



# North Carolina Department of the Secretary of State

*Hon. Elaine F. Marshall, Secretary*

## February 2016 SECURITIES NEWSLETTER • Vol. 8, No.2

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## When it Comes to Investing Watch out for the “Sweetheart Swindles” of 2016

Can an investment that sounds like a “sweetheart of a deal” really be posing a great danger to your pocketbook and bank account beneath its attractive surface? Yes indeed, says North Carolina Secretary of State Elaine F. Marshall.

“As much as we may wish that every investment offer made to us was a delicious box of Valentine’s Day candy,” Secretary Marshall said, “the sad truth is that there are real crooks out there trying to hide their scams inside enticing pitches. That is why we must always first carefully research any investment we are considering.”

Marshall and other state investor protection administrators around the country are cautioning the investing public to be on the watch for several specific kinds of investment fraud in 2016.

“We are highlighting scams and investing problem areas that will sound OK when you first hear them,” Secretary Marshall said. “But these may be really ‘sweetheart swindles’ so when you encounter these topics, remind yourself not to make quick investment decisions.”

This year, Marshall and other regulators are urging investors to be wary when approached with unsolicited investments, especially those involving promissory notes, oil and gas deals and real estate investment opportunities, including non-traded real estate investment trusts.

“Education and information, or what we always call the “check before you write one’ mindset is your best defense against investment fraud,” Secretary Marshall said.

### Changing Domains!



The Secretary of State’s Office has officially changed its web domain from [www.sosnc.com](http://www.sosnc.com) to [www.sosnc.gov](http://www.sosnc.gov). All SOSNC email addresses will also change from .com to .gov.

We’ll still have all the same useful information, just with a new domain name, so please update your bookmarks!

The following seven scams and problems are cited by Secretary Marshall and other securities regulators as currently being major problematic products, practices or schemes:

1. **Inappropriate or outright fraudulent offers made to seniors:** The North American Securities Administrators Association (NASAA) estimates that at least a quarter of all enforcement actions by its member regulators involve schemes against senior investors.

Examples include investments that are likely to take years to yield results or ones that are extremely high risk, when in fact the older clients may be asking for relatively safe investments with expected short-term gains. Investment professionals are required to ensure that the products they pitch to a given client are appropriate for that client and meet client's stated goals.



Scam artists also frequently target more elderly investors hoping to win their trust and friendship before attempting to get them to buy into bogus investments.



2. **Affinity fraud:** “One of the difficult things about spotting an investment scam,” Marshall said, “is that the crooks have really learned to mimic their victims in terms of where they will go to church, what hobbies and interests they will claim to have, and that they will often target people who look like them in terms of age and ethnic similarities.”

When scam artists make such efforts to act like their intended victims, it is called “affinity fraud.” Marshall urged everyone to be wary when someone suddenly injects themselves into their social, civic or religious groups and then starts talking about “too good to be true” investments.

3. **Unregistered products/unlicensed salesmen:** The offer of securities by an individual without a valid securities license should be a red alert for investors. Con artists often try to bypass stringent state registration requirements to pitch unregistered investments with a promise of “limited or no risk” and high returns.



Marshall urged all investors to always call the Secretary of State's Division of Securities at 1-800-688-4507 to check on anyone making investment offers, and on the offers themselves.

4. **Promissory Notes:** In an environment of low interest rates, the promise of high-interest-bearing promissory notes may be tempting to investors, especially seniors and others living on a fixed income. Promissory notes generally are used by companies to raise capital, and legitimate ones are marketed almost exclusively to sophisticated or corporate investors with the resources to research thoroughly the companies issuing the notes and to determine whether the issuers have the capacity to pay the promised interest and principal.



Average investors should be extremely cautious about offers of promissory notes with a duration of nine months or less, which makes them sound enticing. Short-term notes that appear to be exempt from securities registration have been the source of most – but not all – of the fraudulent activity involving promissory notes identified by regulators.

5. **Oil/Gas Investments:** Investment scams often are built around things in the news or of great concern to the public. These days investors are hearing about all kinds of changes in the field of energy. This makes fraudulent pitches about new oil and gas breakthroughs sound enticing. Many oil and gas investment opportunities are legitimate in their marketing and responsible in their operations, but as in many other investment opportunities, it is not unusual for unscrupulous promoters to attempt to take advantage of investors by getting in on a hot topic.



Fraudulent oil and gas deals frequently are structured with the limited partnership (or other legal entity) in one state, the supposed operation and physical presence of the field in a second state, and the offerings made to prospective investors in states other than the initial two states. This is done to keep investors from dropping by a fictional well site or a nonexistent company headquarters. Such a structure also makes it difficult for authorities and victims to identify and expose the fraud.

6. **Real Estate-related Investments:** What worries Marshall and other regulators in this area are products such as non-traded real estate investment trusts (REITS), timeshare re-sales, and brokered mortgage notes. These types of products often carry high risk. For example, non-traded REITs are sold directly to investors and are not traded on exchanges. This practice can be risky and have limited liquidity, which may make them unsuitable for many investors.



7. **Ponzi Schemes:** “Ponzi schemes are still the most common kind of investment fraud,” Marshall said. The premise is simple: make up a fake financial product that the fraudster claims is making huge amounts of money for its investors, and then pay early investors with money raised from later investors. The only people certain to make money are the promoters who set the Ponzi in motion; that is until the scheme collapses, as all Ponzi schemes eventually do.



“A Ponzi scheme is probably the cruelest form of scam there is,” Marshall said. The terrible thing about a Ponzi scheme is that it can last for years, making the victims think they have growing pots of money building on their behalf, when in reality the money is already lost. “Often early investors think the product is real and making money,” Marshall added. “So they get their friends and family to ‘invest’ in the fake product too, and when it all collapses, everyone they know realizes their money is gone.”

