



North Carolina Department of the Secretary of State

Hon. Elaine F. Marshall, Secretary

Securities Division



PO Box 29622 | Raleigh NC | 27626-0622 | (919) 733-3924 | (800) 688-4507 | www.sosnc.com or www.sos.nc.gov

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Charlotte Man Given 16+ Years for \$1.5M Ponzi Scheme



Sean F. Mescall

Case jointly investigated by the NC Secretary of State Securities Division and the FBI

Sean F. Mescall, 35, of Charlotte, was sentenced on October 30, 2014, by U.S. District Judge Robert J. Conrad, Jr. to serve 195 months in prison for orchestrating a Ponzi scheme that solicited victims to invest

more than \$1.5 million dollars in the foreign currency market (FOREX), announced Anne M. Tompkins, U.S. Attorney for the Western District of North Carolina. Judge Conrad also ordered Mescall to serve three years under court supervision following his prison term and to pay \$1,248,812.09 as restitution to his victims. In December 2012, a federal jury convicted Mescall of securities fraud, wire fraud and money laundering.

North Carolina Secretary of State Elaine F. Marshall and John A. Strong, Special Agent in Charge of the Federal Bureau of Investigation (FBI), Charlotte Division joined U.S. Attorney Tompkins in making the announcement.

According to court documents and the sentencing hearing, from 2006 to 2010 Mescall executed a Ponzi scheme by inducing over 119 investors in Charlotte

[\(See "Mecall" continued on p. 17\)](#)

Brunswick County Teen Charged with Securities Fraud

Law enforcement agents with the North Carolina Secretary of State's Securities Division arrested David Alan Topping, 19, of Oak Island on November 5, 2014, and charged him with one count of felony securities fraud.



David Alan Topping

Investigators allege Topping defrauded victims out of more than \$100,000.

Topping was also charged with one count of felony obtaining property by false pretense and one misdemeanor charge for solicitation to obtain property by false pretense by the Brunswick County Sheriff's Office.

The Secretary of State's Office worked in partnership with the Brunswick County Sheriff's Office on this case. Brunswick County Sheriff John Ingram thanked the Secretary of State's Office for its work on this case, adding "I am glad the citizens of Brunswick County will no longer be victimized by this individual's deceit."

"We believe that among Mr. Topping's victims were retirees, some of whom invested tens of thousands of dollars in his scheme that they may well never get back," Secretary of State Elaine F. Marshall said.

[\(See "Topping" continued on p. 3\)](#)



ZeekRewards President Indicted on Federal Charges for Operating \$850 Million Internet Ponzi Scheme

United States Attorney Anne M. Tompkins Western District of North Carolina

On October 24, 2014, the president of ZeekRewards, Paul Burks, was indicted on federal charges for operating an Internet Ponzi scheme that took in more than \$850 million dollars, announced Anne M. Tompkins, U.S. Attorney for the Western District of North Carolina. The criminal indictment was returned by a federal grand jury sitting in Charlotte, charging Burks, 67, of Lexington, N.C., with wire and mail fraud conspiracy, wire and mail fraud, and tax fraud conspiracy.



Paul Burks

Russell F. Nelson, Special Agent in Charge of the United States Secret Service, Charlotte Field Division and Thomas J. Holloman III, Special Agent in Charge of the Internal Revenue Service, Criminal Investigation Division (IRS-CI) joined U.S. Attorney Tompkins in making the announcement.

According to allegations contained in the [indictment](#), from January 2010 through August 2012, Paul Burks was the owner of Rex Venture Group, LLC (RVG), through which he owned and operated Zeekler, a sham Internet-based penny auction company, and its purported advertising division, ZeekRewards (collectively “Zeek”). The indictment alleges that Burks and his conspirators induced victims – including over 1,500 victims in the Charlotte area – to invest in their fraudulent scheme, by falsely representing that Zeekler was generating massive retail profits from its penny auctions, and that the public could share in such profits through investment in ZeekRewards. Indeed, the indictment alleges that Burks and others claimed, at one point, that investors would be guaranteed a 125% return on their investment.

The indictment alleges that Burks and his conspirators represented that victim-investors in ZeekRewards could participate in the Retail Profit Pool (RPP), which supposedly allowed victims collectively to share 50% of Zeek’s daily net profits. The indictment alleges that Burks and his conspirators did not keep books and records needed to calculate such daily figures, and that Burks simply made up the daily “profit” numbers. The indictment further alleges that, contrary to the conspirators’ claims, the true revenue from the scheme did not come from the penny auction’s “massive profits.” Instead, approximately 98% of all incoming funds came from victim-investors, which were then used to make Ponzi-style payments to earlier victim investors.

In addition to promising massive returns on investments, the indictment alleges that the conspirators also used a number of ways to promote Zeek to current and potential investors. For example, according to the indictment, the conspirators hosted weekly conference calls and leadership calls, where participants could call in listen to Burks and others make false representations intended to encourage victim-investors to continue to invest money and to recruit others to invest in Zeek. The indictment further alleges that Burks also organized and attended “Red Carpet Events,” where victim investors came to hear details of the scheme in person. During these events, according to the indictment, Burks and his conspirators made false representations about the massive retail profits generated by Zeek. The conspirators also used electronic and print media, including websites, emails and journals, to make false and misleading statements about the success of Zeekler to recruit victim investors.

[\(See “ZeekRewards” continued on p. 3\)](#)

[\("ZeekRewards" continued from p. 2\)](#)

The indictment alleges that as the Ponzi scheme grew in size and scope, it began to unravel as the outstanding liability resulting from the bogus 125% return on investment continued to rise beyond control. According to the indictment, by August 2012, the conspirators fraudulently represented to the collective victims that their investments were worth approximately \$2.8 billion, but had no accurate books and records to even determine how much cash on hand was available to pay such liability. According to the indictment, by August 17, 2012, Burks and his conspirators had only \$320 million (or approximately 11% of \$2.8 billion) available to pay out investors. The indictment alleges that over the course of the scheme, Burks diverted approximately \$10.1 million to himself.

Burks is also charged with tax fraud conspiracy for failing to file corporate tax returns or to make corporate tax payments for his companies, among other things. In addition, the indictment alleges, for tax year 2011, Burks issued fraudulent IRS Forms 1099s, causing victim-investors to file inaccurate tax returns for phantom income they never actually received.

The court has issued a summons against Burks and he is expected to appear in federal court for his initial appearance in the coming days. The wire and mail

fraud conspiracy charge, the mail fraud charge and wire fraud charge each carry a maximum prison term of 20 years and a \$250,000 fine. The tax fraud conspiracy charge carries a maximum prison term of five years and a \$250,000 fine.

