

North Carolina Department of the Secretary of State

Hon. Elaine F. Marshall, Secretary

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SOSNC Honored for Work on Wax House

The NC Secretary of State's Office was recognized recently for its work on the investigation of a \$75 million fraud scheme. Secretary of State agents were part of a multi-agency task force of state and federal investigators that helped bring down the wide-ranging mortgage and investment fraud scheme codenamed "Operation Wax House."

The International Association of Financial Crimes Investigators (IAFCI) presented its 2016 LexisNexis Task Force of the Year Award on August 30 to the Wax House Financial Fraud Enforcement Task Force. Along with SOSNC agents, the task force included agents from the Charlotte Division of the FBI, the Criminal Division of the IRS, and the North Carolina Real Estate Commission.

The investigation into Wax House began in 2007. A total of 91 people have been charged and leader James Tyson, Jr. was sentenced last year to 30 years in prison.

"Operation Wax House serves as a powerful reminder that big organized financial frauds are certainly not just legends from the past," Secretary of State Elaine F. Marshall said following the award presentation at IAFCI's annual conference. "Attorneys, banking and mortgage officials, builders, real estate agents and notaries public were convicted in these complex fraud schemes. The perpetrators showed open contempt for the law and truly callous disregard for their victims."

See "[Wax House](#)" on page 4



Seminar Highlights Investor Protection

Charlotte residents left the Better Business Bureau of Southern Piedmont's August 23rd annual consumer protection seminar with the tools to steer clear of a wide variety of financial fraud.

Delivering the seminar's keynote address, North Carolina Secretary of State Elaine F. Marshall urged people to turn on their "scam-dar" – or radar for scams – to spot investment con artists.



Underlining the reluctance of investment scam victims to come forward, Marshall described catching each securities scam artist as stopping an "invisible crime wave."

"Here's the thing—smart people get conned. Lawyers, doctors, business owners...they get scammed," said Marshall. "I wish I could tell every frightened victim out there, please come forward; don't let the crook get away to rob some other nice people tomorrow."

Marshall also encouraged seminar-goers to keep a keen eye out for friends and neighbors too. "Be nosy, if you hear a client, a friend or relative suddenly talking about some new investment. Don't be afraid to butt in if you see they are suddenly listening to the advice of a person they did not even know six months ago."

See "[Charlotte Seminar](#)" on page 4



Raleigh Attorney Sentenced for Federal Fraud Charges



**Joseph Lee
Levinson**



**Jotham
Walker Pruitt**

Editor's Note: This is an update on a story that was included in the August 2015 Securities Newsletter. The case against Jotham Walker Pruitt began when an IA audit conducted by the NC Secretary of State's Securities Division uncovered irregularities in the records of Pruitt's IA Firm, Cinchpoint. The Securities Division referred the case to the US Attorney's Office in October of 2010 and issued this [Final Order to Cease and Desist](#) against Pruitt, Cinchpoint and Ramses Capital Partners in June of 2011.

Raleigh attorney Joseph Lee Levinson was sentenced on August 9, 2016, for conspiracy to make false statements to federally insured financial institutions, announced Ripley Rand, United States Attorney for the Middle District of North Carolina.

Levinson was sentenced to 15 months imprisonment; 2 years supervised release, \$100.00 special assessment, and \$230,079 in restitution by Senior United States District Judge James A. Beaty, Jr. Levinson pleaded guilty on January 12, 2016.

From 2005 until 2010, Jotham Walker Pruitt and other individuals operated a marijuana "grow" operation in Orange County, North Carolina. The operation involved the production of marijuana inside houses in the vicinity of the Town of Hillsborough in Orange County, North Carolina. Levinson was a licensed attorney practicing in Raleigh and is a college friend of Jotham Pruitt. Levinson conspired with Pruitt to obtain mortgage funding for properties to be used as "grow houses," knowing full well that banks would not loan money to Pruitt if they knew that the houses were to be used for illegal purposes. Levinson and Pruitt prepared loan applications to Long Beach Mortgage Corporation and SunTrust Bank falsely representing that the properties would be used for legal purposes, such as a residence or as rental property, when in fact both knew that the houses would be used to grow marijuana. Levinson acted as closing attorney for purchase of the first two grow houses used in the operation.

Levinson also conspired with Pruitt to present false leases to Countrywide Bank, N.A., to support Pruitt's application for mortgage funding to purchase a third grow house. Levinson provided Pruitt with a sample lease to use as a template in creating false leases to present to Countrywide Bank, N.A., showing that previous properties purchased by Pruitt were rental properties occupied by tenants. In fact, these properties were being used to grow marijuana.

The grow operation ceased in December 2010. Upon completion of the business, Pruitt ceased making payments on the mortgages on the grow houses, including those he had purchased with the aid of Levinson. The houses were foreclosed on by the lending banks at a total loss of over \$230,000.

Jotham Pruitt, along with Aubrey Pruitt, and Dustin Fisher have pleaded guilty in the United States District Court for the Middle District of North Carolina to related charges.

The case was investigated by the Orange County Sheriff's Office and Internal Revenue Service - Criminal Investigations in conjunction with the United States Attorney's Office for the Middle District of North Carolina.



Investor Alert: Be on the Lookout for Investment Scams Related to Recent Historic Rain and Flooding

The SEC's Office of Investor Education and Advocacy is issuing this updated Investor Alert to help educate investors, including individuals who may receive [lump sum payments](#) from insurance companies and others following the recent historic rainfall and flooding in and around Louisiana, about investment fraud.

Hurricanes, floods, oil spills, and other disasters often give rise to investment scams. These scams can take many forms, including promoters touting companies purportedly involved in cleanup efforts, trading programs that falsely guarantee high returns, and classic Ponzi schemes where new investors' money is used to pay money promised to earlier investors. Some scams are circulated through spam email, promising high returns for small, thinly-traded companies that supposedly will reap huge profits from recovery and cleanup efforts. For example, the SEC brought a number of enforcement actions against individuals and companies who made false and misleading statements about alleged business opportunities in light of the damage caused by Hurricane Katrina. Some of those cases involved [pump-and-dump](#) scams where fraudsters use fake "news" to pump up the stock price of small companies so they can sell shares they own at artificially high prices. We also heard about fraudsters targeting individuals receiving compensation from insurance companies. **Individuals, including those receiving lump sum insurance payouts, should be extremely wary of potential investment scams related to the recent historic rainfall and flooding.**



Be Skeptical and Ask Questions

One of the best ways to avoid investment fraud is to ask questions. Be skeptical if you are approached by somebody touting an investment opportunity. Contact the NC Secretary of State's Securities Division at (800) 688-4507 to check the registration of the individual offering the investment opportunity, and the registration of the opportunity itself. You can also check the registration status and background of anyone recommending or selling an investment by visiting the SEC's Investment Adviser Public Disclosure (IAPD) database at [Investor.gov](#). **Know that promises of fast and high profits, with little or no risk, are classic signs of fraud.** Our short publication called [Ask Questions](#) discusses many of the other questions you should ask of anyone who wants you to make an investment.

Protect Yourself



Take a close look at your entire financial situation before making any investment decision, especially if you received a lump sum payment. Remember, your payment may have to last you and your family for a long time. Below is a list of some online resources that may help. If you have any questions about investing, call the SEC's Office of Investor Education and Advocacy at 1-800-732-0330, or ask a question [using this online form](#).