Marshall urged everyone thinking of investing to always first do their homework on the seller and the product, to never believe in things sounding “too good to be true” and to always be extremely leery of a supposed investment salesman who asks them to keep a secret, because the deal is only being offered to a select few people the seller supposedly likes.

“Keep these seven possible scams in mind throughout 2016 as you make your investment decisions,” Marshall said. “Always check out any offer or seller through your Secretary of State’s Division of Securities before you write that check!”

Anyone considering an investment should always first call the NC Secretary of State’s Securities Division at 1-800-688-4507 to make sure the person offering the investment, and the investment itself, are properly registered. Visit the North Carolina Secretary of State Division of Securities on the web at [www.sosnc.gov](http://www.sosnc.gov) for other helpful information on avoiding scams.



## **Operator of Two Macon Co. Companies Pleads Guilty to Securities Fraud and Money Laundering Charges for Defrauding Commodities Trading Investors of Approximately \$2.5 Million**

The operator of two companies located in Franklin pleaded guilty on January 25 to fraud by commodities pool operator and concealment of money laundering charges, for defrauding his investors of approximately \$2.5 million, announced Jill Westmoreland Rose, U.S. Attorney for the Western District of North Carolina.

U.S. Attorney Rose was joined by John A. Strong, Special Agent in Charge of the Federal Bureau of Investigation (FBI), Charlotte Division, in making the announcement.

According to the criminal bill of information filed on January 12, 2016, and related plea documents, beginning in at least August 2011, Barry Carlton Taylor, 64, of Franklin, solicited investment funds from at least 18 victims totaling approximately \$2.5 million. Taylor operated two limited liability companies in Franklin, "OTC Investments, LLC" (OTC) and "Forex Currency Trade Advisors, LLC" (FCTA).



According to filed documents, Taylor misrepresented to his investor victims that he was an expert in the foreign currency exchange market (FOREX) and that their investments would be pooled into trading accounts which he would manage and use to invest in FOREX. Taylor also falsely told his victims that he had created a computer software system that could track the FOREX market, which enabled him to make investments that generated very high rates of return, as much as 2.5-percent per month.

According to court records, even though Taylor opened and maintained FOREX trading accounts in the names of his two companies neither company was registered as a commodity pool operator. Court records also show that Taylor collected money from the individual victim investors and deposited the funds into these trading accounts, but he then withdrew more than half of the victims' money and lost the rest due to trading losses, fees and commissions. According to court records, by April 2015 there was very little or no investor funds remaining in the trading accounts Taylor controlled.

According to court records, Taylor concealed the losses from his investors by sending the victims false monthly statements that fraudulently represented that the investors' principal was intact and that they were realizing profits as promised. Court records also indicate that Taylor used money from other principal investors to make Ponzi-style payments to investors who had asked Taylor to withdraw their profits on their promised returns. Taylor also convinced some of the investors to reinvest their "commissions" rather than accepting payments.

In furtherance of the fraudulent scheme, court records show that Taylor used a number of lies to further induce investors and to conceal the fraud. For example, in January 2015, Taylor sent his customers fraudulent emails claiming that he had halted FOREX trading due to events involving the Swiss National bank. In another example, court records show that Taylor created a fictitious

entity and a fictitious person in order to send lulling emails to calm his investors, and later lied to victims telling them he was considering taking legal action against this fictitious individual who was supposedly responsible for their trading losses.

Contrary to promises made to his victim investors, Taylor diverted over half a million dollars of the victims' investment funds and used them to cover personal expense, such as restaurants, entertainment and shopping, among others.

Taylor was released on bond following his guilty plea. The fraud by commodities pool operator charge carries a maximum prison term of 10 years and a \$1 million fine. The concealment money laundering charge carries a maximum prison term of 20 years and a \$500,000 fine. A sentencing date for the defendant has not been set.

The case is being investigated FBI. In making this announcement, U.S. Attorney Rose also thanked the U.S. Commodities Futures Trading Commission for their invaluable assistance in this investigation.

The prosecution is being handled by Assistant United States Attorney Don Gast of the U.S. Attorney's Office in Asheville.



## **SOSNC Reminds Military Retirees to Keep Watch Against Financial Predators**

In honor of Military Saves Week, the North Carolina Secretary of State's Office in February reminded military retirees to guard their assets against financial predators.

"The financial exploitation of senior investors, including military retirees, is a growing concern due to the amount of wealth seniors have accumulated throughout their careers and the steadily rising number of retirees," said NC Secretary of State Elaine F. Marshall.

"Military retirees, in particular, need to guard against affinity fraud, in which members of specific groups are targeted for investment fraud," Secretary Marshall said. "Con artists will exploit any connection to try to build bonds of trust, even ties to the military community."

To help all investors with safe investing habits, the Secretary of State's Office encourages individuals to visit the Securities Division section of its website at [www.sosnc.gov](http://www.sosnc.gov) to take advantage of the investor education materials provided. The North American Securities Administrators Association (NASAA), of which the NC Secretary of State's Office is a member, also features several resources designed to help fight senior financial fraud through its Serve Our Seniors website at [serveourseniors.org](http://serveourseniors.org).

The Serve Our Seniors website features several resources designed to help senior investors learn how to avoid investment fraud, including tips on how to protect your nest egg, a smart investor checklist and information on how to learn more about your stockbroker or investment adviser's background. The website also provides an interactive map to senior-related resources, including those in North Carolina.

See "[Military Saves](#)" cont. on p. 6

# Military Saves Week

*Continued from [page 5](#)*

The Secretary of State Securities Division enforces and administers the State'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. Contact the Division toll-free at 1-800-688-4507 to verify the registration or disciplinary history of a securities salesperson or the salesperson's firm. For more investor education and protection information, please visit the NC Department of the Secretary of State website at [www.sosnc.gov](http://www.sosnc.gov).