The details contained in this indictment are allegations. The defendant is presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

Two of Burks' conspirators, Dawn Wright Olivares, Zeek's Chief Operating Officer, and her step-son and Zeek's Senior Technology Officer, Daniel C. Olivares, pleaded guilty in December 2013 to investment fraud conspiracy. Dawn Wright Olivares also pleaded guilty to tax fraud conspiracy. Both defendants await sentencing.

The prosecution is handled by Assistant United States Attorneys Jenny Grus Sugar, Corey Ellis and Mark T. Odulio of the U.S. Attorney's Office in Charlotte.

Additional information and updated court filings about this and related case filings can be accessed at <http://www.justice.gov/usao/ncw/victimwitness/zeekreward.html>, while information about the ZeekRewards receivership can be found at <http://www.zeekrewardsreceivership.com/>.

[\("Topping" continued from p. 1\)](#)

Topping had his first appearance on November 5 in Brunswick County District Court and has been placed under a \$250,000 bond.

Investigators allege Topping solicited investors to invest money with Stark Innovations.

Investors were allegedly told that Topping bought and shipped electronic consumer goods in bulk from overseas and sold them at a markup in the U.S. Investors told investigators that Topping said they could earn 6.5-percent interest per month with no risk to their principal.

Topping did not reveal that he wasn't registered to sell securities in North Carolina, nor that he is currently on

probation for felony convictions related to larceny and motor vehicle theft.

"Mr. Topping solicited investors through a variety of means, from cold calls to pitches on social media sites including Facebook and LinkedIn," Secretary Marshall said. "This is why it is so important to check out all investment offers you see before making any commitments."

"Calling our Securities Division at (800) 688-4507 would have revealed that Mr. Topping was never licensed to sell securities, and that in itself should always raise a huge red flag for potential investors."



New Products in Classic Schemes Identified as Top Investor Threats

The NC Department of the Secretary of State Securities Division has identified emerging threats facing investors in 2015, including schemes involving binary options, marijuana-related businesses, stream-of-income investments, and digital currency.

“Many of the top threats facing investors involve new products in classic schemes,” said David S. Massey, Deputy Securities Administrator and Director of the NC Securities Division. “Crooks use time-tested techniques of misleading and defrauding the public, and incorporate into their scams whatever product or situation is getting current publicity in the mass media, and in particular, the Internet. Bogus investment ‘opportunities’ are often marketed by unregistered sales persons who haven’t, or can’t, register the products they are trying to sell,” he said.

The following list of top threats facing unwary investors throughout North America was compiled by the Enforcement Section of the North American Securities Administrators Association (NASAA), of which the NC Securities Division is a member.

Emerging Threats (Please see the following page for an explanation of each of these emerging threats):

- Binary Options
- Marijuana Industry Investments
- Stream-of-Income Investments
- Digital Currency & Cybersecurity Risks

Persistent Threats:

- Reg D/Rule 506 Private Offerings
- Pyramid and Other Ponzi Schemes
- Real Estate Schemes, Including Those Using Promissory Notes
- Affinity Fraud
- Internet Fraud (including Social Media and Crowdfunding)
- Oil & Gas Investments in the Fracking Era

Unregistered salesmen continue to be the most common subject of enforcement actions by state securities regulators. “If you want to avoid becoming a victim in an investment fraud, you should independently verify any investment opportunity, including the background of the person and company offering the investment,” Massey said.

The NC Securities Division can provide detailed background information about those who are registered to sell securities or provide investment advice in North Carolina, and about the products being offered. “It pays to investigate before you invest,” Massey said.

NASAA's Top Emerging Investor Threats



Binary Options: Binary options are securities in the form of options contracts that have a payout that depends on whether the underlying asset – for example, a company's stock or a stock index – increases or decreases in value. In such an all-or-nothing payout structure, investors betting on a stock price increase face two possible outcomes when the contract expires: they either receive a pre-determined amount of money if the value of the asset **increased** over the fixed period, or no money at all if it **decreased**. Unlike a traditional

option, a binary option will pay a fixed sum at expiration regardless of the magnitude of the difference between the settlement value and the option's exercise price. A **call binary index option** would pay out if the settlement value of the underlying index were at or above the option's exercise price at expiration, and a **put binary index option** would pay out if the underlying index were below the option's exercise price at expiration. Binary option risks include: illegal distributions (i.e., trading of binary options without complying with applicable registration and distribution requirements); potential for fraud (fraudulent promotion schemes with misleading average returns on investment); identity theft (collecting customer information such as credit card and driver's license data for unspecified uses); refusals to return, or pay out, investor funds; potential for abusive trading: manipulation of the binary options trading software to generate losing trades. **Particular investor risks are that the option is an all-or-nothing payout structure and investors can easily lose their entire investment.** In addition, much of the binary options market operates through Internet-based trading platforms that are not necessarily complying with applicable local regulatory requirements.

Marijuana Industry Investments: In the United States, medical marijuana is legal in 23 states and the District of Columbia, and recreational use is legal in four states and the District of Columbia. The legalization of this once prohibited substance is generating headlines, which, in turn, has grabbed the attention of investors looking to capitalize on the high potential of this new legal market. Many promoters have seized upon this to market and sell investments in the marijuana industry, including investments in companies that provide products and services to the marijuana industry such as vaporizers, hydroponic supplies, lighting systems, and security systems. But as is the case with any headline-generating topic, scam artists also recognize an opportunity to capitalize. **Many of these companies are micro-cap companies selling low-priced securities which typically are highly speculative and carry a high degree of risk for investors.** Securities regulators are seeing "pump and dump" scams, typical of micro-cap offerings. Fraudsters lure investors with aggressive, optimistic, and potentially false or misleading information designed to create unwarranted demand for shares of a small, thinly traded company with little or no history of financial success (the "pump"). Once share prices and volumes peak, scammers behind the ploy sell their shares at a profit, leaving investors with worthless stock (the "dump"). Investors should think carefully and do their due diligence before jumping into marijuana-related investments.



Stream-of-Income Investments: Investors looking for monthly returns are being enticed to invest by companies that introduce investors to individuals selling a stream of income, such as pension payments or government disability payments. **These investments can carry significant risks as laws may prohibit the assignment of the stream of income/benefits, the seller typically maintains the legal right to redirect the payment, and if the seller does redirect the payment, the investor may be left**

(See "Top Emerging Threats" continued on p. 6)

[\("Top Emerging Threats" continued from p. 5\)](#)

with an unenforceable contract right. In addition, the benefits are contingent on the life of the seller, and even life insurance policies on the seller's life may be cancelled and do not protect an investor if a seller simply redirects the income stream. Sales of these investments are of concern to state regulators because often veterans and disabled persons are preyed upon to assign their benefits when they experience financially stressful times, selling much needed future benefit payments at a significant reduction. Investors should consider obtaining independent legal advice before investing in the purchase of another person's income stream and also check with their local securities regulator to confirm that the investment and those selling it are exempt from registration or are properly registered.