Lump Sum Payouts: For information about investing wisely after receiving a lump sum payout, see [Lump Sum Payouts: Questions You Should Ask Yourself before You Invest a Dime](#).

Affinity Fraud: For information about investment scams targeting particular groups, see [Investor Alert: Affinity Fraud](#).

Ponzi Schemes: For information about Ponzi schemes, see [Ponzi Schemes: Frequently Asked Questions](#).

Saving and Investing Basics: For general information about saving and investing, see [Saving and Investing: a Roadmap to Your Financial Security through Saving and Investing](#). *Esta publicación también está disponible en Español.*

Ask Questions: For a list of questions you should ask when considering an investment, see [Ask Questions: Questions You Should Ask about Your Investments](#). *Esta publicación también está disponible en Español.*

Charlotte Seminar

Continued from [page 1](#)

Sharpening the focus on the scope and cost of investment scams, Marshall noted that cases the Secretary of State worked led to 22 individuals being charged, fined, convicted or sentenced in a 12 month period from 2014-2015. The known amount stolen by those 22 criminals totaled almost \$91 million.

Seminar-goers also heard from Stephanie Bias with the NC Department of Insurance's Senior Medicare Patrol Program, who shared another sobering statistic: roughly \$62 billion a year is lost to Medicare fraud.

Andy Downs with Wells Fargo spoke about the danger of "skimming," or devices inserted into ATMs and credit card readers to capture your personal information when you swipe your card. He shared safety tips for online banking and shopping.



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And follow SOSNC on Twitter, Facebook, LinkedIn and YouTube for more frequent updates on everything from investor education to trademarks enforcement and charitable solicitation regulation.

Click on the icons below to go to SOSNC's social media accounts!



Operation Wax House

Continued from [page 1](#)

"Our Securities Division worked diligently with state and federal partners for several years to bring down this vast criminal enterprise and to find a measure of justice for the victims. It's gratifying to see those efforts being recognized by the IAFCI," Secretary Marshall said.

The Secretary of State's Securities Division enforces and administers North Carolina's securities laws, which are designed to protect the investing public. The Division investigates complaints and allegations of fraud involving securities brokers and dealers, investment advisers and commodities dealers.

SEC Whistleblower Program Surpasses \$100 Million in Awards

The Securities and Exchange Commission's awards to whistleblowers have [surpassed the \\$100 million mark](#) with [the program's second-largest award of more than \\$22 million](#) announced August 30.

The whistleblower program, established by Congress to incentivize individuals with specific, timely and credible information about federal securities law violations to report to the SEC, has to date assisted enforcement actions resulting in more than \$500 million in financial remedies, much of which has been returned to harmed investors.

"The SEC's whistleblower program has proven to be a game changer for the agency in its short time of existence, providing a source of valuable information to the SEC to further its mission of protecting investors while providing whistleblowers with protections and financial rewards," said Mary Jo White, Chair of the SEC.

Whistleblowers may be eligible for an award when they voluntarily provide the SEC with unique and useful information that leads to a successful enforcement action. Whistleblower awards can range from 10 percent to 30 percent of the money collected when the monetary sanctions ordered exceed \$1 million. The SEC paid its first award in 2012, just over a year after its Office of the Whistleblower opened for business.

Save the Date — IA Compliance Workshops



The NC Securities Division will be conducting another round of its popular series of compliance workshops for all state-registered investment advisers and their representatives.

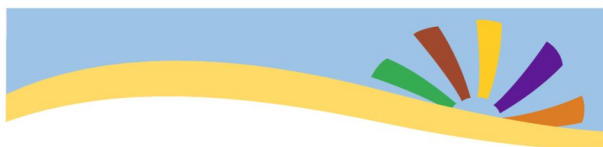
Interested firms and persons should note that four one-day workshops will be held on the following dates/locations and seats will be available on a first-come, first-served basis:

Sept. 27 & 28: Central Piedmont Community College—Harris Building 1, Room 1120, 3210 CPCC Harris Campus Drive, Charlotte, NC.

Sept. 29 & 30: SOSNC’s Atlantic Avenue Offices—4701 Atlantic Avenue, Suite 116, Raleigh, NC.

Each session will run from 9 AM—4 PM, and the registration fee will be \$35/person. We are only able to accept checks or money orders made payable to the “**NC Department of the Secretary of State.**” Seating for the Charlotte workshops is limited to 80 people per day. Seating for the Raleigh workshops is limited to 30 people per day.

To our readers in North Carolina’s beautiful mountains—we hope you’ll all join us on October 4th and 5th for these informative Scam Jams in Jackson County and Cherokee County! Check out our Calendar Section for more details on these and other great community events coming up near you!



SCAM JAM

October 4, 2016

Jackson County Senior Center

- 12:30 –1:00-Registration, Light Refreshments
- 1:00-1:10-Welcome-Eddie Wells, Jackson County Senior Services
- 1:10-1:30 - Jackson County Sheriff’s Department
- 1:30-2:00 –John Maron, NC Department of the Secretary of State
- 2:00-2:15 Diane Parker—Extra Help
- 2:15-2:45 –Caroline Farmer, NC Attorney General’s Office
- 2:45-3:15—Stephanie Bias NC Senior Medicare Patrol
- 3:15-3:30-Norma Messer, Better Business Bureau
- 3:30-3:45 - Larry Reeves-Regional Long Term Care Ombudsman
- 3:45 - 4:00 Questions and Closing Remarks-Eddie Wells



SCAM JAM

October 5, 2016

Andrews Sunshine Center

- 8:30 –9:00-Registration
- 9:00-9:10-Winfield Clontz, Cherokee County Senior Services
- 9:10-9:30 *Cherokee County Law Enforcement
- 9:30-10:00 –John Maron, NC Department of the Secretary of State
- 10:00-10:15 Denise Cross—Extra Help
- 10:15-10:45 –Stephanie Bias NC Senior Medicare Patrol
- 10:45-11:15—Caroline Farmer, NC Attorney General’s Office
- 11:15-11:30-Norma Messer, Better Business Bureau
- 11:30-11:45 - Larry Reeves-Regional Long Term Care Ombudsman
- 11:45 - 12:00 Questions and Closing Remarks-Winfield Clontz

LUNCH





Report and Recommendations: Fighting Elder Financial Exploitation through Community Networks

Elder financial exploitation destroys the financial security of millions of older Americans annually. In response to this crisis, hundreds of communities across the United States have created collaborative networks to protect their older residents. To increase our understanding of how elder financial protection networks can grow and endure, the Consumer Financial Protection Bureau (CFPB) has conducted research nationwide.



CFPB's report, released on August 23, highlights what elder financial exploitation prevention and response networks do, how they work, how they can work better, and how they can be established. The report presents CFPB's recommendations to existing networks and key stakeholders to develop and enhance their community's collaborative efforts to fight financial exploitation. Accompanying this report is a Resource Guide with promising practices, sample documents, and resource materials.

Visit consumerfinance.gov to read the full report, as well as a resource guide for elder financial exploitation prevention and response networks.

Five Minutes Could Save Your Life Savings!



Is that individual offering you an investment opportunity licensed to sell securities in North Carolina? Is the investment opportunity itself registered? Know before you sign!

While registration in and of itself is no guarantee against fraud, not being registered is a very big red warning flag. We urge you to take five minutes to call our NC Securities Hotline at 1-800-688-4507 to see if the person you have been dealing with – perhaps even for years – is properly registered and/or has a disciplinary history.