The NC Secretary of State's Office is a proud partner in Military Saves Week and America Saves Week, a national public awareness effort led by the Consumer Federation of America to motivate people to save for their financial future. To learn more, visit [www.americasaves.org](http://www.americasaves.org).

## SOSNC Rules Open for Comment

Public comments are now being accepted for initial classification of proposed new administrative rules for the NC Secretary of State's Securities Division (18 NCAC 06). Comments from the public will be accepted through Monday, April 25, 2016.

The public comment period is also open for Notary Public and E-Notary rules (18 NCAC 07) until April 15, 2016, and for E-Commerce rules (18 NCAC 10) until April 20, 2016.

To view the initial classifications go to [bit.ly/1LCJGuA](http://bit.ly/1LCJGuA). Public comments can be emailed to [rules@sosnc.gov](mailto:rules@sosnc.gov).

## Follow SOSNC on Social Media!



The North Carolina Secretary of State's Office now has accounts on several popular social media platforms to make it easier than ever for the investing public and regulated communities to keep up with important news you need to know.

You can now follow SOSNC on Twitter, Facebook, LinkedIn and YouTube for updates on everything from investor education to trademarks enforcement and charitable solicitation regulation.

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



Many thanks to everyone with the Central Carolina Chapter of the Association of Certified Fraud Examiners who came out to hear SOSNC Director of Investor Protection & Education Services John Maron talk about investment fraud on Monday, February 22 at the North Raleigh Hilton. Check out our calendar section or our online calendar to find investor education and business outreach events in your community, or call (919) 733-3924 to arrange a workshop for your group!



# Investor Bulletin: Crowdfunding for Investors

*The SEC's Office of Investor Education and Advocacy is issuing this Investor Bulletin to educate investors about a new investing opportunity in the form of securities-based crowdfunding.*

*Crowdfunding* generally refers to a financing method in which money is raised through soliciting relatively small individual investments or contributions from a large number of people. Over the last few years, crowdfunding websites in the United States have proven a popular way by which to solicit charitable donations and to raise funds for artistic endeavors like films and music recordings.



Under recently adopted rules, the general public will have the opportunity to participate in the early capital raising activities of start-up and early-stage companies and businesses. ***Starting May 16, 2016, companies can use crowdfunding to offer and sell securities to the investing public.***

## Can I make a crowdfunding investment?

Anyone can invest in a crowdfunding securities offering. ***Because of the risks involved with this type of investing, however, you are limited in how much you can invest during any 12-month period in these transactions.*** The limitation on how much you can invest depends on your net worth and annual income.

If *either* your annual income *or* your net worth is less than \$100,000, then during any 12-month period, you can invest up to the greater of either \$2,000 or 5-percent of the lesser of your annual income or net worth.

If *both* your annual income *and* your net worth are equal to or more than \$100,000, then during any 12-month period, you can invest up to 10% of annual income or net worth, whichever is lesser, but not to exceed \$100,000 you can invest up to 10% of annual income or net worth, whichever is lesser, but not to exceed \$100,000.

The following table provides a few examples:

Annual Income	Net Worth	Calculation	12-month Limit
\$30,000	\$105,000	greater of \$2,000 or 5% of \$30,000 (\$1,500)	\$2,000
\$150,000	\$80,000	greater of \$2,000 or 5% of \$80,000 (\$4,000)	\$4,000
\$150,000	\$100,000	10% of \$100,000 (\$10,000)	\$10,000
\$200,000	\$900,000	10% of \$200,000 (\$20,000)	\$20,000
\$1.2 million	\$2 million	10% of \$1.2 million (\$120,000), subject to cap	\$100,000

**Joint calculation.** You can calculate your annual income or net worth by jointly including your spouse's income or assets. It is not necessary that property be held jointly. However, if you do calculate your income or assets jointly with your spouse, each of your crowdfunding investments together cannot exceed the limit that would apply to an individual investor at that annual income or net worth level.

## How do I calculate my net worth?

Calculating net worth involves adding up all your assets and subtracting all your liabilities. The resulting sum is your net worth.

**For purposes of crowdfunding, the value of your primary residence is not included in your net worth calculation.** In addition, any mortgage or other loan on your home does not count as a liability up to the fair market value of your home. If the loan is for more than the fair market value of your home (*i.e.*, if your mortgage is underwater), then the loan amount that is over the fair market value counts as a liability under the net worth test.

Further, any increase in the loan amount in the 60 days prior to your purchase of the securities (even if the loan amount doesn't exceed the value of the residence) will count as a liability as well. The reason for this is to prevent net worth from being artificially inflated through converting home equity into cash or other assets.

While your individual circumstances will vary, the following table sets forth examples of calculations under the net worth test in order to determine crowdfunding investment limits:

	Jane Doe	John Smith	James Lee
<b>Primary residence (not included except for related liabilities below):</b>			
Home value .....	\$300,000	\$300,000	\$300,000
Mortgage.....	200,000	200,000	330,000
Home equity line:			
more than 60 days old....	–	20,000	–
less than 60 days old.....	–	10,000	–
<b>Included assets:</b>			
Bank accounts.....	\$ 20,000	\$ 20,000	\$ 20,000
401(k)/IRA accounts.....	100,000	100,000	100,000
Other investments .....	50,000	50,000	50,000
Car .....	20,000	20,000	20,000
<b>Total included assets.....</b>	<b>\$190,000</b>	<b>\$190,000</b>	<b>\$190,000</b>
<b>Included liabilities:</b>			
Student and car loans.....	\$100,000	\$100,000	\$100,000
Other liabilities .....	20,000	20,000	20,000
Portion of mortgage underwater.....	–	–	30,000
Home equity line (less than 60 days old).....	–	10,000	–
<b>Total included liabilities ....</b>	<b>\$120,000</b>	<b>\$130,000</b>	<b>\$150,000</b>
<b>Net worth .....</b>	<b>\$ 70,000</b>	<b>\$ 60,000</b>	<b>\$ 40,000</b>



## How do I make a crowdfunding investment?

*You can only invest in a crowdfunding offering through the online platform, such as a website or a mobile app, of a broker-dealer or a funding portal.* Companies may not offer crowdfunding investments to you directly—they must use a broker-dealer or funding portal.