Digital Currency & Cybersecurity Risks: Digital currencies are emerging as trendy way to pay for goods and services. Bitcoin, perhaps the most popular digital currency, was priced at around \$10 per unit in early 2013 but peaked at around \$1,200 per unit later that year. The rapid price increase sparked considerable public interest and media attention, creating a fresh market for securities offerings tied to digital currencies. Unfortunately, **unscrupulous promoters may be attempting to capitalize**



on this popularity by illegally offering securities tied to digital currencies. Even legitimate securities offerings tied to digital currencies may present considerable risks to the investing public, including risks associated with volatility and demand for the units, the anonymity associated with the use of certain digital currencies, and the threats posed by hackers using malicious software to compromise network security systems. These risks were highlighted earlier this year when Mt. Gox, once the world's largest Bitcoin exchange, filed for bankruptcy amid reports that hackers may have stolen around 850,000 Bitcoins worth as much as \$500 million.

Have YOU Taken the 5-Minute Challenge?

As the articles throughout this newsletter suggest, there are plenty of unscrupulous people – even here in North Carolina! -- who are working very hard to steal your hard-earned money through too-good-to-be-true investment opportunities.

It is important for everyone to know that, with some exceptions, **ANY**one who sells or promotes an investment – or who is paid to provide individualized investment advice – has to be registered with the NC Securities Division in order to lawfully do business in North Carolina.

While registration in and of itself is no guarantee against fraud, we can say with 100% certainty that anyone **NOT** registered who is **supposed** to be is **definitely** committing fraud.

We therefore encourage **YOU** to take our challenge: Take **five minutes** to call our office at (800) 688-4507 to see if the person you have been dealing with – perhaps even for years – is properly registered and/or has a disciplinary history. You owe it to yourself and your family to check.

*Ask yourself this: Can you afford **NOT** to take the challenge?*



States Report Rise in Enforcement Actions Against Licensed Broker Sales Agents

Unlicensed Individuals, Firms Continue as Greatest Source of State Enforcement Actions

- Download: [2014 Enforcement Report on 2013 Data](#)

On November 4, 2014, the North American Securities Administrators Association (NASAA) [reported](#) a significant rise in the number of formal enforcement actions initiated by state securities regulators in 2013 against licensed broker-dealer sales agents, as well as unlicensed individuals and firms.

NASAA's [2014 Enforcement Report on 2013 Data](#) includes responses from 51 individual jurisdictions throughout the United States, including the NC Department of the Secretary of State Securities Division, and provides the number of complaints received; investigations and actions states have conducted or initiated; information on penalties and restitution resulting from enforcement actions; years of prison sentenced; types of actions brought, the most common products or practices at the core of these actions and the most common type of actors involved in state enforcement actions.

According to the report, the leading actors in enforcement actions brought by state securities regulators continued to be unlicensed individuals or firms. In 2013, states reported 810 actions against unlicensed individuals or firms, up 34 percent from 603 the year before.

Among licensed financial professionals, enforcement actions against broker-dealer agents increased 89 percent to 357 from 189 in 2012. Enforcement actions against broker-dealer firms decreased 3 percent to 219 from 225 the year before.

Enforcement actions against licensed investment adviser representatives increased 11 percent to 176 from 158 in 2012. States also reported 174 enforcement actions against investment adviser firms, down 4 percent from 181 in the prior year.

"While the majority of enforcement actions handled by state securities regulators involve unlicensed individuals, the primary source of criminal activity in the financial markets, we also serve an important investor protection role through our oversight of the licensed financial professionals investors entrust with their money," said William Beatty, NASAA President and Washington Securities Director.

Beatty said the increase in actions against broker sales agents follows the states' more intense focus on switching mid-sized investment advisers in the two previous years and increased investor awareness of the effectiveness of state securities regulators, the closest regulators to the public.

Beatty said states also reported an increase in the denials and conditioning of licenses reflecting the regulators' continuing push to keep unqualified individuals out of the industry or known problem applicants under heightened supervision. A total of 169 licenses of brokers or investment advisers were denied in 2013 due to state action, a 36 percent increase in denials from 2012. In addition 394 licenses were conditioned, a 48 percent increase over 2012.

HIGH-YIELD INVESTMENT PROGRAMS

Don't Get Roped In

What are HYIPs?

Have you ever seen an ad on the Internet or a posting on a social media site promising too-good-to-be-true rates of return in short periods of time? Then you may have encountered an advertisement for a high-yield investment program, sometimes referred to as an HYIP.

HYIPs are Ponzi schemes sold by unlicensed individuals. In the past, con artists relied on word of mouth to lure investors into these investments. Now they rely on the Internet and social media buzz to quickly popularize their schemes before the fraud is discovered.

The most notable characteristics of HYIPs are the promise of very high returns at little or no risk to the investor and the paying of referral fees to current investors for bringing in new investors. In this way, HYIPs blend elements of both Ponzi and traditional pyramid schemes into one scheme that can spread faster than ever before.

In one recent HYIP, the company offered memberships that purported to provide investors with up to a 60 percent profit in 100 days. In less than a year, the company took in more than \$10 million from investors. The company relied on Biblical themes and the promise of high profits to lure unsuspecting investors. All investors' proceeds were lost.

How to Recognize an HYIP Scam

- The promise of high daily, weekly or monthly returns.
- An offer from the company to pay "referral fees" to investors for bringing in additional investors.
- The use of social media to spread the word and praise the program.
- The promoter provides very few details about who runs the company and how profits are generated.
- The promoter may require that the investor open an e-currency account to invest. E-currency accounts are not licensed as a money transmitter.

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To learn more or for help with these or other products, contact:

NC Department of the Secretary of State, Securities Division, PO Box 29622, Raleigh, NC 27626-0622

www.sosnc.com | Phone: (800) 688-4507 or (919) 733-3924 | Fax: (919) 807-2183 | E-mail: secdiv@sosnc.com

Be an Informed Investor

How to Protect Yourself

- Be sure to check with your securities regulator before investing. Most of these schemes are unregistered investments. Also, these schemes may involve international operations, which means it may be very hard, if not impossible, to get your money back.
- Do not blindly trust an investment just because your friends or family are involved or if it relates to your religious affiliation.
- Ask questions about how the returns will be made and who the company officers are. If these questions cannot be answered to your satisfaction, then do not invest.
- Do not trust the investment just because you receive early returns. Remember that is how they rope you in and get you to recruit your friends.
- Be wary of the “get in early and get out fast” recommendation. Many HYIPs advertise that one way to make profits fast is to invest early then get out early, but you never really know when the scheme is going to stop.