Pick up the phone and call us. You owe it to yourself and your family to check.



Investor Alert: What You Should Know About Asset Recovery Companies

Third party asset recovery companies solicit victims of scams, including investment frauds, with promises to file complaints with regulatory agencies and to help recover victims' money for a fee. The SEC's Office of Investor Education and Advocacy is issuing this Investor Alert to urge investors and fraud victims to think carefully before paying money for asset recovery services that may be fruitless.

The SEC regularly receives questions and complaints from investors who have been contacted by asset recovery companies with promises to recover money lost to financial scams or investment frauds. The companies often charge a substantial fee – from hundreds to thousands of dollars – to provide these services. These companies typically find potential customers by pulling names and contact information of victims from court filings and other lists of investors.

Investors who've already been victimized by fraudsters should exercise caution before using these services – especially if the asset recovery company is merely taking steps the investor could take himself. Although these companies sometimes claim to have elaborate asset recovery expertise, or even legal expertise, some of them do little more than draft a demand letter to the original scam artist and send a boilerplate complaint to the logical regulatory agency. *Those are two steps that victims can take easily on their own, free of charge.*



Further, demand letters may be useless, especially if the original scam artist or the company involved is insolvent, bankrupt or subject to a court judgment, or if the statute of limitations (the time period to file a claim) has expired. Most regulatory agencies have free and simple mechanisms to file complaints on their websites, including the NC Secretary of State's [Securities Division](#), the North Carolina [Attorney General's Office](#), the [SEC](#), [CFTC](#), [FTC](#), [CFPB](#), and [FINRA](#).

If you are considering paying an asset recovery company to seek funds lost to a scam, make sure you ask what measures the company will take on your behalf, and for what cost, and then consider if those are actions you can take yourself and, if so, are worth the money. You can also call the SEC's Office of Investor Education and Advocacy at (800) 732-0330 or ask a question [online](#).

Are You An Informed Investor?

Third-Party Asset Recovery Companies: Are They Advocating for You?

Warning of investment scams are vital to use caution if approached by companies promising to help recover money lost to investment frauds and other financial frauds. "Baited" victims of investment frauds are often contacted by companies that offer to help them recover their money. In exchange, the company claims to gather information on the scam and assist the individual in reporting that investment advice. Many of these companies are not licensed and may be operating in violation of securities laws. The SEC's Office of Investor Education and Advocacy is issuing this Investor Alert to urge investors and fraud victims to think carefully before paying money for asset recovery services that may be fruitless.

For more details on third-party asset recovery companies, we recommend our Informed Investor Alert, [Third-Party Asset Recovery Companies: Are They Advocating for You?](#)



EB-5 Fraud:

Immigrant Investors Beware

What is the EB-5 Program?

In an effort to stimulate the U.S. economy through job creation and capital investment by foreign investors, the U.S. Congress in the early 1990s authorized the creation of a new type of immigrant visa known as the Employment-Based, Fifth Preference (EB-5) visa. Under the EB-5 program, foreign investors who meet certain eligibility requirements can apply for conditional resident alien status (i.e., a conditional “green card”) in the United States by investing in the American economy.

To be eligible for an EB-5 visa, a foreign citizen must invest at least \$1 million (or \$500,000 for certain targeted high unemployment or rural areas) in a commercial enterprise that within two years creates at least 10 new full-time jobs or preserves at least 10 jobs in a pre-existing, troubled business. After two years, assuming the investment has resulted in the creation or preservation of at least 10 jobs, the immigrant investor may apply to become a lawful permanent resident – and, eventually, may apply for potential U.S. citizenship. (For specific details about the EB-5 program and eligibility requirements, visit uscis.gov/eb-5.)

An immigrant investor could invest the funds directly into a new or troubled business, or indirectly through a “regional center” approved for this purpose by the U.S. Citizenship and Immigration Services (USCIS). Most EB-5 visa applicants have chosen to invest through these regional centers. But while the USCIS approves each regional center, the specific investments offered by regional centers generally do not undergo review or approval by any federal or state regulatory agency.

The EB-5 program has resulted in many new business enterprises and the renewal and preservation of previously troubled businesses. Unfortunately, fraudsters have also preyed upon unsuspecting EB-5 investors through the use of illegitimate businesses or sham regional centers.

EB-5 Misuse

The EB-5 program has increased in popularity in recent years and with it has come increased allegations of fraud. Below are two recent examples of alleged fraudulent behavior in the EB-5 industry:

In April 2016, state officials in Vermont and the Securities and Exchange Commission filed similar civil actions alleging investor fraud dating back to 2008 at EB-5 development projects run by two men. The complaints allege that the men misused more than \$200 million of investor funds intended for EB-5 development projects in Vermont, including a ski resort and a biomedical research facility. The cases also allege that one of the men misappropriated \$50 million of investor funds for his own personal use, including the purchase of a luxurious Manhattan apartment and the payment of personal income taxes.

In June 2016, the Securities and Exchange Commission announced fraud charges and an asset freeze against a husband and wife accused of misusing money they raised from investors to build and operate a cancer treatment center to help oncology patients in Southern California. The SEC said the pair raised \$27 million for the cancer treatment center from 50 investors in China through the EB-5 immigrant investor program. The SEC said there has been no construction at the proposed site after more than 18 months of collecting investments. Of the money raised, \$11 million was transferred to three firms in China and another \$7 million was diverted to the couple’s personal accounts.

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To learn more, contact:

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



Are You An Informed Investor?

How Immigrant Investors Seeking EB-5 Visas Can Protect Themselves

Foreign investors interested in participating in EB-5 investments should thoroughly research any potential EB-5 investment, particularly one in which the individual is not personally involved. If an investor is considering investing through a regional center, the investor should conduct due diligence on the claimed investment opportunity as well as the regional center itself. For example, fraudsters may represent that they are working through USCIS-approved regional centers when, in reality, they have neither applied for USCIS approval (or approval is merely pending). Furthermore, investors should monitor the uses of any funds to ensure funds are not directed towards expenses that do not meet EB-5 requirements, such as promoters fees, administrative fees, or (of course) a con artist's own pocket. The following are additional tips on how immigrant investors can protect themselves.

Investigate the Investment Promoter and Regional Center

- EB-5 investments, even those offered through USCIS-approved regional centers, generally are not reviewed or approved by any federal or state regulatory agency. Nonetheless, potential investors should check with the appropriate regulatory authorities for any information about the potential investment or promoter.
- Do not invest through a regional center that has not been approved by USCIS. A list of approved regional centers is available on the USCIS website, uscis.gov. (USCIS's website also identifies regional centers that have had their approvals withdrawn.)
- USCIS approval should serve as a starting point. Investors should conduct further due diligence on the regional center and the individuals or entities standing behind it.

Always Get it in Writing

- The sponsor of an investment should have a business plan and offering documents, such as a private placement memorandum, outlining the proposed terms of the investment. Do not invest unless you receive such information. Furthermore, conduct your own analysis of the investment opportunity. Review and compare any investment materials to information in USCIS filings and other written or verbal statements from the issuer or its promoter. Any inconsistencies should be treated as a red flag.

How are the Sponsors/Developers Paid?