The broker-dealer or funding portal—a crowdfunding *intermediary*—must be registered with the SEC and be a member of the Financial Industry Regulatory Authority (FINRA). You can obtain information about a broker by visiting FINRA’s [BrokerCheck](#), calling FINRA’s toll-free BrokerCheck hotline at (800) 289-9999, or calling the NC Investors Hotline at (800) 688-4507. You can obtain information about a funding portal by visiting the SEC’s [EDGAR](#) website.

Keep in mind that you will have to open an account with the crowdfunding intermediary—the broker-dealer or funding portal—in order to make an investment and all written communications relating to your crowdfunding investment will be electronic.



## What should I keep in mind?

Crowdfunding offers investors an opportunity to participate in an early-stage venture. ***However, you should be aware that early-stage investments may involve very high risks and you should research thoroughly any offering before making an investment decision.*** You should read and fully understand the information about the company and the risks that are disclosed to you before making any investment.

The following are some risks to consider before making a crowdfunding investment:



- **Speculative.** Investments in startups and early-stage ventures are speculative and these enterprises often fail. Unlike an investment in a mature business where there is a track record of revenue and income, the success of a startup or early-stage venture often relies on the development of a new product or service that may or may not find a market. ***You should be able to afford and be prepared to lose your entire investment.***
- **Illiquidity.** ***You will be limited in your ability to resell your investment for the first year and may need to hold your investment for an indefinite period of time.*** Unlike investing in companies listed on a stock exchange where you can quickly and easily trade securities on a market, you may have to locate an interested buyer when you do seek to resell your crowdfunded investment.
- **Cancellation restrictions.** Once you make an investment commitment for a crowdfunding offering, you will be committed to make that investment (unless you cancel your commitment within a specified period of time). As detailed in the box below for *Changing your mind*, the ability to cancel your commitment is limited.
- **Valuation and capitalization.** Your crowdfunding investment may purchase an equity stake in a startup. ***Unlike listed companies that are valued publicly through market-driven stock prices, the valuation of private companies, especially startups, is difficult and you may risk overpaying for the equity stake you receive.*** In addition, there may be additional classes of equity with rights that are superior to the class of equity being sold through crowdfunding.

- **Limited disclosure.** The company must disclose information about the company, its business plan, the offering, and its anticipated use of proceeds, among other things. An early-stage company may be able to provide only limited information about its business plan and operations because it does not have fully developed operations or a long history to provide more disclosure. The company is also only obligated to file information annually regarding its business, including financial statements. A publicly listed company, in contrast, is required to file annual and quarterly reports and promptly disclose certain events—continuing disclosure that you can use to evaluate the status of your investment. *In contrast, you may have only limited continuing disclosure about your crowdfunding investment.*

- **Investment in personnel.** *An early-stage investment is also an investment in the entrepreneur or management of the company.* Being able to execute on the business plan is often an important factor in whether the business is viable and successful. You should also be aware that a portion of your investment may fund the compensation of the company’s employees, including its management. You should carefully review any disclosure regarding the company’s use of proceeds.



- **Possibility of fraud.** In light of the relative ease with which early-stage companies can raise funds through crowdfunding, it may be the case that certain opportunities turn out to be money-losing fraudulent schemes. *As with other investments, there is no guarantee that crowdfunding investments will be immune from fraud.*

- **Lack of professional guidance.** Many successful companies partially attribute their early success to the guidance of professional early-stage investors (e.g., angel investors and venture capital firms). These investors often negotiate for seats on the company’s board of directors and play an important role through their resources, contacts and experience in assisting early-stage companies in executing on their business plans. An early-stage company primarily financed through crowdfunding may not have the benefit of such professional investors.



### **How do I get informed?**

Broker-dealers and funding portals that operate crowdfunding platforms are required to offer educational materials to help investors understand this type of investing. These materials further detail the risks involved when making a crowdfunding investment. *You should take advantage of this resource to educate yourself and understand the risks of making crowdfunding investments. Remember, this is your money that you are putting at risk, and you should only invest after careful consideration of the risks.*

**Review and acknowledgement.** Before you can make a crowdfunding investment, the broker-dealer or funding portal operating the crowdfunding platform you are using must ensure that you review educational materials about this type of investing. In addition, you will have to positively affirm that you understand that you can lose all of your investment and that you can bear such a loss. You will also have to demonstrate that you understand the risks of crowdfunded investing.

As mentioned, the companies that you invest in are required to disclose a limited amount of information to you. This information includes general information about the company, its officers and directors, a description of the business, the planned use for the money raised from the offering, often called the *use of proceeds*, the target offering amount, the deadline for the offering, related-party transactions, risks specific to the company or its business, and financial information about the company. ***You should use this information to determine whether a particular investment is appropriate for you.***



**Tiered financial disclosure.** The minimum level of financial disclosure required by the company depends on the amount of money being raised or raised by the company in the prior 12 months:

- **\$100,000 or less** – financial statements and specific line items from income tax returns, both of which are certified by the principal executive officer of the company.
- **\$100,000.01 to \$500,000** – financial statements *reviewed* by an independent public accountant and the accountant’s review report.

**\$500,000.01 to \$1 million** – *if* first time crowdfunding, *then* financial statements *reviewed* by an independent public accountant and the accountant’s review report, *otherwise* financial statements *audited* by an independent public accountant and the accountant’s audit report.

An *audit* provides a level of scrutiny by the accountant that is higher than a *review*.