The Bottom Line



It pays to do your homework before you invest in any investment opportunity. If you have any questions about high-yield investment programs, contact the North Carolina Securities Division at (800) 688-4507 or (919) 733-3924.

This **Informed Investor Advisory** is brought to you by the North Carolina Securities Division, a member of the North American Securities Administrators Association. For more investor alerts and advisories, visit the NASAA website at www.nasaa.org.



The U.S. Securities and Exchange Commission's (SEC) Office of Investor Education and Advocacy ("OIEA") is issuing this [Investor Alert](#) to help military personnel make more informed savings and investing decisions and avoid common scams. Below is a list of ten suggestions that may help military personnel – and any investor – make better investments and avoid fraud.



Investor.gov

U.S. Securities and Exchange Commission

Investor Alert: Savings and Investing Basics for Military Personnel

Paying off high interest debt may be your best strategy. Paying off debt over time can be expensive. Few investments pay as well as eliminating high-interest debt on credit cards or other loans. You should also take steps to improve your credit score, which matters when applying for a new job or mortgage, or renting an apartment.

Financial security is best reached by saving and investing over a long period of time. Set goals and make a plan. Smart money management begins with savings. Determine how much you need to save each week, month, or year to meet your goals. By investing some of that money, you can make it work for you through appreciation and [compound interest](#).

Take advantage of the Thrift Savings Plan (TSP). The TSP is the government's defined contribution plan and one of your best options for retirement savings. Contributions are automatically deducted from salary and either "tax-deferred" or "tax-exempt" depending upon the type of pay the contributions come from. The TSP website ([TSP.gov](#)) explains the benefits available to the military.

Be wary of any investment that sounds too good to be true. Claims that an investment is a "CAN'T MISS" opportunity or a "BREAKOUT STOCK PICK," or promises of "GUARANTEED RETURNS," are classic warning signs of fraud. Be alert to *any* promises of high returns with little or no risk.

Look out for pressure to buy RIGHT NOW. Don't be pressured into buying an investment before you have a chance to think about and research the "opportunity."

Be Alert to Affinity Fraud. Affinity frauds target members of identifiable groups, such as the elderly, religious or ethnic communities, or the military. Even if you know the person making the investment offer, be sure to check out the investment and the person's background – no matter how trustworthy the person seems. **[See box next page.]**

Check out the qualifications of an investment professional – even one located near a military base. Details on an investment professional's background are available through the SEC's Investment Adviser Public Disclosure [website](#) and FINRA's [BrokerCheck](#). If you have questions, call the SEC's toll-free investor assistance line at (800) 732-0330.

Don't ignore investment fees. Expenses associated with purchasing, holding, and selling an investment vary from product to product, and even small differences in these costs can have a [significant impact](#) on earnings over time.

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secdiv@sosnc.com • www.sosnc.com • www.sos.nc.gov

Diversification can reduce the overall risk of an investment portfolio. By picking a mix of investments, you may be able to limit your losses and reduce the fluctuations of your investment returns without sacrificing too much in potential gains. Some investors achieve diversification through ownership of mutual funds or exchange-traded funds.

Be on the lookout for fraudulent unregistered offerings. Any offer or sale of securities must be either registered with the SEC or exempt from registration. Otherwise, it is illegal. While many companies that do not register or file reports with the SEC may be exempt from registration, you assume more risk when you invest in a company about which little or no information is publicly available. You should always check whether an offering is registered with the SEC by using the SEC's [EDGAR database](#) or contacting the SEC's toll-free investor assistance line at (800) 732-0330.

Related Information

We offer educational materials so that investors can invest wisely and avoid fraud:

- For additional information on saving and investing, please see our publication: [Saving and Investing: A Roadmap to Your Financial Security Through Saving and Investing](#) (also available [in Spanish](#)).
- For information on questions you should ask when considering an investment, see: [Ask Questions: Questions You Should Ask About Your Investments](#) (also available [in Spanish](#)).
- For additional educational information for investors generally, visit [Investor.gov](#). You can also order our free publications by calling (800) SEC-0330.

Contact the SEC or the NC Securities Division

If you have questions about checking the license or registration status of an individual or firm, call the SEC's toll-free investor assistance line at (800) 732-0330, or the NC Securities Division's toll-free investor assistance line at (800) 688-4507. You can also report a problem concerning your investments to either the [SEC](#) or the [NC Securities Division](#).

Affinity Fraud Targeted at the Military

In 2013, the SEC halted [a hedge fund investment scheme](#) by a former Marine who pretended to be a successful trader to defraud fellow veterans, current military, and other investors. The SEC alleged that the defendant raised nearly \$1.8 million from investors, but invested less than half of that amount while using more than \$400,000 for personal expenses such as a Hollywood mansion, luxury automobile, and extravagant tabs at high-end nightclubs. The defendant allegedly generated phony hedge fund account statements showing annual returns exceeding 200 percent for 2012, when the hedge fund actually lost money. According to [the SEC's complaint](#), the defendant solicited friends, family members, and fellow veterans to invest in his hedge fund, and the defendant controlled a so-called charity called the Veterans Financial Education Network (VFEN) that claims to teach veterans how to understand and manage their money.

Reminder: Never make an investment based solely on the recommendation of a member of an organization or group to which you belong. A key to avoiding investment fraud, including scams that target specific groups, is using independent information to evaluate financial opportunities.

The SEC's Office of Investor Education and Advocacy is issuing this [Investor Bulletin](#) to educate investors about investing in unregistered securities offerings, or private placements, under Regulation D of the Securities Act.



Investor.gov

U.S. Securities and Exchange Commission

Investor Bulletin: Private Placements Under Regulation D

What is a private placement?

A securities offering exempt from registration with the SEC is sometimes referred to as a **private placement** or an **unregistered offering**. Under the federal securities laws, a company may not offer or sell securities unless the offering has been registered with the SEC or an exemption from registration is available.

Generally speaking, private placements are not subject to some of the laws and regulations that are designed to protect investors, such as the comprehensive disclosure requirements that apply to registered offerings. Private and public companies engage in private placements to raise funds from investors. Hedge funds and other private funds also engage in private placements.

As an individual investor, you may be offered an opportunity to invest in an unregistered offering. You may be told that you are being given an exclusive opportunity. The opportunity may come from a broker, acquaintance, friend or relative. You may have seen an advertisement regarding the opportunity. The securities involved may be, among other things, common or preferred stock, limited partnerships interests, a membership interest in a limited liability company, or an investment product such as a note or bond. **Keep in mind that private placements can be very risky and any investment may be difficult, if not virtually impossible to sell.**

Red flags. Fraudsters may use unregistered offerings to conduct investment scams. See our [Investor Alert](#) about red flags to watch out for in an unregistered offering.