- Be comfortable that you understand how the sponsors/developers of an investment opportunity will be compensated, particularly if the sponsor/developer is not itself investing in the opportunity (i.e., has no "skin in the game").
- Understand how the sponsors/developers are incentivized. Are the sponsors/developers of a regional center investing their own money into the projects they are managing? Absence of developers' personal investments could mean their financial incentives are not linked to a project's ultimate success and profitability.
- What is the structure of the investment and any affiliates? If there are layers of entities managed by the same individuals, there may be conflicts of interest that should be disclosed and evaluated. Don't get caught in a shell game.
- Compare the answers you receive to information contained in the offering materials; any inconsistencies should be treated as a red flag.

Are You An Informed Investor?

How Immigrant Investors Seeking EB-5 Visas Can Protect Themselves

Investigate the Claims and Independently Verify Information

- Many EB-5 investments help finance real estate developments. Real estate developments require permits and approvals from appropriate zoning or planning authorities. Contact these agencies and obtain information or records to verify representations that permits or approvals have been received.
- In addition, if the project involves the sale of land, inquire whether an independent appraisal has been conducted and request a copy. Additionally, check local property tax assessments for how property has been valued and whether that value reasonably supports the investment opportunity.

Know Your Risk Tolerance and Look for Classic Warning Signs

- Most immigrant investors seeking to take advantage of the EB-5 program presumably do so principally because of the potential path to legal U.S. residency and not because of the potential investment returns on their EB-5 investment. What level of risk are you exposed to? How is your investment protected, if at all?
- No investment promoter should ever promise a visa or permanent residency in exchange for an EB-5 investment. Investment promoters have no ability to make such promises. The EB-5 program does not guarantee a visa will be issued, or that permanent residency will result; EB-5 only provides an avenue for such eligibility.
- Claims of guaranteed returns or low/no investment risk are classic red flags. Every investment involves some degree of risk, and EB-5 investments are usually far from risk-free. If it sounds too good to be true, it probably is.



The Bottom Line: Before making any decisions with your money, ask questions, do your homework and contact the North Carolina Department of the Secretary of the State, Securities Division at 1-800-688-4507.

NASAA Informed Investor Alert

NASAA has provided this information as a service to investors. It is neither a legal interpretation nor an indication of a policy position by NASAA or any of its members, the state and provincial securities regulators. If you have questions concerning the meaning or application of a particular state law or rule or regulation, or a NASAA model rule, statement of policy or other materials, please consult with an attorney who specializes in securities law. For more investor alerts and advisories, visit www.nasaa.org





Boiler Room Alert: If You Get a Call Like This, Don't Bite—and Don't Buy

Boiler room-style calls are characterized by high pressure sales pitches from people who call you out of the blue, working from a list or simply dialing from a phone book. FINRA is issuing this alert because we have seen an increase in aggressive calls touting the next hot stock. Callers tend to target seniors, and have been all-too successful in conning people of all ages into buying penny stocks and other speculative investments.

The best way to avoid unsolicited calls and potential scams is to equip your phone with a caller ID device or service—and if the number is unknown to you, don't pick up. Many scammers won't bother to leave a message on your voicemail. If you do answer and the caller begins an aggressive pitch, calmly say no and hang up the phone. If you have questions or concerns about a caller or investment, you can speak to a representative at FINRA's [Securities Helpline for Seniors](#) (1-844-574-3577) or call the NC Secretary of State's Securities Division at 1-800-688-4507.

Scam Characteristics

Here are some common characteristics of recent boiler room scams:

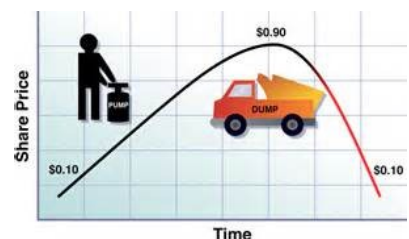
Callers use hard-sell tactics to pressure investors into buying shares that promise high returns on "can't miss" investment opportunities. Repeated, and more aggressive, calls are common. The investments touted are often low-priced "penny" or [microcap stocks](#), though higher priced stocks and other types of investments may be pitched. Investors who purchase shares often find that the sales pitches are fraudulent and the shares they bought are virtually worthless.



Callers purport to work for organizations that offer stock recommendations. **However, the organizations in the situations we've seen recently are not registered with FINRA, not associated with any FINRA-registered firm, and in most cases may not be involved with any legitimate business entity.** The callers themselves may use fake names and credentials, or disguise their phone numbers to make it appear as if the call is

from a reputable broker-dealer or firm (also known as [Caller ID "spoofing"](#)). Use [FINRA BrokerCheck](#) to verify whether a firm and individual are registered to sell securities. Use the internet to check the validity of addresses, phone numbers and other information about the organization or individual. To report suspected Caller ID spoofing, go to the FCC's online [Consumer Help Center](#) to file a consumer complaint.

Callers engage in "[pump-and-dump](#)" scams in which victims are conned into buying shares through their online brokerage accounts to inflate a stock's price. One elderly couple was talked into buying nearly \$900,000 worth of virtually worthless microcap stocks. Another senior investor purchased over \$500,000 of a microcap stock while on the phone with the caller.



In some cases, cold callers are simply out to steal a victim's money, a little at a time. One retired investor was talked into sending two checks totaling \$2,500 to what turned out to be a mail drop box, with no actual business associated with the address.

Not all calls are cold calls. "Account executives" may contact individuals who have visited or signed up with a website that promotes low-priced stocks. The "account executive" or a person associated with the website will make a hard sell for one or more low-priced stocks or other speculative investments.

If You Receive a Boiler Room Call

While cold calling for legitimate investments does take place, follow these tips to help you avoid losing money to a boiler room-style pitch:



Do not say "yes" to stock purchases from an aggressive cold caller, even if the claims sound plausible, particularly if the stocks being recommended are very low priced. The best fraud pitches are designed to sound believable, and counter every possible doubt or opposition. **Don't feel guilty about hanging up. Not answering at all, or putting down the phone, are generally the best and safest responses to a cold caller or anyone aggressively pitching low-priced stocks or other investment opportunities.**

Do not give boiler room callers a second chance. Hang up. It's common boiler room practice to follow up to see if you purchased the stock they recommended. If you haven't invested—they will keep pressuring you. If you have invested—they will try to convince you to invest more.

Do not make wire transfers or put investment purchases on a credit card if a cold caller asks you to do so. The same holds true of pushy demands to send a check quickly. Do not send checks to PO boxes or addresses that are not associated with a registered securities firm. Addresses for registered firms can be found on FINRA BrokerCheck—and a quick internet search or mapping app can help you figure out whether the address is a warehouse or commercial mail service provider. Legitimate brokerage firms have policies in place to set up and fund brokerage accounts and rarely, if ever, demand "immediate" transfers of funds.



If you believe you're a victim of this scam, act quickly. If you have sent money, contact your financial institution, credit card company or local law enforcement to make them aware of your situation and see whether you can stop payment. You can also file a complaint by calling the NC Secretary of State's Investor Hotline at 1-800-688-4507, or using FINRA's online [Complaint Center](#) or [sending a tip](#) to FINRA's Office of the Whistleblower.



Investor Bulletin: Variable Annuities - Should You Accept a Buyout Offer?

The SEC's Office of Investor Education and Advocacy is issuing this Investor Bulletin to educate investors about some of the pros and cons of variable annuity buyout offers. This bulletin will provide information to help you consider whether a buyout is right for you.

