

# North Carolina Department of the Secretary of State

*Hon. Elaine F. Marshall, Secretary*

## February 2017 SECURITIES NEWSLETTER Vol. 9, No. 2

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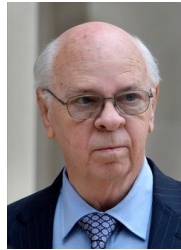
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**Paul Burks**

## Former ZeekRewards CEO Sentenced To More Than 14 Years For Operating \$900 Million Internet Ponzi Scheme

U.S. Attorney Jill Westmoreland Rose announced on February 13 that U.S. District Court Judge Max O. Cogburn, Jr. sentenced the former CEO of ZeekRewards to 176 months in prison for operating a \$900 million Internet Ponzi scheme. Paul Burks, 70, of Lexington, N.C. was also ordered to serve three years of supervised release and to pay \$244,000,000 as restitution. A federal jury convicted Burks in July 2016 of wire and mail fraud conspiracy, wire and mail fraud, and tax fraud conspiracy following a three-week trial. (See our [July 2016](#) newsletter.)

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

According to filed court documents, evidence introduced at Burks’ trial, and the sentencing hearing:

From January 2010 through August 2012, Burks was the owner of Rex Venture Group, LLC (RVG), through which he owned and operated Zeekler, a sham Internet-based penny auction company, and its purported advertising division, ZeekRewards (collectively “Zeek”). Burks and his conspirators induced more than 900,000 victims – including over 1,500 victims in the Charlotte area – to invest in their fraudulent scheme, by falsely representing that Zeekler was generating massive retail profits from its penny auctions, and that the public could share in such profits through investment in ZeekRewards. Burks and his conspirators, including Zeek’s former Chief Operating Officer Dawn Wright Olivares and her step-son and Zeek’s Senior Technology Officer Daniel C. Olivares, claimed at one point that investors would be guaranteed a 125% return on their investment.

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

funds came from victim-investors, which were then used to make Ponzi-style payments to earlier victim investors.

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

As the Ponzi scheme grew in size and scope it became unsustainable and it eventually began to unravel as the outstanding liability resulting from the bogus 125% return on investment continued to rise beyond control. By August 2012, Burks and his conspirators fraudulently represented to the collective victims that their investments were worth nearly \$3 billion, but had no accurate books and records to even determine how much cash on hand was available to pay such liability. Contrary to representations made to victim investors, at that time, Burks and his conspirators had only \$340 million available to pay out investors. Over the course of the scheme, Burks diverted approximately \$10.1 million to himself.

Burks also failed to file corporate tax returns or to make corporate tax payments for his companies, among other things. In addition, for tax year 2011, Burks issued fraudulent IRS Forms 1099s, causing victim-investors to file inaccurate tax returns for phantom income they never actually received.

At sentencing, Judge Cogburn stated it would have required a miracle on the order of the “loaves and fishes” for the defendant’s scheme to work. Judge Cogburn stated that a significant sentence was necessary to promote respect for the law, provide just punishment, and also deter others considering committing fraud. Judge Cogburn further noted that the scheme was “almost breathtaking” and emphasized that the defendant had time to stop it.

Burks will be ordered to report to the Federal Bureau of Prisons to begin serving his sentence upon designation of a federal facility. All federal sentences are served without the possibility of parole.

Burks’ co-conspirators, Dawn Wright Olivares, Zeek’s Chief Operating Officer, and her step-son and Zeek’s Senior Technology Officer, Daniel C. Olivares, were previously sentenced to 90 and 24 months in prison and three years of supervised release, respectively, for their involvement in the scheme.

In announcing the sentencing, U.S. Attorney Rose thanked the U.S. Secret Service and IRS-CI for investigating the case, and the U.S. Securities & Exchange Commission, Division of Enforcement for its assistance with the investigation.

The prosecution is handled by Assistant United States Attorneys Jenny Grus Sugar and Corey Ellis of the U.S. Attorney’s Office in Charlotte.

Additional information and updated court filings about this and related cases filings can be accessed at the district’s website: <http://www.justice.gov/usao/ncw/ncwvwa.html>.

# SOSNC Holds Public Hearing on Crowdfunding Rules



Kevin Harrington, Securities Division Director

The Secretary of State's Securities Division held a public hearing on February 15 on proposed rules for the state crowdfunding law, known formally as the NC Providing Access to Capital for Entrepreneurs and Small Business (NC PACES) Act.

"We have considered the need to balance protection of the investing public with the need for direction and flexibility for the issuers, registered broker-dealers and Internet funding portals who will be making and handling the crowdfunding offerings.

SOSNC is continuing to accept written comments on the rules at [rules@sosnc.gov](mailto:rules@sosnc.gov).

The proposed rules are posted on the Secretary of State's website at <http://sosnc.gov/legal/ThePage.aspx> and the Office of Administrative Hearings website at [www.ncoah.com/rules/](http://www.ncoah.com/rules/).

NC Securities Division Director Kevin Harrington, acting as Hearing Officer, addressed the Agency's thoughtful approach to the rulemaking process.



Mark Easley, a startup advisor and angel investor in the Research Triangle Park area, offered comments during the public hearing.



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No checking your email inbox—just the latest securities and investor education updates from SOSNC each month, direct to your computer. Just click on the orange RSS icon above to sign up!

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!



**SOSNC on YouTube**

Have questions about becoming a notary public or filing annual reports for your LLC or business corporation? A series of informative videos available now on [SOSNC's YouTube channel](#) has you covered!