Unregistered offerings often can be identified by capitalized legends placed on the offering documents and on the certificates or other instruments that represent the securities. The legends will state that the offering has not been registered with the SEC and the securities have restrictions on their transfer. You should read the offering documents carefully to understand the risks involved.

What is Regulation D?

When reviewing private placement documents, you may see a reference to **Regulation D**. Regulation D includes three SEC rules—**Rules 504, 505 and 506**—that issuers often rely on to sell securities in unregistered offerings. The entity selling the securities is commonly referred to as the *issuer*. Each rule has specific requirements that the

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issuer must meet. ***If you have reason to believe that an unregistered offering claiming to rely on one of these rules does not satisfy the applicable requirements, consider this a red flag about the investment.***

Rule 504

Rule 504 permits certain issuers to offer and sell up to \$1 million of securities in any 12-month period. ***These securities may be sold to any number and type of investor, and the issuer is not subject to specific disclosure requirements.*** Generally, securities issued under Rule 504 will be [restricted securities](#) (as further explained below), unless the offering meets certain additional requirements. As a prospective investor, you should confirm with the issuer whether the securities being offered under this rule will be restricted.

Rule 505

Under Rule 505, issuers may offer and sell up to \$5 million of their securities in any 12-month period. There are limits on the types of investors who may purchase the securities. The issuer may sell to an unlimited number of [accredited investors](#), but to no more than 35 non-accredited investors. If the issuer sells its securities to non-accredited investors, the issuer must disclose certain information about itself, including its financial statements. If sales are made only to accredited investors, the issuer has discretion as to what to disclose to investors. Any information provided to accredited investors must be provided to non-accredited investors.

Accredited investor. An individual will be considered an [accredited investor](#) if he or she:

- Earned income that exceeded \$200,000 (or \$300,000 together with a spouse) in each of the prior two years, and reasonably expects the same for the current year, **OR**
- Has a net worth over \$1 million, either alone or together with a spouse (excluding the value of the person's primary residence and any loans secured by the residence (up to the value of the residence)).

Rule 506

An unlimited amount of money may be raised in offerings relying on one of two possible Rule 506 exemptions. Similar to Rule 505, an issuer relying on Rule 506(b) may sell to an unlimited number of accredited investors, but to no more than 35 non-accredited investors. However, unlike Rule 505, the non-accredited investors in the offering must be financially sophisticated or, in other words, have sufficient knowledge and experience in financial and business matters to evaluate the investment. This sophistication requirement may be satisfied by having a ***purchaser representative*** for the investor who satisfies the criteria. An investor engaging a purchaser representative should pay particular attention to any conflicts of interest the representative may have.

As with a Rule 505 offering, if non-accredited investors are involved, the issuer must disclose certain information about itself, including its financial statements. If selling only to accredited investors, the issuer has discretion as to what to disclose to investors. Any information provided to accredited investors must be provided to non-accredited investors.

General advertising. Issuers relying on the Rule 506(c) exemption can [generally advertise](#) their offerings. As a result, you may see an investment opportunity advertised through the Internet, social media, seminars, print, or radio or television broadcast. ***Only accredited investors, however, are allowed to purchase in a Rule 506(c) offering that is widely advertised, and the issuer will have to take reasonable steps to verify your accredited investor status.***

What should you do before investing?

Private placements may be pitched as a unique opportunity being offered to only a handful of investors, including you. Be careful. Don't be fooled by this high-pressure sales tactic. Even if the deal is "unique," it may not be a good investment. ***It is important for you to obtain all the information that you need to make an informed investment decision.*** In fact, issuers relying on the Rule 505 and 506(b) exemptions from registration must provide non-accredited investors an opportunity to ask questions and receive answers regarding the investment. If an issuer fails to adequately answer your questions, consider this a warning against making the investment.

Unlike registered offerings in which certain information is required to be disclosed, investors in private placements are generally on their own in obtaining the information they need to make an informed investment decision. Investors need to fully understand what they are investing in and fully appreciate what risks are involved.

Some things to consider:

- What do the financial statements, if provided, tell you about the business?
- Are the claims and expectations reasonable?
- How reasonable is the issuer's reliance on a particular technology, customer, product or natural resources claim?
- Who are the issuer's competitors?
- What is the experience and background of management?
- How long has the issuer been in business and has the issuer conducted prior offerings?
- How does the issuer plan to use the money raised?
- If the securities you are investing in have transfer restrictions, when will and how may the restrictions be lifted?
- Because you may not be able to resell your investment easily, are you comfortable holding it indefinitely?

In practice, issuers often provide a document called a ***private placement memorandum*** or ***offering memorandum*** that introduces the investment and discloses information about the securities offering and the issuer. However, this document is not required and the absence of this document or similar disclosure may be a red flag to consider before investing. ***Moreover, private placement memoranda typically are not reviewed by any regulator and may not present the investment and related risks in a balanced light.***

All issuers relying on a Regulation D exemption are required to file a document called a Form D no later than 15 days after they first sell the securities in the offering. The Form D will include brief information about the issuer, its management and promoters, and the offering itself. If the offering you are considering has prior sales, you can search for the Form D filing on the SEC's website at sec.gov/edgar/searchedgar/webusers.htm.

Form D is not registration. Fraudsters may try to [lure](#) you into investing with them by falsely claiming to be registered, or that the offering is registered, with the SEC. In a recent case, [SEC v. Fleet Mutual Wealth](#), the SEC obtained a federal court order freezing stolen investor money. The SEC alleged that the defendants falsely promised investors guaranteed returns of 2%-3% per week through the use of a high frequency trading strategy, but instead used investors' money to operate a [pyramid scheme](#). The defendants allegedly recruited investors by falsely claiming that their firm was "registered" or "duly registered" with the SEC and pointing to the firm's Form D filings to support this misrepresentation.

What if my broker recommends the investment?

If your broker recommends the investment, you should know that your broker, along with his or her firm, has a duty to conduct a [reasonable investigation](#) of the investment and the issuer's representations about it. The scope of the investigation depends on the circumstances of the investment, including its complexity and the risks involved. For example, the private placement of shares by a large public company may warrant less investigation than a start-up with little or no track record. Generally, a broker should not just rely blindly on the issuer for information but should separately investigate and verify an issuer's statements and claims. If your broker is recommending the investment and fails to satisfy its duties to investigate the issuer and the offering, this failure could constitute a violation of the antifraud provisions as well as other federal securities laws.

In addition, your broker must determine whether an investment in the private placement is *suitable* for you. This means your broker will have to consider factors such as your age, financial situation, current and future needs, investment objectives and tax status.