Note: A variable annuity is a contract between you and an insurance company, under which the insurer agrees to make periodic payments to you, beginning either immediately or at some future date. You purchase a variable annuity contract by making either a single purchase payment or a series of purchase payments.

Buyout Offers

In the years running up to the recent financial crisis, many insurance companies offered variable annuities that included generous benefits. Some of these offers promised the benefit of paying contract owners a minimum amount each year, even if the financial markets declined. Others promised minimum death benefits if a contract owner passed away. However, some insurance companies are now reconsidering those benefits because of the high cost to maintain them in the current economic environment.

As a result, if you own a variable annuity, you may have received an offer from the insurance company asking you to accept a buyout offer. A buyout offer refers to an offer by an insurance company to either: (1) increase your contract value in exchange for giving up a benefit; or (2) increase your cash surrender value in exchange for surrendering your variable annuity.

Caution: Insurance companies may make buyout offers because it is in their own best interest to do so. The insurance company does not make a buyout offer solely based on a determination that it is in your best interest.

You should accept a buyout offer only when you determine, after knowing all the facts, that it is better for you to accept the buyout offer rather than continue to own your variable annuity with a particular benefit.

If you accept a benefit buyout, your variable annuity's contract value will increase, but you will lose the benefit. This can be an attractive option if you are no longer interested in that benefit.

If you surrender your contract, you will receive an increase to your contract's cash surrender value, and you will no longer own your variable annuity. This can be an attractive option if you no longer want to own a variable annuity or if you want to purchase another variable annuity with different features, such as different benefits or investment options.



Be aware that the amount of the offer (the amount by which your contract value or cash surrender value may increase if the offer is accepted) may fluctuate. You should contact the insurance company or your investment professional to determine the current value of the buyout offer.

Caution: Buyout offers are optional. You are not required to accept an offer. If you do not accept the offer, your variable annuity and its benefits should continue unchanged.

Issues to Consider

Before you accept a variable annuity buyout offer, here are a few of the questions that you should consider asking yourself to help you understand the possible effects of your decision.

1. Has your situation or that of the insurance company changed?

Consider whether your personal situation has changed since the time you made your original decision to purchase a variable annuity. For example, a decline in your health may make promises for long-term payments less important to you. Likewise, a personal financial emergency could make a large lump sum payment more desirable than a promise to provide long-term payments.

Likewise, a decline in the financial health of the insurance company may cause you concern that the insurance company might not be able to make payments to you in the future. This may make long-term promises from the insurance company less attractive.

If there has been no change in your personal situation or that of the insurance company, you should question whether accepting the buyout offer is right for you. A lump sum payout or an increase to the value of your contract may be attractive, but consider whether that outweighs the benefits provided by the variable annuity.

2. Would accepting the buyout offer have any additional financial impact?



Accepting a buyout offer may cause you to pay “surrender charges” upon surrender of your variable annuity. The amount which you may be charged decreases over a period of several years, known as the “surrender period.” For example, a 7% charge might apply if you surrender your contract within the first year after purchasing it, a 6% charge in the second year, 5% in the third year, and so on until the end of the surrender period when the surrender charge would no longer apply.

Transferring cash surrender value to a different financial product (which may be another variable annuity) may trigger a new sales charge or subject you to a new surrender charge period. Also, new financial products, including variable annuities, offered in the current economic environment may have higher fees or be less favorable than the benefits offered by the variable annuity you currently own.

Caution: You should be cautious if you are offered a new variable annuity with features similar to those offered by your current variable annuity. While the features may appear similar, you should consider the fees (including surrender charges and benefit fees), investment restrictions, and benefits and risks of the new variable annuity as compared to your current variable annuity.

Surrendering your variable annuity for a lump sum payment or using your surrender proceeds to purchase another financial instrument may also result in tax liability. You may face a 10% federal income tax penalty if you withdraw your money before you are 59½ years old. In addition, if you surrender your variable annuity and do not transfer the assets to another annuity, your surrender amount may be taxable.

3. Have you consulted with an investment professional?

An investment professional may be able to help you better understand the pros and cons of a buyout offer. However, be aware that they may receive a commission for selling you a new annuity or for persuading you to accept the buyout offer. You should ask them to disclose any conflicts of interest that they may have.

Caution: Investment professionals may be directly or indirectly compensated if an owner of a variable annuity accepts a buyout offer. Some insurance companies offer financial incentives to investment professionals if their clients accept a buyout offer. Similarly, if an investment professional is compensated based on the value of the assets managed, then acceptance of a buyout offer or reinvesting the proceeds from a surrendered variable annuity may lead to increased compensation for the investment professional.



Modern Times Modern Crimes: 2016



“Be a Savvy Consumer and Fight Fraud in a Changing World”

Thursday, September 22, 2016

Registration 9:00 a.m.—9:30 a.m.

Program 9:30 a.m.—2:30 p.m.

Carolina Bay at Autumn Hall Independent Living

630 Carolina Bay Drive

Wilmington, NC 28403

No Charge

BREAKFAST & LUNCH PROVIDED



Keynote Speakers

Elaine Marshall, NC Secretary of State

Roy Cooper, NC Attorney General

Speakers include Representatives from:

District Attorney’s Office

US Postal Inspector

NC Department of Insurance

New Hanover County Dept. of Social Services

New Hanover County Sheriff’s Office

Federal Bureau of Investigation

You Must Register by September 15th to Attend

Contact Lisa Hall—910 769-7532

CO-SPONSORED BY:



Area Agency On Aging
Cape Fear Council of Governments



A Coalition of Professionals & Volunteers serving Brunswick, Columbus, New Hanover and Pender Counties

CCDOC.ORG

Connecting Elders to Resources in Western North Carolina

*A conference for seniors and/or family members seeking information on
Senior Health Care, Safety, and Risk Prevention*

presented by

Catholic Charities and St. Charles Borromeo Catholic Church

Saturday, September 24, 2016

10:00 AM to 3:30 PM, (doors open at 9:00 AM)

St. Charles Borromeo Catholic Church, 714 W. Union Rd., Morganton, NC

This conference will explore issues of concern facing our elder brothers and sisters in Christ and provide informational resources that can make a real difference for individuals, families, and communities. Please come to learn, celebrate, and pray, as Catholic Charities and St. Charles Borromeo Catholic Church highlight the treasure of elders in society and offer helpful workshops on a variety of topics.

Lunch and refreshments are provided. A \$10 registration fee covers the cost of lunch and refreshments. Please bring a check payable to Catholic Charities to the event.

Notification of intent to attend event is requested by Friday, September 16.

Event schedule and topics can be found at www.ccdoc.org. Please call 704-370-3225 or email jtpurello@charlottediocese.org if you have questions, and/or to give notification of plans to attend. Please provide phone and email contact information.





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 [Leo John](#) at (800) 688-4507. For a complete list of all upcoming events, please check out our online [calendar](#).