The sharing of views by members of the *crowd* is considered by some to be an integral part of crowdfunding. Broker-dealers and funding portals, through their crowdfunding platforms, are required to have communication channels transparent to the public—for example, on an online forum—relating to each particular investment opportunity. In these channels, the *crowd* of investors can weigh in on the pros and cons of an opportunity and be able to ask the company questions. All persons representing the company must identify themselves. It may be worthwhile to monitor these communication channels before and after you make your commitment to invest.

**Changing your mind.** You have up to 48 hours prior to the end of the offer period to change your mind and cancel your investment commitment for any reason. ***Once the offering period is within 48 hours of ending, you will not be able to cancel for any reason even if you make your commitment during this period.*** However, if the company makes a material change to the offering terms or other information disclosed to you, you will be given five business days to reconfirm your investment commitment.

## What's different about being a crowdfunding investor?

Being a crowdfunding investor is different than being a shareholder in a publicly listed company. For one thing, you cannot sell your shares at any time as you would be able to do if you held shares in a publicly listed company. In fact, ***you are restricted from reselling your shares for the first year***, unless the shares are transferred:

- to the company that issued the securities; to an *accredited investor*;
  - to a *family member*;
  - in connection with your death or divorce or other similar circumstance;
  - to a trust controlled by you or a trust created for the benefit of a *family member*;
- as part of an offering registered with the SEC.

**Family member.** For purposes of the above, a family member is defined as a child, stepchild, grandchild, parent, stepparent, grandparent, spouse or spousal equivalent, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships.

Another difference from being a shareholder of a publicly listed company is the amount of information you'll receive about your investment. Publicly listed companies generally are required to disclose information about their performances at least on a quarterly and annual basis and on a regular basis about material events that affect the company. ***In contrast, crowdfunding companies are only required to disclose annually their results of operations and financial statements.***

## Five Minutes Could Save Your Life Savings



Regular readers of this newsletter know that investors have a lot of potential pitfalls when investing their money, from legitimate but risky or inappropriate investments to outright scams.

One simple tip that can catch a scam artist is to check their registration. With a few limited exceptions, anyone 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, not being registered is a very big red warning flag. **We urge you 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. You owe it to yourself and your family to check.

Conference made possible  
by support from:

Dr. Joe Russell in memory of  
Hester McDaniel Russell  
and in honor of  
all family caregivers

**During the conference you will have  
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VDT will be ongoing during all sessions and  
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*Thank you to Spring Arbor of Wilson  
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Questions about the conference?

Please call or email  
Lisa Levine, AlzNC,  
(800) 228 - 8738  
llevine@alznc.org



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Dementia Care Maze**

Tuesday, March 8, 2016

Barton College  
Hamlin Student Center  
Wilson, NC

## Additional Information

### Location:

Hamlin Student Center,  
Barton College

Parking is Free

Directions: [www.barton.edu/maps](http://www.barton.edu/maps)

### Registration Fees:

**Family Caregivers,  
Clergy, Students & Volunteers: \$10**

Respite reimbursement is available with prior approval. For information, please call DeeDee Harris at (800) 228-8738.

### Professionals: \$40

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visit [www.alznc.org](http://www.alznc.org) Conf and Workshop page for more info. on CEU's & learning objectives.

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Payment non-refundable after deadline

Credit card payment can be made at:  
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**Please dress in layers as  
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difficult to regulate.**

Special Needs? Please notify us in advance so accommodations can be made, if possible.

Resource information will be offered on site and books will be available for sale.

For more information or to submit your registration:

Lisa Levine, AlzNC  
1305 Navaho Dr., Suite 101  
Raleigh, NC 27609  
Phone: (800) 228 - 8738  
Fax: (919) 832 - 7989  
Email: [llevine@alznc.org](mailto:llevine@alznc.org)

## Conference Schedule

- 8:00-9:00 Registration & Check In**
- 9:00 Welcome to 13th Annual Caregiver Education Conference**
- 9:30 *Understanding Dementia and the Importance of Early Detection and Planning***  
Melannie Pate, MS, PhD, Program and Services Director, AlzNC Wilmington
- 10:30 Break and Visit Exhibitors**
- 10:45 Breakout Session (Please choose one)**
- A. *How Hospice Fits into a Care Plan***  
Keith Lerro, MD, PhD, Regional Medical Oncology Center, Wilson NC
- B. *Communicating through the Progression of Dementia***  
Melanie Bunn, MS, RN, GNP, Dementia Training Specialist, Alzheimer's North Carolina
- C. *Navigating caregiving resources, learning where to turn for help***  
Upper Coastal Plain COG, Area Agency on Aging Staff and Rosalind Pugh, MS, Project CARE Consultant, AlzNC
- 12:00 Lunch**
- 1:00 Breakout Session (Please choose one)**
- D. *Taking Care of You: Self-Care for Family Caregivers***  
Tamyra Jovel, MSW, Program and Services Director, AlzNC Greenville
- E. *Rethinking Behaviors***  
Melanie Bunn, MS, RN, GNP
- F. *Maximizing the Use of Respite Care***  
Alicia Blater, M.S., APR, Family Caregiver Support Program Consultant, Lifespan Respite Project Director, Division of Aging and Adult Services, NC DHHS
- 2:15 Break and Visit Exhibitors**
- 2:30 *Afternoon Keynote Address***  
NC Secretary of State Elaine F. Marshall
- 4:00 Conference ends**

Professionals - 4.5 CEUs from NC-DHSR visit Conf/Workshop page at [www.alznc.org](http://www.alznc.org) for info

## Wilson Registration Form

Registration due  
Thursday, March 3, 2016

(pre-registration is required)

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Family Member/Family Caregiver **\$10**

Will call to request scholarship for fee  
**(Family Caregivers Only)**

Clergy, Student, or Volunteer **\$10**

Professional (includes CEU's) **\$40**

Please make check payable to :

*Alzheimers North Carolina*

Credit card payment: (800) 228-8738

Payment non-refundable after deadline

Select Breakout Sessions:

Circle Two: A. B. C. // D. E. F.