Your broker's duties, however, should not substitute for your own judgment in making the investment. ***Your broker can assist and enable you to better understand the opportunity and risks, as well as investigate and gather additional information, but it is your money, your risk and your decision whether to invest.*** You should also ask about the compensation your broker is receiving for the transaction and any relationships, business ties or other conflicts of interest that may exist between your broker and the issuer.

Brokers' misconduct. In [SEC v. Provident Royalties, LLC](#), Provident allegedly raised \$485 million through various unregistered offerings from at least 7,700 investors nationwide, promising high returns and misrepresenting how investor funds would be used. In a separate case, the Financial Industry Regulatory Authority (FINRA)—a body that regulates brokers—[sanctioned](#) a number of brokers involved in the offerings for selling securities without having a reasonable basis for recommending the securities.

In another case, [In the Matter of Advanced Equities, Inc.](#), the SEC charged a broker with allegedly making exaggerated misstatements to investors when pitching an unregistered offering of securities in a non-public alternative energy company. The SEC alleged, for example, that the broker said the company had more than \$2 billion in order backlogs when the backlog never exceeded \$42 million.

Investment advisers. [Investment advisers](#) are subject to different duties than brokers. Investment advisers have a fiduciary duty to act in the best interests of their clients. The background and qualifications of an investment adviser registered with the SEC are available through the Investment Adviser Public Disclosure [website](#).

What should I know about restricted securities?

Generally, most securities that you acquire in a private placement will be [restricted securities](#). ***You should not expect to be able to easily and quickly resell your restricted securities. In fact, you should expect to hold the securities indefinitely.***

There are two principal things to think about before buying restricted securities. The first is that unless you have made arrangements with the issuer to resell your restricted securities as part of a registered offering, you will need to comply with an exemption from registration to resell. One [rule](#) commonly relied upon to resell requires you to hold the restricted securities for at least a year if the company does not file periodic reports (such as annual and quarterly reports) with the SEC. You may wish to hire an attorney to help you comply with the legal requirements to resell restricted securities. Issuers may require a legal opinion that you satisfy an exemption to resell your restricted securities.

The second thing to think about is whether they are easy to sell. This issue primarily affects the sale of restricted securities in private companies. Information about a private company is not typically available to the public, and a private company may not provide information to you or your buyer. The restricted status of your securities may also transfer to your buyer. For these reasons, it may be difficult to attract buyers.

In addition to these considerations, specific contractual restrictions that you may enter into when investing may prevent you from freely transferring the securities.

What else should I know?

Despite not being subject to the same disclosure obligations as registered offerings, private placements are subject to the antifraud provisions of the federal securities laws. Any information provided must be true and may not omit any material facts necessary to prevent the statements made from being misleading. ***You should be aware that it may be difficult or impossible to [recover](#) the money you invest in an offering that turns out to be fraudulent.*** In addition, even though the offering may be exempt from SEC registration, the offering may have to separately comply with state securities laws, including state registration requirements or a state exemption from registration.

Background check. It is always a good idea to check on the background of an investment professional. It is easy and free. Details of an investment professional's background and qualifications are available through the Investment Adviser Public Disclosure [website](#) and FINRA's [BrokerCheck](#). If you have any questions on checking the background of an investment professional, call the SEC's toll-free investor assistance line at (800) 732-0330. You may also call the NC Securities Division at (800) 688-4507.

Private placements may offer great opportunity. However, the attractive potential rewards often come with high risks of loss.

[\("Mescall" continued from p. 1\)](#)

and elsewhere to invest more than \$1.5 million in his investment company, "Capitalstreet Financial, LLC" (CSF), falsely representing that their money would be invested in the foreign currency market. Court documents show that Mescall lied to his victims about his professional background and credentials falsely claiming that he was a college graduate with over 20 years of experience trading in FOREX and that he was a former director at Merrill Lynch. Court records indicate that Mescall did not have a college degree, had no relevant trading experience and never worked for Merrill Lynch. Mescall also misled his investors about CSF, claiming that it was a national company with over 35 offices, and that CSF handled over \$100 million in trade volume each month. In fact, court records indicate, CSF only operated a boiler room in Charlotte and later in Cornelius, and that it never handled \$100 million in trade at any time during the scheme.

Court documents indicate that Mescall lulled his victims into a false sense of security by falsely promising 60% to 80% annual returns on their investments. Court records show that often Mescall's victims were elderly and the funds they invested were most, if not all, of their life savings. Over the course of the scheme, Mescall only traded \$285,908 of the victim's money, and sustained \$271,705 in losses. Mescall used approximately \$295,000 to pay some victims supposed "payouts" from profits made on

investments. However, court records show that these payments were not based on profits, but came from funds contributed by new investors, commonly referred to as "Ponzi" payments. Mescall simply deposited the rest of the investors' money into various bank accounts he controlled in the United States and offshore, and used a substantial amount of investor money to pay for personal expenses unrelated to any foreign exchange. For example,

court documents indicate that Mescall used investor money to buy, among other things, a BMW, a Ferrari and other cars, a Rolex watch, diamonds and other jewelry, and to make mortgage payments on his Lake Norman residence.

"The defendant seemed to have no sense of the traumas suffered by the victims," Judge Conrad said in announcing Mescall's sentence.

"These losses were significant, life impacting events because of the defendant's greed."

Mescall has been detained since June 2012 and will be transferred to the custody of the Federal Bureau of Prisons upon designation of a federal facility. All federal sentences are served without the possibility of parole.

The case was investigated by the Securities Division of the North Carolina Secretary of State and the FBI.

The prosecution was handled by Assistant U.S. Attorney Kenneth Smith of the Western District of North Carolina.

"The defendant seemed to have no sense of the traumas suffered by the victims. These losses were significant, life impacting events because of the defendant's greed."

-- U.S. District Judge Robert J. Conrad, Jr.



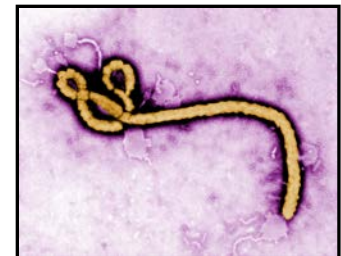
NASAA Cautions Investors to Guard Against Ebola-Related Scams

NASAA Task Force Monitoring Internet for Fraud Following Outbreak of Ebola-Related Website Names

Following the outbreak of Ebola in western Africa and its appearance in North America, the North American Securities Administrators Association (NASAA) issued an [investor alert](#) on October 29, 2014, cautioning investors to beware of opportunistic Internet-based investment schemes related to the disease.