Date	City	Details
9/12/2016	Clinton	<p>"Scam Jam" anti-fraud presentation. Sampson Community College Occupational Building, Room 140, 1801 Sunset Avenue. Time: 9:00 AM -- Noon. This event is free and open to the public, but registration is requested. To register, please contact Kareem R. Strong, Certified Regional LTC Ombudsman, Mid-Carolina Area Agency on Aging, at (910) 323-4191 x 25. Representatives of the NC Department of the Secretary of State Securities Division, NC Department of Justice Consumer Protection Division, and the NC Department of Insurance Senior Health Insurance Information Program will provide information on how you can protect yourself from falling victim to a wide range of scams. Topics will include identity theft, how to establish a protective 'freeze' on one's credit report, securities fraud, charitable giving fraud and medical/Medicare fraud.</p>
9/13/2016- 9/14/2016	Raleigh	<p>CED Tech Venture Conference. Raleigh Convention Center, 500 S Salisbury Street. This two day conference is open to the public, but registration and fee are required. Day One of the conference runs from 11 AM -- 7 PM. Day Two begins at 8 AM and concludes at 2 PM. To register, or for more information, please visit http://cednc.org/TVC. As the premier event for technology entrepreneurs in the Southeast, the CED Tech Venture Conference attracts some of the most innovative minds from across the nation to Raleigh, NC. This year will feature: 800 entrepreneurs, investors, corporate visionaries and community leaders including 75+ investment funds; Live on-stage company pitches; Demo room for networking with 90+ emerging NC companies. The lineup of speakers and panelists will include top industry thought leaders as speakers and panelist. The conference will also feature special entrepreneur-only opening workshops. From early startups to growth-stage companies to highly successful businesses, the CED Tech Venture Conference reflects North Carolina's vibrant entrepreneurial community and showcases many of the most promising emerging companies in the region. Attendees will have the opportunity to connect with a diverse group of over 100 investors, from venture capital to corporate to angels.</p>
9/15/2016	Cary	<p>Elder Investment Fraud & Financial Exploitation Prevention Presentation. Location: TBA. Time: 12:30 PM — 1:30 PM. Participants will learn elder abuse awareness and how to encourage providers to build questions into their admissions process to determine whether an elder may be experiencing some form of financial abuse. Participants will also learn what resources are available for further assistance. For more information, please contact Barbara Shepard at bshepard_10@yahoo.com.</p>

9/15/2016	Clayton	"Changing Financing Options for Startups" Location: Johnston Community College Small Business Center, 135 Best Wood Drive. Time: 6:00 PM - 7:00 PM. This event is free and open to the public, but registration is required. Leo John, of the NC Department of the Secretary of State Securities Division, will be speaking on the topics of debt financing, financial accounting and crowdfunding. Attendees will learn how to incorporate these key components into their business so that their efforts can successfully thrive. For additional information or registration, please contact Pat Killette at pwkillette@johnstoncc.edu .
9/16/2016	Raleigh	Triangle Case Management Society Conference at North Raleigh Hilton. This event is open to Triangle CMS members only. Registration required. For registration details, please visit: http://trianglecmsanc.org/conferences/fall-conference/ . A representative of the NC Department of the Secretary of State Securities Division will provide a presentation entitled "Combating Frauds Against the Elderly: A Partnership Working Together." Older adults are the number one victims of fraud. Join us to learn how to recognize and avoid possible investment scams, and to learn more about the Advance Health Care Directive Registry which the Secretary of State's office maintains. Presented by John Maron, Director of the Investor Protection and Education Services Division of the North Carolina Department of the Secretary of State.
9/19/2016	Leland	"Business Essentials" presentation. Location: Brunswick Community College, 2050 Enterprise Drive NE. Time: 6:00 PM -- 9:00 PM. Free, but registration requested. To register, please visit: www.dorncc.com/business_smallbusseminars.html#businessessentials . The NC Department of Revenue and the NC Secretary of State will present a seminar titled "Business Essentials." Each agency will cover basic requirements to help businesses in North Carolina understand the laws and obligations necessary to be a compliant business.
9/21/2016	Cary	NC LAMP (Legal Assistance for Military Personnel) CLE. Location: NC Bar Association Conference Center, 8000 Weston Pkwy. Time: 1PM—2PM. A representative of the NC Department of the Secretary of State Securities Division will present at the 2016 Military and Veteran's Affairs Committee (MVAC) CLE on Legal Assistance for Military Personnel (LAMP) to discuss the signs of abuse among the elderly as well as what resources are available when abuse is discovered or suspected. Also discussed will be the services provided by the Advance Health Care Directive Registry, which the Department maintains, and how these services can be of assistance.
9/22/2016	Wrightsville Beach	Modern Times, Modern Crimes anti-fraud workshop. Secretary of State Elaine F. Marshall and Attorney General Roy Cooper will headline a jam-packed day of expert speakers with tips on how to protect yourself and your loved ones from falling victim to a variety of scams and frauds. This event is free, but registration is requested by September 15. Please contact Lisa Hall at (910) 769-7532 to register. Location: Carolina Bay at Autumn Hall, 5553 Old Garden Road. Time: Registration begins at 9:00 AM, the program will run from 9:30 AM—2:00 PM.

- 9/23/2016 Charlotte Centralina Area Agency on Aging Annual Conference. A representative of the NC Department of the Secretary of State will give a presentation from 1:15 - 2:30 PM entitled, "Prevention of Elder Investment Fraud and Financial Exploitation". Location: Friendship Missionary Baptist Church, 3400 Beatties Ford Road. Time: 8:00 AM - 4:00 PM. This presentation will train healthcare providers to look for the signs of financial abuse or exploitation among their elderly patients and make appropriate referrals, either to community resources or to Adult Protective Services when abuse is discovered or suspected. The program is designed to raise awareness of the issue in the minds of providers, encourage them to build questions into their routine patient intake screening to determine whether their patients may be experiencing some form of financial abuse, and know what resources are available for further assistance. Registration is required. For more information and to register, please visit centralina.org/centralinaaging/events/annual-aging-conference-2016/.
- 9/24/2016 Morganton "Connecting Elders to Resources in Western North Carolina" conference sponsored by Catholic Charities. Location: St. Charles Borromeo Church, 728 W. Union Street. Time: 11:00 AM -- Noon. This event is free. The theme of the conference is addressing, through a multi-issue approach, the social concerns of our elder brothers and sisters. Featuring a plenary presentation and plenary workshops on: senior health care choices (e.g., Medicare); safety issues; avoiding identity theft, frauds and scams; and community and family support resources. A representative of the NC Department of the Secretary of State Securities Division will give a presentation on investment frauds aimed at older Americans as well as on the Advance Health Care Directive Registry which the Department maintains. Go to www.ccdoc.org for more details. Please register by Friday, September 16. Lunch is provided. A \$10 registration fee covers the cost of lunch and refreshments. Please bring a check payable to Catholic Charities to the event. E-mail questions to jtpurello@charlottediocese.org or call 704-370-3225. A representative of the NC Department of the Secretary of State Securities Division will give a presentation on investment frauds aimed at older Americans as well as on the Advance Health Care Directive Registry which the Department maintains.
- 9/26/2016 Cary 2016 N.C. Rural Assembly. Embassy Suites by Hilton, 201 Harrison Oaks Blvd. Time: 9:00 AM - 4:30 PM. Open to the public; registration and fee are required. For more information, please visit <https://interland3.donorperfect.net/weblink/weblink.aspx?name=E253150&id=27>. A representative of the NC Department of the Secretary of State Securities Division will be joining the 2016 N.C. Rural Assembly on September 26. "Growing Better Together: Rural Health & Economic Development" will feature a diverse set of speakers including the candidates for N.C. Governor and U.S. Senate. Participants will be lead through a deep dive into the intersection of rural health and economic development.