Lunch will be provided

Will you need respite reimbursement  
for your loved one?

(if yes, AlzNC will contact you for approval)

Yes

No

Please submit your registration to:

Lisa Levine, AlzNC

1305 Navaho Dr., Suite 101

Raleigh, NC 27609

Phone: (800) 228 - 8738

Fax: (919) 832 - 7989

Email: [llevine@alznc.org](mailto:llevine@alznc.org)



TUESDAY, APRIL 19, 2016

# NORTH CAROLINA INVESTOR DAY 2016

NORTH CAROLINA BIOTECHNOLOGY CENTER  
15 TW ALEXANDER DR., DURHAM, NC 27703

## NORTH CAROLINA INVEST R DAY Making Finance Cool Again

Join us for a day of learning, networking and engaging take-away panels from finance and business professionals.

9 AM - 4 PM

WORKSHOPS, KEYNOTES, PANELS; LUNCH INCLUDED

### PANELISTS WILL COVER TOPICS INCLUDING:

- Investing 101
- Traditional Small Business & Franchise Investing
- Crowdfunding and New Investment Opportunities
- Changing World of Small Business Finance

## REGISTER NOW!

SPACE IS LIMITED TO 175 ATTENDEES

VENUE PROVIDED BY:



PRESENTED BY:



Technology Commercialization CAROLINA



Your Partner in Small Business Growth



N.C. Department of Secretary of State,  
Securities Division

FOR MORE INFORMATION ABOUT THIS EVENT, PLEASE CONTACT

Janice Rojas at [vrojas@thesupportcenter-nc.org](mailto:vrojas@thesupportcenter-nc.org)  
or call at 919.803.1437 ext. 232.

Register at: <https://www.eventbrite.com/e/nc-investor-day-tickets-22127907166>

For more information, visit: <https://www.facebook.com/events/594521140700624/>



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

Date	City	Details
3/3/16	Cary	A representative of the NC Department of the Secretary of State Securities Division will give a presentation on the Elder Investment Fraud & Financial Exploitation (EIFFE) Prevention program. The program is designed to train medical professionals and others who work with senior citizens to spot the signs that a senior may have fallen prey to investment fraud, or may be particularly vulnerable to investment scams. This event is free and open to the public. Location: Heart of Cary Association, The Matthews House, 317 W Chatham Street. Time: 7 AM—9 AM. For more information, please contact Alisa Huffman at <a href="mailto:alisa@alisahuffman.com">alisa@alisahuffman.com</a> .
3/4/16	Leland	A representative of the NC Department of the Secretary of State will give a presentation on crowdfunding and securities regulation at the 5th Annual Sustainability Symposium and Expo. Location: Brunswick Community College, 2045 Enterprise Blvd.. Time: 8 AM—3 PM. This event is open to the public, but registration and a fee is required. To register, please visit <a href="http://www.brunswickcc.edu">www.brunswickcc.edu</a> . For more information, please contact Marilyn Graham at <a href="mailto:grahamm@brunswickcc.edu">grahamm@brunswickcc.edu</a> .
3/8/16	Wilson	Secretary of State Elaine F. Marshall speaks at the 13th Annual Caregiver Education Conference. Secretary Marshall will address advance health care directives and the Secretary of State's secure, online registry for advance directives, as well as the topic of investment fraud targeting seniors. Location: Barton College's Hamlin Student Center, 200 Atlantic Christian College Drive NE. Time: 8 AM—4 PM, Secretary Marshall's address begins at 2:30 PM. This event is open to the public but registration and fee are required. Contact Lisa Levine for further details at <a href="mailto:llevine@alznc.org">llevine@alznc.org</a> or (800) 228-8738.
3/17/16	Raleigh	A representative of the NC Department of the Secretary of State Securities Division will give a presentation on the Elder Investment Fraud & Financial Exploitation (EIFFE) Prevention program. The program is designed to train medical professionals and others who work with senior citizens to spot the signs that a senior may have fallen prey to investment fraud, or may be particularly vulnerable to investment scams. This event is free, but open only to Fountain of Raleigh members and their guests.



- 3/17/16 Greensboro “Starting and Financing a Business Venture in NC.” A representative of the NC 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 Secretary of State’s Office can help. Location: HQ Greensboro, 111 W Lewis Street. Time: 12:30 PM—2:00 PM. This event is open to the public. For more information, contact Sara Pilling at [sarap@hqqgreensboro.com](mailto:sarap@hqqgreensboro.com).
- 3/18/16 Jacksonville Secretary of State Elaine F. Marshall will speak at a USO of North Carolina financial literacy training for military personnel at Camp Lejeune. Spouses and family members of service members are also encouraged to attend. Location: USO of NC, Jacksonville Center, 9 Tallman Street. Time: 8 AM—12 PM. Secretary Marshall’s remarks begin at 10 AM. For more information, please contact Kelli Davis at [kdavis@uso-nc.org](mailto:kdavis@uso-nc.org).
- 3/23/16 Greenville A representative of the NC Secretary of State Securities Division will discuss advance health care directives and the secure online registry that the Secretary of State’s Office maintains for advance directives. This event is free, but open only to Kiwanis Club members and their guests. Location: Seahorse Restaurant, 2301 Stantonsburg Road. Time: 10 AM– 11 AM. For more information, please contact David Chester at [dwchester1@embarqmail.com](mailto:dwachester1@embarqmail.com).
- 4/2/16 Greensboro “Starting and Financing a Business in NC.” A representative of the NC Secretary of State Securities Division will disc things all new startups need to know when starting and financing a new business, and how the Secretary of State’s Office can help. This event is open to the public. Location: ArtsRevolution at Revolution Mill, 1200 Revolution Mill Drive. Time: 9 AM —1 PM. For more information, contact Susanna Sechler at [sgschle@uncg.edu](mailto:sgschle@uncg.edu).
- 4/2/16 Matthews A representative from the NC Secretary of State’s Office will give a explore the signs of financial elder abuse and how to address it. This event is free and open to the public. Location: Matthews Library, 230 Matthews Station Street. Time: 2 PM — 3 PM. For more information, contact Les Hutchens at [lhutchens@cmlibrary.org](mailto:lhutchens@cmlibrary.org).
- 4/6/16 Jacksonville “Guarding Your Assets in a Scary World” anti-fraud presentation. A representative of the NC Secretary of State’s Securities Division will Give a presentation on investment fraud targeting senior citizens, a as well as information about the secure, online Advance Health Care Directive Registry maintained by the Secretary of State’s Office. This event is free and open to the public. Location: Onslow County Senior Services, 4024 Richlands Hwy. Time: 10:30 AM — 11:30 AM. For more information, contact Denise Leyva at [Denise\\_Leyva@onslowcountync.gov](mailto:Denise_Leyva@onslowcountync.gov).