“Past experience tells us that periods of uncertainty or fear are prime time for con artist looking to make a quick score,” said William Beatty, NASAA President and Washington Securities Director. “Investors should approach with caution any unsolicited Ebola-related investment opportunities, especially those received through the Internet.”

Beatty said an analysis of Internet domain names by state and Canadian securities regulators found nearly 1,200 domains with “Ebola” in their name have been registered with top-level domains, such as *.com*, *.net*, and *.org* since April 2014. About 1,000 of those registrations have occurred since July, as awareness of the crisis spread. Of these sites, 184 were identified by NASAA’s Enforcement Technology project group as suspicious. “Our system identified a number of sites that may be suspect,” said Jake van der Laan, Director of Enforcement for the New Brunswick Financial and Consumer Services Commission and chair of NASAA’s Enforcement Technology project group. “Although we have not investigated any of these sites, a review of domain names indicates that there certainly appear to be those intent on raising Ebola-related funds or otherwise trying to leverage the crisis for financial gain.”



Ebola virus

Van der Laan said a review of Ebola-related domain names found several with the words “*fund*,” “*invest*,” “*stock*,” or “*futures*” in their titles. For example, the following domain names have been registered: ***hotebolastocks.com***; ***bestebolastocks.com***; ***ebolafutures.com***; ***ebolainvesting.com***; ***ebolaoutbreakstocks.com***; ***ebolastocks.com***; and ***fundsforebola.com***.

Most of the domain names are “parked” and have no content. “This indicates that either someone has bought the domain hoping to resell it, or the content is not ready yet,” van der Laan said.

Beatty reminded investors to use common sense. “Pie in the sky promises of quick wealth generally are red flags signaling fraud ahead,” he said. He urged individuals to contact their state or provincial securities regulator to determine if both the promoter of the investment and the investment itself are licensed and registered. If not, they may be operating illegally. Contact information is available on NASAA’s website [here](#). Of course, the NC Securities Division can be reached at (919) 733-3924 or toll-free at (800) 688-4507.

Calendar of Upcoming Events



A representative from the Securities Division will be giving an anti-fraud presentation on the following dates and locations. Dates and times are subject to cancellation (although cancellations are rare), so please call the contact number listed to confirm the event is still on before leaving for it. All presentations are free and open to the public unless otherwise indicated. If you would like to schedule a speaker for your church, business, group or organization, please contact [John Maron](#) or [Barbara Bennett](#) at (800) 688-4507. For a complete list of all upcoming events, please see our **Calendar** at <http://www.secretary.state.nc.us/sec/Calendar.aspx>.

Date	City	Details
12/02/14	Greenville	"Business Essentials" presentation at Pitt Community College, 3107 S. Memorial Drive. Time: 6:00 PM -- 8:00 PM. Free, but registration is requested.
12/04/14	Concord	"Money Matters Conference" sponsored by NC Conference of District Attorneys at Great Wolf Lodge, 10175 Weddington Road. NC Secretary of State Elaine F. Marshall to speak during lunch. Time: 12:30 PM – 1:30 PM. Open to conference registrants and special guests only. For more information, click the link above.
12/17/14	Salisbury	Scam Jam, Rufty-Holmes Senior Center , 1120 S. Martin Luther King Jr. Ave. Time: 1:00 PM – 4:00 PM. Free and open to the public. For more information, contact Jerry Shelby at (704) 216-7714.
01/21/15	Louisburg	"Business Essentials" presentation at Vance-Granville Community College, Multi-Purpose Room, Bldg 4 – Room F-401, 8100 NC 56 Hwy. Time: 9:00 AM -- 11:00 AM. Free, but registration is requested.
01/27/15	Clayton	"Guarding Your Investments in a Scary World" presentation for the Just Older Youth (JOY) Club at Horne Memorial United Methodist Church, 121 E 2nd Street. Time: 12:30 -- 2:00 PM. For more information, contact Doug Packard at (919) 763-8232 or packd@nc.rr.com .
01/27/15	Clayton	"Business Essentials" presentation at Johnston County Workforce Development Center, 135 Best Wood Drive. Time: 6:00 PM -- 9:00 PM. Free, but registration is requested.
03/13/15	Raleigh	Investment fraud presentation at Five Points Center for Active Adults , 2000 Noble Road. Time: 10:00 AM -- 11:00 AM. For more information, contact Susan McGuire at (919) 966-4738.
04/01/15	Raleigh	Investment fraud presentation at Anne Gordon Center for Active Adults at Millbrook Exchange Park, 1901 Spring Forest Road. Time: 2:00 PM -- 3:00 PM. For more information, contact Susan McGuire at (919) 966-4738.
04/21/15	Wilson	"Business Essentials" presentation at Frank L. Eagles Community Business Center , Building G, Room G-240, Wilson Community College, 902 Herring Avenue East. Time: 6:00 PM -- 9:00 PM. Free, but registration is requested.
05/05/15	Albemarle	"Money Smart for Older Adults" anti-fraud prevention program, Stanly County Agri-Civic Center , 26032-B Newt Road. Time: 1:00 PM -- 2:00 PM. Free. For more information, contact Courtney Swain, Extension Agent, at (704) 983-3987.
06/10/15	Charlotte	"2015 Fraud and Forensic Investigations Conference: Lessons Learned from the Experts," sponsored by Pfeiffer University. Guest speakers include Frank Abagnale (subject of the book, movie and musical, "Catch Me If You Can") and NC Secretary of State Elaine F. Marshall. Ritz Carlton-Charlotte, 201 E. Trade Street. Open to registered conference attendees only. For more information, please contact Erica Burroughs, Director of Development, Pfeiffer University, at (704) 463-3038 or erica.burroughs@pfeiffer.edu .



On The Docket

The following cases are ones in which the Securities Division has had some involvement, either as the lead investigative agency or in a supporting role.

Darren Joseph Capote, of Patterson, NY, was indicted on July 11, 2011, in Ashe County Superior Court on three Class C felony counts of securities fraud. He is alleged to have defrauded an elderly victim in Ashe County. He was released from custody on a \$100,000 secured bond. His next court appearance in Ashe County has been scheduled for March 9, 2015.

Michael Anthony Jenkins, of Raleigh, NC, was served on August 17, 2012, with three felony arrest warrants for securities fraud. Investigators with the Secretary of State Securities Division allege that Jenkins told investors he would use their funds to trade commodities futures or “E-mini futures” through his company, Harbor Light Asset Management, LLC. Investigators allege Jenkins instead converted funds to his personal use and used money from later investors to pay earlier investors in what is commonly referred to as a Ponzi scheme. Jenkins is in the Wake County Jail under \$500,000 secured bond. During his first hearing on August 20, 2012, the prosecutor told the court that there are 377 known victims of Jenkins’ approximately \$1.79 million Ponzi scheme. His next appearance in Wake County Superior Court is scheduled for November 3, 2014. The Securities Division’s investigation is continuing. Anyone who has made investments with Harbor Light Asset Management, LLC is asked to contact the Securities Division at (800) 688-4507 or (919) 733-3924.