9/27/2016	Louisburg	26th Annual Senior Fun Day in the Park. Riverbend Park, Corner of S. Main Street & W. Johnson Street. Event Time: 10:00 AM -- 2:00 PM. The Securities Division will be among those participating in the 26th Annual Senior Fun Day in the Park. The Franklin County Department of Aging is holding this event at Riverbend Park in Louisburg on September 27, 2016, from 10:00 AM until 2:00 PM. There will be older adults attending from all over the county. Entertainment, games, and meals are planned for the day. For additional information, please contact Tara Goolsby at tgoolsby@franklincountync.us .
9/27/2016- 9/28/2016	Charlotte	"North Carolina Investment Adviser Regulation" conducted by the NC Department of the Secretary of State Securities Division. SOSNC will hold two one day IA Compliance Workshops at Central Piedmont Community College Harris Building 1, Room 1120 3210 CPCC Harris Campus Drive. Time: 9:00 AM -- 4:00 PM. Registration Fee: \$35.00 per attendee. These workshops are intended to provide North Carolina Investment Advisers with a basic overview of the compliance issues surrounding their practice, investment adviser "best practices," and what to expect during an audit. Seating is limited to 80 people. For more information or to register, contact John Maron at jmaron@sosnc.gov .
9/29/2016- 9/30/2016	Raleigh	"North Carolina Investment Adviser Regulation" conducted by the NC Department of the Secretary of State Securities Division. SOSNC will hold two one day IA Compliance Workshops at our Atlantic Avenue Offices in Raleigh at 4701 Atlantic Avenue, Suite 116. Time: 9:00 AM -- 4:00 PM. Registration Fee: \$35.00 per attendee. These workshops are intended to provide North Carolina Investment Advisers with a basic overview of the compliance issues surrounding their practice, investment adviser "best practices," and what to expect during an audit. Seating is limited to 80 people. For more information or to register, contact John Maron at jmaron@sosnc.gov .
10/4/2016	Sylva	"Scam Jam" anti-fraud presentation. Jackson County Senior Center 100 County Services Park. Time: 12:30 PM -- 4:00 PM. Free and open to the public, but registration is requested. To register, please contact Sarajane Melton, Director, Region A Area Agency on Aging, at (828) 586-1962, Ext. 220. Representatives of the NC Department of the Secretary of State Securities Division, NC Department of Justice Consumer Protection Division, and the NC Department of Insurance Senior Health Insurance Information Program will provide information on how you can protect yourself from falling victim to a wide range of scams.
10/5/2016	Andrews	"Scam Jam" anti-fraud presentation. Andrews Sunshine Senior Center, Main Street. Time: 8:30 AM -- Noon. Free and open to the public, but registration is requested. To register, please contact Sarajane Melton, Director, Region A Area Agency on Aging, at (828) 586-1962, Ext. 220. Representatives of the NC Department of the Secretary of State Securities Division, NC Department of Justice Consumer Protection Division, and the NC Department of Insurance Senior Health Insurance Information Program will provide information on how you can protect yourself from falling victim to a wide range of scams.

- 10/14/2016 Raleigh Military Service Provider and Resource Fair. NC National Guard Joint Forces Headquarters 1636 Gold Star Dr. Event Time: 9:00 AM -- 4:00 PM. Attendance is free, but registration is required. For additional information or tickets, please visit: www.eventbrite.com/e/military-veteran-and-family-resource-fair-tickets-27038744613?aff=efbevent. The Securities Division will be among those participating in the annual Military, Veteran and Family Resource Fair. The Military and Veterans Resource Coalition is hosting this event at the NC National Guard Joint Forces Headquarters in Raleigh on October 14, 2016, from 9:00 AM until 4:00 PM. The event is open to veterans, military and families to learn about local organizations who are willing to assist with a variety of needs.
- 10/18/2016 Asheville "Starting and Financing a Venture in N.C." presentation. Location: Twisted Laurel, 130 College Street. Time: 10:30 AM -- 1:00 PM. Free and open to the public. A representative of the NC Department of the Secretary of State Securities Division will discuss things that all new startups need to know when starting and financing a new business, and how the Department of the Secretary of State can assist. For more information, contact Leo John at ljohn@sosnc.gov.
- 10/19/2016 Asheboro Elder Investment Fraud & Financial Exploitation Prevention Presentation. Randolph Hospital, Home Health Conference Room, 364 White Oak Street. Time: 8:15 AM -- 9:15 AM. A representative of the NC Department of the Secretary of State Securities Division will explore the signs of abuse among the elderly and make appropriate referrals, either to community resources or to Adult Protective Services when abuse is discovered or suspected. Participants will learn elder abuse awareness and how to encourage providers to build questions into their admissions process to determine whether an elder may be experiencing some form of financial abuse. Participants will also learn what resources are available for further assistance. For more information, please contact Beth Moran at ramseur_ad@choice-health.net.
- 10/20/2016 Greensboro "Elder Investment Fraud and Financial Exploitation Prevention" presentation. Family Justice Center, 201 S. Greene Street, Second Floor. Time: 12:30 PM -- 1:30PM. Free. A representative of the NC Department of the Secretary of State Securities Division will explore the signs of abuse among the elderly and discuss what resources are available when abuse is discovered or suspected. Participants will learn elder abuse awareness and how to encourage providers to build questions into their admissions process to determine whether an elder may be experiencing some form of financial abuse. Also discussed will be the services provided by the Advance Health Care Directive Registry, which the Department maintains, and how these services can be of assistance. Participants will also learn about other available resources. For more information, please contact Hannah Vaughan at hvaughan@elon.edu.

- 10/21/2016 Chapel Hill "The Past and Future of Crowdfunding North Carolina Economic Development." Kenan Institute of Private Enterprise, 3rd Floor Boardroom, Skipper Bowles Drive. Time: 9:30 AM -- 3:30 PM. The UNC Center for Competitive Economies is convening a symposium of scholars, capitalists, community developers and policy makers to discuss the role of local capital in financing 19th century industrialization in North Carolina and how that experience may inform current efforts to encourage "crowdfunding" as a means of entrepreneurial community revitalization. The goal of this symposium is to re-examine this formative era of southern industrialization to recognize the benefits derived from, and the limitations imposed by, the centrality of the role of small investors. These insights will be discussed in the context of ongoing policy discussions of crowdfunding as a mechanism for North Carolina's future economic growth. Presenters and participants will include scholars in business, regional economics and history, policy officials and elected representatives. For additional information, please contact Brent Lane at brent_lane@unc.edu
- 10/24/2016 Wilson "Starting and Financing a Venture in N.C." presentation. Upper Coastal Plain Business Development Center, 121 Nash St NW. Time: 5:00 PM -- 7:00 PM. Free and open to the public. A representative of the NC Department of the Secretary of State Securities Division will discuss things that all new startups need to know when starting and financing a new business, and how the Department of the Secretary of State can assist. For more information, contact Olga Abrams, at oabrams@ucpcog.org.
- 10/25/2016 Greenville Presentation to Eastern Chapter of the NC Society of Accountants. Location: H&R Block, 629 Red Banks Road. Time: 6:00 PM -- 7:00 PM. Open to Chapter members and their guests only. Representatives of the NC Department of the Secretary of State will provide Chapter members with updates on matters falling within the jurisdiction of the Department's Corporations and Securities Divisions. For more information, please contact Tori Wicker (edwardsaccountant@embarqmail.com or 252-946-3441) or Linda Leggett (linda.leggett@tax.hrblock.com).
- 11/1/2016 Edenton "Scam Jam" anti-fraud presentation. Chowan County Senior Center, 204 E Church Street. Time: TBD. Free and open to the public. Representatives of the NC Department of the Secretary of State Securities Division, NC Department of Justice Consumer Protection Division, and the NC Department of Insurance Senior Health Insurance Information Program will provide information on how you can protect yourself from falling victim to a wide range of scams.
- 11/2/2016 Columbia "Scam Jam" anti-fraud presentation. Columbia, NC. Time and Location TBA. This event will be free and open to the public. Representatives of the NC Department of the Secretary of State Securities Division, NC Department of Justice Consumer Protection Division, and the NC Department of Insurance Senior Health Insurance Information Program will provide information on how you can protect yourself from falling victim to a wide range of scams.