- 4/6/16 Williamston “Guarding Your Assets in a Scary World” anti-fraud presentation. A representative of the NC Secretary of State’s Securities Division will Give a presentation on investment fraud targeting senior citizens, a as well as information about the secure, online Advance Health Care Directive Registry maintained by the Secretary of State’s Office. This event is free, but open only to Vintage Inn of Williamston residents and their guests. Location: Vintage Inn of Williamston, 826 East Blvd. Time: 3 PM — 4 PM. For more information, contact Shaugnessy Sutton at Victorian Senior Care.
- 4/12/16 Greenville A representative of the NC Department of the Secretary of State will give a presentation on crowdfunding and securities regulation at the 2016 Business Leadership Conference. This event is open to the public, but registration is required by April 1. Location: Mendenhall Student Center, 1001 E 5th Street. Time: 8 AM — 4 PM. For more information, please visit [www.ecu.edu/cs-bus/conference](http://www.ecu.edu/cs-bus/conference).
- 4/12/16 Hillsborough A representative from the NC Secretary of State’s Office will give a explore the signs of financial elder abuse and how to address it. This event is free and open to the public. Location: Schley Grange Hall, 3416 Schley Road. Time: 6:00 — 7:30 PM. For more information, contact Dr. Dick White at [rwhite@duke.edu](mailto:rwhite@duke.edu).
- 4/22/16 Wilmington “Modern Times, Modern Crimes” anti-fraud event. Secretary of State Elaine F. Marshall will speak at an event designed to give seniors the tools they need to avoid financial fraud. Location: Brightmore Wilmington, 2324 South 41st Street. Time: 8:30 AM — 2:00 PM. For more information, contact Jane S. Jones, Director, Area Agency on Aging, Cape Fear Council of Governments, at (910) 395-4553, ext 209.
- 4/26/16 Fayetteville Scam Jam Anti-Fraud Presentation. 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. Free and open to the public. Location: Kiwanis Recreation Center at Honeycutt Park, 352 Devers Street. Time: 9 AM—12 PM. For more information please contact the Cumberland County Council on Older Adults at (910) 484-0111.
- 4/26/16 Wilson A representative of the NC Secretary of State Securities Division will discuss crowdfunding and securities regulation. This event is free and open to the public, but registration is required. To register, visit [www.wilsoncc.edu/coned/sbc.cfm](http://www.wilsoncc.edu/coned/sbc.cfm). Location: Wilson Community College Small Business Center, 902 Herring Avenue E. Time: 12 PM — 5 PM. For more information, contact Melissa S. Evans at [msevans@wilsoncc.edu](mailto:msevans@wilsoncc.edu).
- 5/4/16 Flat Rock A representative from the NC Secretary of State’s Office will give presentations on the Elder Investment Fraud and Financial Exploitation prevention program and the Advance Health Care Directives Registry. Time: There will be workshops at 10 AM and 1 PM. Location: Blue Ridge Community Center, 180 West Campus Drive. For more information, contact JR Mason at [smie09@yahoo.com](mailto:smie09@yahoo.com).

- 5/11/16 Raleigh The NC Secretary of State's Office will have an exhibition booth at the "State Employees 2016 Wellness & Safety Expo." Location: The Jim Graham Building, NC State Fairgrounds, 1025 Blue Ridge Blvd. Time: 9:00 AM — 4:00 PM.
- 5/14/16 Cary "Guarding Your Assets in a Scary World" anti-fraud presentation. A representative of the NC Secretary of State's Securities Division will Give a presentation on investment fraud targeting senior citizens, a as well as information about the secure, online Advance Health Care Directive Registry maintained by the Secretary of State's Office. Location: Jordan Oaks Retirement Community. Time: 11:00 AM — 12 PM. This event is free, but open only to Jordan Oaks Retirement Community residents and their guests. For more information, contact Sheila Bullock at (919) 387-8250 or Sheila.bullock@holidaytouch.com.



## 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 hearing is set for March 30, 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, was arrested by the Yadkinville Police Department in December, 2014 and to date has been charged with seven felony counts of obtaining more than \$500,000 in by false pretense. On Monday, August 31 in Yadkin County Superior Court his case was continued until January 25, 2016. Fackrell remains in custody in the Yadkin County Detention Center under a \$2.25 million bond.

To assist in the NC Securities Division's ongoing criminal investigation into Fackrell, we ask that any person who may have invested with Fackrell or his company, Fackrell Trivette Wealth Management, LLC, **please contact the Division immediately at 1-800-688-4507**. The Division would be interested in receiving **copies – not originals** – of any and all correspondence anyone may have had with Fackrell relating to the offer, sale of purchase of any investments. Anyone wishing to file a complaint against Fackrell or his company may do so by submitting a complaint form, located on the NC Secretary of State's [website](#).

