Jersey's Division of Law. We are looking at about 50 fraud fact patterns at all times. Our investigations are based on complaints that come from the public, FINRA, the SEC and other states. We can also focus on things that we see ourselves that don't look right.

Our duty is to investigate the allegations, go where the evidence takes us, to press if there are securities law violations, and to lay off if there are not. We have about 15 people working those investigations. I manage the group and participate directly in the investigations depending on the case. I'm usually involved with the bigger, complex matters, but all cases are important. The smaller cases often matter the most, because they involve people suffering with financial fragility.

What's the toughest part of your job?

The toughest part is accepting the limits of what we can do, because we know we're only touching the tip of the iceberg. Often, the best we can do is to send messages through our actions, and educate people about problems. But there is often fatigue among investigators who feel that their efforts aren't making a difference on a broader basis. My perspective is that we can't throw all of the starfish back in the ocean at low tide, but we should throw back as many as we can.

Does the tip of the iceberg apply to elder abuse also?

Absolutely. There is rampant fraud targeting elder and vulnerable investors. We see everything from international organized crime to family members stealing from one another. The Baby Boomers, and I am at the tail end of that generation, have the greatest concentration of generational wealth ever, so it is a target-rich environment for bad actors as our generation ages. This abuse is drastically under-reported, and my friends who study this tell me that only one in seven cases is reported.

Why do you have such an interest in investigating elder/vulnerable financial exploitation?

Although it is challenging, it is also very gratifying. Through our work on cases, and through investor education and training firms and their registered agents, we can improve people's lives. Working to protect elder and vulnerable investors combines my instinct for trying to do good as a public servant with helping financial services firms to protect their clients, which I had done in private practice. I also now have a voice on this, through the North American Securities Administrators Association (NASAA), to drive national policy change and innovation.

How much of your agency's caseload is related to this form of exploitation?

We have a dedicated unit that receives these complaints. That unit handles 10 to 20 reports a month. These reports require immediate attention to stop money movements. The fact patterns are usually pretty simple, but it's tough to determine an investor's ability to make sound financial decisions. Sometimes, bigger enforcement cases emerge from these fact patterns. If there's a bad actor we can reach in the industry, or a bad product, that naturally leads us to a bigger investigation.

Has the industry taken the elder/vulnerable exploitation problem seriously?

Yes, but not uniformly. Larger firms have more resources and can staff the problem much like our unit does for the state. Smaller firms typically rely on one person to do this work, but they are often stretched doing other compliance work as well. But there are many firms of all sizes that are not allocating the time and effort to protect their clients, and this is simply unacceptable.

How would you rank the industry's performance in protecting this population of investors?

Nationwide, the smaller, state registered investment advisory firms often lag behind. Some of those firms may not even know they should be training their employees to protect against this form of exploitation. There was a recent NASAA survey of smaller investment advisory firms. More than

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half had not implemented new policies and training designed to monitor and prevent exploitation, which is disappointing.

Has the migration of money to investment advisory firms contributed to the problem?

Having a larger group of smaller firms has not helped, because many do not have the resources to manage the problem properly. All investment advisory firms are not equal, however, and firms that are SEC-registered, with \$100 million dollars or more in assets under management, act more like large broker-dealers. With small firms, you do see less compliance, and they can be places for bad actors to hide. But there are good and bad people operating within any business model.

How much time and effort do firms need to invest in building an effective elder abuse capability?

It doesn't take a ton of effort; a little bit of training goes a long way. For example, NASAA, the SEC, and FINRA recently released a tool kit that firms can customize for their training, so they don't have to create their own program. They simply need to spend some time, educating their sales force and client-facing staff. The key is to have a designated person who has the knowledge and training to react when exploitation is suspected, and to take prompt steps to protect against harm.

Can you offer any encouraging news regarding the protection of elder and vulnerable investors?

It's certainly not all bad news. Importantly, and more so than I've seen in my years in the business, all stakeholders' interests in this space are aligned, because we all want to mitigate elder/vulnerable exploitation. Firms, regulators, and criminal authorities all are committed to education, vigilance and punishment for bad actors. We all are committed to collaboration as well. We want to avoid a situation like 9/11, where the FBI, the CIA and other agencies knew something, but they weren't collaborating in a way that made the information actionable.

What is your next step, career-wise?

I tell my friends that I still don't know what I want to do when I grow up. Ironically, I have more options for what's next than I've had at any other point in my career. And time is still my friend, and I plan to go full tilt for another five or 10 years. Right now though, I couldn't be happier than where I am.

Has there been any guiding principle that has shaped your life or career?

If there were one, I would point to the "Golden Rule." I keep my end of that bargain, and expect that others will play by the same precept.

Can you share any insights into your personal life?

I'm most proud of my family. I met my wife almost 40 years ago when we started law school together. She's been an intellectual property attorney for a major corporation for more than 30 years, and has been the one constant in my life. Our son is about to graduate from Columbia Business School, and he and a friend just launched an exciting app-based rental platform that applies social context to the home search process. Our daughter is the best attorney I've ever met who never went to law school. She does PR work in New York and also covers real estate.

I also stay in touch with an extraordinary group of close friends, all of whom are prepared to give me their unconflicted advice whenever I need it.

I admit that I have a weakness for cars. I love the smell of gasoline, and am always looking for a new toy. With my 60th birthday approaching, I got the OK from my wife to buy a new one. So I'm in the process of building a Factory Five Mk4 Roadster, which is a replica of the legendary 427 Shelby Ford Cobra. It will be a nice steed to ride as I head toward career sunset, whenever that is...

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Richard Szuch Biography

Richard Szuch is the Enforcement Chief for the New Jersey Bureau of Securities, where he oversees a department dedicated to protection of New Jersey investors and markets through enforcement of securities laws. His broad range of experience includes more than 25 years in private practice at two respected firms. At Bressler, Amery & Ross, P.C., he was a Senior Principal and one of the firm's lead trial attorneys with the Financial Institutions Litigation and Regulatory Group, and he also managed its Senior and Vulnerable Investor Group. Prior

to that, he was a Partner at Lowenstein Sandler LLP, involved in securities litigation. He began his career as a prosecutor for Morris County, New Jersey, where he was involved in nearly 40 criminal trials. He has an undergraduate degree from Emory University, and a law degree from the University of Pittsburgh School of Law. He currently serves as Vice Chair of the Senior Issues / Diminished Capacity Committee of the National American Securities Administrators Association (NASAA).

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