Union County Senior Wellness Expo. Location: Union County Agricultural & Conference Center, 3230 Presson Rd. #D. Time: 9:00 AM -- 12:00 PM. This event is free and open to the public. The NC Department of the Secretary of State Securities Division will be in attendance at the Union County Senior Wellness Expo at the Union County Agricultural & Conference Center on Thursday, November 3, 2016. The Senior Wellness Expo will be an opportunity to provide specialized information and services around the important topic of staying healthy. This information will help older adults take control of their health and live longer, healthier lives. Participants will also learn what additional resources are available. The Expo will feature: Senior Service Providers, FREE Health Screenings, Seasonal Flu Shot Clinic, and MORE! For more information, please contact Julia Mitchell at (704) 282-4657 or jmitchell@monroenc.org.



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. Capote's next hearing is set for September 26, 2016.

David Alan Topping, of Oak Island, NC, was arrested by law enforcement agents with the NC Secretary of State Securities Division on November 4, 2014 and charged with one felony count of securities fraud. The Brunswick County Sheriff's Office also charged Topping with one felony count of obtaining property by false pretenses and one misdemeanor charge for solicitation to obtain property by false pretenses. A Brunswick County Grand Jury has indicted Topping on the felony charges, which are now pending in Superior Court. Topping is alleged to have defrauded multiple victims out of more than \$100,000. He is currently out of jail on a \$250,000 unsecured bond.

Charles Caleb Fackrell, of Booneville, NC, pleaded guilty on April 12 in federal court to one count of securities fraud. A sentencing hearing has not yet been set. Fackrell is still facing trial in state court on charges of obtaining property by false pretenses. He is currently in the custody of the U.S. Marshals Service under a \$2.25 million bond.

Recent Enforcement Actions

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

On **July 14, 2016**, the North Carolina Secretary of State's Securities Division issued an **Order of Summary Postponement** to **Palmetto Premier Advisors, LLC**. The Order of Summary Postponement ordered pursuant to the authority contained in N.C.G.S. §78C-19(c) and 78C-19(f), that, pending a hearing and a final determination of this matter, the North Carolina registration of **Palmetto Premier Advisors, LLC** as an investment adviser be postponed. Click [here](#) to see the Order.





News from the Regulators

The following are links to 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.

[Investment Advisers Paying Penalties for Advertising False Performance Claims](#)

Aug. 25, 2016 —The Securities and Exchange Commission today announced penalties against 13 investment advisory firms found to have violated securities laws by spreading the false claims made by an investment management firm about its flagship product.

An SEC enforcement sweep of investment advisers found that the 13 firms accepted and negligently relied upon claims by F-Squared Investments that its AlphaSector strategy for investing in exchange-traded funds (ETFs) had outperformed the S&P Index for several years. The firms repeated many of F-Squared’s claims while recommending the investment to their own clients without obtaining sufficient documentation to substantiate the information being advertised. F-Squared later [admitted in an SEC enforcement case](#) that what was purportedly its real, historical track record was only back-tested performance that turned out to be substantially inflated. The penalties assessed against the firms range from \$100,000 to a half-million dollars based upon the fees each firm earned from AlphaSector-related strategies.

“When an investment adviser echoes another firm’s performance claims in its own advertisements, it must verify the information first rather than merely accept it as fact,” said Andrew J. Ceresney, Director of the SEC Enforcement Division. “These advisers negligently passed many of F-Squared’s claims onto their own clients, who were consequently relying upon false and misleading information when making investment decisions.”

[SEC Adopts Rules to Enhance Information Reported by Investment Advisers](#)

Aug. 25, 2016 —The Securities and Exchange Commission has adopted amendments to several Investment Advisers Act rules and the investment adviser registration and reporting form to enhance the reporting and disclosure of information by investment advisers. The amendments will improve the quality of information that investment advisers provide to investors and the Commission.

“These amendments are an important step in a series of rulemakings to enhance the SEC’s monitoring and regulation of the asset management industry,” said SEC Chair Mary Jo White. “Requiring investment advisers to report this additional information will provide investors and the Commission with a better understanding of the risk profile of each adviser and the industry as a whole.”

The amendments will require investment advisers to provide additional information regarding their separately managed account business, including aggregate data related to the use of borrowings and derivatives, and information about other aspects of their advisory business, including branch office operations and the use of social media. In addition, the amendments will facilitate streamlined registration and reporting for groups of private fund adviser entities operating a single advisory business.

[FINRA Offers Tips for Retail Investors on Order Types](#)

August 9, 2016—While most Americans understand the importance of saving and investing, many do not possess the basic financial knowledge needed to make sound financial decisions, according to a recent study released by the FINRA Investor Education Foundation (FINRA Foundation).

A series of financial literacy questions in the FINRA Foundation’s [2016 National Financial Capability Study](#) revealed that more than half of all Americans surveyed, 54 percent, could not tell which was riskier—investing in a single stock or investing in a mutual fund.

As part of its ongoing investor-education efforts, FINRA has issued an [Investor Alert](#) to help investors understand the different types of orders that can be used when making a trade. In general, understanding order types can help investors prioritize their needs, manage risk, speed execution and provide price improvement. Knowing how various orders work and the risks associated with them can be particularly useful at a time when economic and political events domestically and abroad can lead to increased market volatility.

[CFTC Announces Enhancements to Protect Customer Funds](#)

August 8, 2016—The U.S. Commodity Futures Trading Commission (CFTC) has announced three separate measures that are designed to enhance the protection of customer funds. The CFTC approved an order to exempt Federal Reserve Banks that maintain customer accounts for derivatives clearing organizations (DCOs) from liability under the Commodity Exchange Act (CEA). In addition, the CFTC’s Divisions of Clearing and Risk (DCR) and Swap Dealer and Intermediary Oversight (DSIO) issued separate interpretative and no-action letters regarding the use of money market funds (MMFs) by DCOs and futures commission merchants (FCMs).

The exemption facilitates the use of Federal Reserve Banks by DCOs that have been designated by the Financial Stability Oversight Council as systemically important. The exemption permits the Federal Reserve Banks to hold such DCOs’ customer funds without being subject to liability under the CEA. The customer funds must not be commingled with the money, securities, or property in the account of any other person. The order also exempts the Federal Reserve Banks from private rights of action that could otherwise be brought under the CEA.

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.gov. 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:jmaron@sosnc.gov), 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.gov with “Remove from mailing list” in the subject line.

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