## Recent Enforcement Actions

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



On **May 15, 2015**, the Securities Division of the North Carolina Department of Secretary of State issued a **Final Order of Revocation (Order) against Aegis Capital, LLC (Aegis)**. The Order revoked Aegis's registration to operate as an Investment Adviser in North Carolina. The Order found that Aegis had violated provisions of the Investment Advisers Act. Click [here](#) to view the Final Order Revocation.

On **May 4, 2015**, the Securities Division of the North Carolina Department of Secretary of State issued a **Final Order to Cease and Desist to CAUSwave, Inc.** CAUSwave, Inc. This Order made permanent the terms of the Temporary Order to Cease and Desist issued on March 12, 2015. The Final Order found that CAUSwave, Inc. has violated the North Carolina Securities Act. The Order directs CAUSwave, Inc. and any person, employee, officer, director, entity or independent contractor under the direction or control of CAUSwave, Inc. to cease and desist from offering for sale, soliciting offers to purchase or selling, in or from North Carolina, any securities unless and until: (1) such securities have been registered under the provisions of the North Carolina Securities Act, and (2) CAUSwave, Inc. and any person or entity under the direction or control of CAUSwave, Inc. is properly registered as a securities dealer or salesman under the provisions of the North Carolina Securities Act. Click [here](#) to view the Final Order.

On **February 12, 2015**, the Securities Division of the North Carolina Department of the Secretary of State issued a **Final Order to Cease and Desist to Respondents Stark Innovations, L.L.C., and David Alan Topping**, doing business as "Stark Investments, Inc." This Order made permanent the terms of the Temporary Order to Cease and Desist issued on November 5, 2014 in this matter. Respondents failed to object to the issuance of the Final Order or to seek any hearing in this matter. Respondents are prevented and restrained from offering to sell, or selling, securities interests in Stark Innovations, L.L.C., or any other security, in North Carolina without first complying with the North Carolina Securities Act. Click [here](#) to see the Order.

On **January 27, 2015**, the Securities Division of the North Carolina Department of the Secretary of State entered into a **Final Consent Order** with Respondent, **McGrath & Associates, Inc.** McGrath & Associates, Inc. is a registered investment adviser in the State of North Carolina. McGrath & Associates, Inc. violated the registration provisions of the North Carolina Investment Advisers Act by employing an unregistered investment adviser representative. The unregistered investment adviser representative was fully qualified for registration. The registration violation came to the Securities Division's attention through a routine audit of the investment adviser. McGrath & Associates, Inc. properly registered the investment adviser representative on May 13, 2014. Click [here](#) to view the Final 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.*

### [Exam Change Announcement](#)

NASAA recently completed its periodic review and content update of the Series 63, 65, and 66 examinations. NASAA, with the assistance of Prometric, a leading test development company, undertook a more than year-long review of each examination’s content and scoring, incorporating the feedback received by more than 1,000 industry participants and regulators. As a result of this content review, NASAA has updated the test specifications for each of its examinations to better reflect the skills and knowledge needed by broker-dealer agents and investment adviser representatives in today’s ever-changing financial industry.

While the test specifications for each examination have been updated, the content of the examinations has not dramatically shifted. Instead, some new topic areas were added, while others were modified or deemphasized.

NASAA will implement these new test specifications and scoring changes on July 1, 2016.

### [SEC Adopts Cross-Border Security-Based Swap Rules Regarding Activity in the U.S.](#)

The Securities and Exchange Commission today voted to adopt rules that require a non-U.S. company that uses personnel located in a U.S. branch or office to arrange, negotiate, or execute a security-based swap transaction in connection with its dealing activity to include that transaction in determining whether it is required to register as a security-based swap dealer. The rules, adopted under the Dodd-Frank Wall Street Reform and Consumer Protection Act, would help ensure that both U.S. and foreign dealers are subject to Title VII of the Act when they engage in security-based swap dealing activity in the United States.

“These final rules are integral to the SEC’s regulation of the security-based swap market, marking a key milestone in the completion of our regime for overseeing dealers,” said SEC Chair Mary Jo White. “The rules should improve transparency and enhance stability and oversight in the security-based swap market, while reducing potential competitive disparities, lessening the likelihood of market fragmentation, and mitigating the risk that may flow into U.S. financial markets.”

The final rules are effective 60 days after publication in the Federal Register, but compliance is not required until the latest of either 12 months following publication in the Federal Register or the SBS Entity Counting Date, which was specified in the SBS Entity Registration Adopting Release.

## [SEC and FINRA to Hold Regional Compliance Outreach Programs for Broker-Dealers](#)

**Feb. 2, 2016** — The Securities and Exchange Commission and the Financial Industry Regulatory Authority (FINRA) today announced the opening of registration for their 2016 Regional Compliance Outreach Programs for Broker-Dealers that will take place in New York, Atlanta, Dallas, Boston, Chicago, and San Francisco, beginning in the spring.

The SEC's Office of Compliance Inspections and Examinations, in coordination with the SEC's Division of Trading and Markets, is partnering with FINRA to sponsor the programs. Similar to the 2015 National Compliance Outreach Program for Broker-Dealers, each regional program will provide a forum for regulators and industry professionals of broker-dealer firms to discuss current regulatory issues and exchange ideas for effective compliance practices.

"The regional programs illustrate our continued commitment to foster an open dialogue among broker-dealers and regulators," said Kevin Goodman, National Associate Director of the SEC's Broker-Dealer Examination Program. "These outreach programs are an opportunity to discuss current compliance topics of regional and national importance."

Susan Axelrod, FINRA's Executive Vice President of Regulatory Operations, added: "The financial markets are evolving rapidly and the industry must continually assess risk, exposure, and how brokers interact with customers. Each year, these direct dialogues between regulators and compliance leaders yield new insights about how we can best achieve our mutual goal of investor protection in this dynamic environment."

For registration and additional details about the regional programs, please visit the [SEC website](#) or the [FINRA website](#).

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](http://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.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](mailto: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!**