Recent Enforcement Actions

(For prior administrative and criminal actions, click on the badge to the right.)



On **November 05, 2014**, the Securities Division of the North Carolina Department of the Secretary of State issued a **Temporary Order to Cease and Desist** to **Stark Innovations, L.L.C., and David Alan Topping, d/b/a “Stark Investments, Inc.”**. Stark Innovations, L.L.C., and David Alan Topping, d/b/a “Stark Investments, Inc.” were ordered to cease and desist from offering for sale, soliciting offers to purchase or selling, in or from North Carolina, any securities unless and until such securities have been registered and Stark Innovations, L.L.C., and David Alan Topping, d/b/a “Stark Investments, Inc.” become registered as a dealer or salesman of securities. The Temporary Order to Cease and Desist found that Stark Innovations, L.L.C., and David Alan Topping, d/b/a “Stark Investments, Inc.” offered for sale as investment opportunities certain securities in the form of promissory notes, whereby investors could expect an interest return based on increased revenue generated from international trade; and that this activity violated the North Carolina Securities Act. The Temporary Order to Cease and Desist gives Respondents 30 days in which to request a hearing. If no such request is made during that time, the Temporary Order to Cease and Desist shall become final. Click [here](#) to view the Temporary Order.

News from the Regulators

(The following are selected public notices issued by one or more securities regulator. Click the links to view the full notices. These are offered for informational purposes only.)

[Regulatory Notice 14-50 -- FINRA Requests Comment on a Proposal to Establish a “Pay-to-Play” Rule](#) **Comment Period Expires: December 15, 2014**

FINRA is requesting comment on a proposal to establish “pay-to-play” and related rules that would regulate the activities of member firms that engage in distribution or solicitation activities for compensation with government entities on behalf of investment advisers that provide or are seeking to provide investment advisory services to such government entities within two years after a contribution to an official of the government entity is made by the member firm or a covered associate. This proposal responds to Rule 206(4)-5 under the Investment Advisers Act of 1940 (Advisers Act), which includes a provision that, upon its compliance date, will prohibit an investment adviser and its covered associates from providing or agreeing to provide, directly or indirectly, payment to a member firm to solicit a government entity for investment advisory services on behalf of the investment adviser unless the member firm is subject to a FINRA pay-to-play rule. Specifically, FINRA is seeking comment on three proposed new rules:

North Carolina Department of the Secretary of State
Securities Division • PO Box 29622 • Raleigh, NC 27626-0622
(919) 733-3924 • (800) 688-4507
secdiv@sosnc.com • www.sosnc.com • www.sos.nc.gov

Rule 2271 (Disclosure Requirement for Government Distribution and Solicitation Activities); Rule 2390 (Engaging in Distribution and Solicitation Activities with Government Entities); and Rule 4580 (Books and Records Requirements for Government Distribution and Solicitation Activities). For more information, click the link above.

[Regulatory Notice 14-42 -- SEC Approves Amendments to the Arbitration Codes to Expand Arbitrators' Authority to Make Referrals During an Arbitration Proceeding](#)

Effective Date: October 27, 2014 -- The Customer and Industry Codes (Codes) permit arbitrators to refer to FINRA for disciplinary investigation any matter that has come to the arbitrator's attention during and in connection with the arbitration at the conclusion of the proceedings. The SEC approved amendments to the Codes to permit arbitrators to make a referral, during an arbitration, of any matter or conduct that has come to the arbitrator's attention during a hearing, which the arbitrator has reason to believe poses a serious threat, whether ongoing or imminent, that is likely to harm investors unless immediate action is taken. The amendments are effective on October 27, 2014, for any arbitration case which has scheduled hearings remaining. For more information, click the link above.

[SEC's FY 2014 Enforcement Actions Span Securities Industry and Include First-Ever Cases](#)

Oct. 16, 2014 — The Securities and Exchange Commission announced that in fiscal year 2014, new investigative approaches and the innovative use of data and analytical tools contributed to a very strong year for enforcement marked by cases that spanned the securities industry. In the fiscal year that ended in September, the SEC filed a record 755 enforcement actions covering a wide range of misconduct, and obtained orders totaling \$4.16 billion in disgorgement and penalties, according to preliminary figures. In FY 2013, the Commission filed 686 enforcement actions and obtained orders totaling \$3.4 billion in disgorgement and penalties. In FY 2012, the Commission filed 734 enforcement actions and obtained orders totaling \$3.1 billion in disgorgement and penalties. For more information, click the link above.

[SEC Staff Issue Risk Alert and FAQs on Customer Sales of Securities](#)

Oct. 9, 2014 — The Securities and Exchange Commission publication of a Risk Alert and FAQs to remind broker-dealers of their obligations when they engage in unregistered transactions on behalf of their customers. The publication of the staff guidance was accompanied by the [announcement of an enforcement action](#) against two firms for improperly selling billions of shares of penny stocks through such unregistered offerings. The [Risk Alert](#) summarizes deficiencies that were discovered by the SEC's Office of Compliance Inspections and Examinations (OCIE) during a targeted sweep of 22 broker-dealers frequently involved in the sale of microcap securities. The sweep uncovered widespread deficiencies including: Insufficient policies and procedures to monitor for and identify potential red flags in customer-initiated sales; inadequate controls to evaluate how customers acquired the securities and whether they could be lawfully resold without registration; and failure to file suspicious activity reports, as required by the Bank Secrecy Act, when encountering unusual or suspicious activity in connection with customers' sales of microcap securities. For more information, click the links above.

All investors are strongly encouraged to contact the Securities Division at (919) 733-3924 or toll-free at (800) 688-4507 to check that their investment professional is properly registered ***before*** transferring any assets to that person's control. One five-minute telephone call to the Securities Division could protect your entire life's savings from being stolen from you. For a wealth of investor education information, please visit our Web site, www.sosnc.com. Click on the yellow box entitled "Investment Securities".

This newsletter is produced by the Investor Education Program of the Securities Division of the North Carolina Department of the Secretary of State. If you have questions or comments about this publication, or would like to schedule an investor education presentation with your group or organization, please email [John Maron](mailto:John.Maron@sosnc.com), Director of the Investor Education Program, or call (919) 807-2106.

Please help us publicize the educational information in this mailing by forwarding it to your contacts around the state. If you no longer wish to receive mailings from the Securities Division, please send an email to: jmaron@sosnc.com with "Remove from mailing list" in the subject line.

Remember that if an investment sounds too good to be true, it ***probably*** is!