If you have a business corporation or LLC registered with the Secretary of State's Office, we have a series of videos that give step-by-step instructions for filing your annual reports with our Corporations Division. We have also recently added a video highlighting the upcoming April 15 deadline for LLC's to file their annual reports. The video walks you through some of the most common questions we get regarding filing annual reports for LLCs and the annual postcard reminders we send to LLCs before the April 15 deadline.

Watch the video [here](#)



# AARP Investment Fraud Vulnerability Study

In February, AARP [announced](#) the findings of a [study](#) it had commissioned seeking to identify differences between known investment fraud victims and the general investor population in three discrete areas: psychological mindset, behavioral characteristics and demographic characteristics.

Key findings of the study include the following:

- More victims reported valuing wealth accumulation as a measure of success in life, “Some of the most important achievements in life include acquiring money.” More victims (60%) agreed with this statement than general investors (41%).
- “The most profitable financial returns are often found in investments that are not regulated by the government.” More victims (48%) agreed with this statement than general investors (30%).
- 58 percent of fraud victims reported receiving at least one investment sales telephone call each month compared to 32 percent of the general investors.
- 42 percent of victims made five or more investment decisions in a year, compared to only 11 percent of general investors.

AARP’s Fraud Watch Network contracted with Applied Research Consultants (ARC) to complete a total of 1,028 interviews, including 814 from the general investor population and 214 victims. Interviews were conducted by an independent telephone calling center, Opinion Access Corporation (Opinion Access) between August 23 and September 7, 2016. The sample for the telephone survey of fraud victims was provided by AARP from a database of known victims of fraud. See the complete study results [here](#).

## 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.



# SEC, NASAA Sign Info-Sharing Agreement for Crowdfunding and Other Offerings

The Securities and Exchange Commission and the North American Securities Administrators Association signed an information-sharing agreement on February 17 as new rules to facilitate intrastate crowdfunding offerings and regional offerings took effect.

The agreement signed by the SEC and NASAA is intended to facilitate the sharing of information to ensure that the new exemptions are serving their intended purpose of facilitating access to capital for small businesses. Under the memorandum of understanding (MOU), federal and state securities regulators will be better able to monitor the effects of the new rules and also guard against fraud.

The MOU was signed by SEC Acting Chairman Michael S. Piwowar and Mike Rothman, Minnesota Commissioner of Commerce and President of NASAA, which represents state securities administrators. The North Carolina Department of the Secretary of State Securities Division is a member of NASAA.



*NASAA President Mike Rothman (left) and SEC Acting Chairman Michael Piwowar (right) signing MOU on Feb. 17.*

“The agreement not only builds on an already productive relationship between the SEC and state regulators, it also offers additional insights and protections as we help companies grow and create jobs while providing new opportunities to investors,” said Acting Chairman Piwowar.

“This agreement will strengthen collaboration among state and federal securities regulators to help expand small-business investment opportunities while also protecting investors,” said Rothman. “Ongoing dialogue is essential to carry out our responsibilities going forward. With this MOU in place, we have an opportunity to share information that will bolster our efforts to support small business capital formation and prevent fraud.”

Under the new rules, companies will have more flexibility to engage in intrastate offers through websites and social media without having to register their offering with the federal government. Companies now can also raise up to \$5 million per year through other amended rules, which could facilitate the development of regional offering exemptions at the state level to permit companies to raise from investors in a specific region. The previous limit was \$1 million.

New JOBS Act rules went into effect in 2015 and 2016. New amendments to facilitate regional offerings went into effect in January and amendments to provide more flexibility for intrastate crowdfunding offerings will go into effect in April. These amendments are intended to facilitate greater access to capital for entrepreneurs that may not have been able to otherwise access capital using other alternatives. The MOU will increase the regulators’ ability to share data to better monitor implementation of the new rules and guard against fraud.



# Investor Bulletin: Savings and Investing Basics for Military Personnel

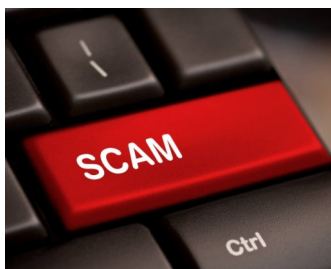
The SEC's [Office of Investor Education and Advocacy](#) is issuing this [Investor Bulletin](#) to help military personnel make informed savings and investing decisions and avoid common scams. Here are ten suggestions that can help you understand the basics and protect your hard-earned money.

**1. Pay Off High-Interest Debt.** Few investments pay as well as paying off high-interest debt on credit cards or other loans. You should also take steps to improve your credit score, which can matter when applying for a new job or mortgage, or when renting an apartment. Learn more about how to maintain a good credit score at the [Consumer Financial Protection Bureau's website](#).



**2. Set Goals and Make a Plan.** The best way to attain financial security is by saving and investing over a long period of time. Start today. You can use the SEC's [Savings Goal Calculator](#) to see how much you need to save each month to meet your goals.

**3. Always Check Out a Financial Professional Before Investing.** Many cases of investment fraud involve so-called financial "professionals" who are not properly registered. You can find out if a financial professional is registered by using the free database on [Investor.gov](#) or calling the North Carolina Secretary of State's Investor Hotline at (800) 688-4507. And, if they are registered, you can also see if he or she has a disciplinary history or any customer complaints. If you have questions, call the SEC's toll-free investor assistance line at (800) 732-0330.



**4. Be On the Lookout for Fraud.** Any offer or sale of securities must either be registered with the SEC or exempt from registration. *Otherwise, it is illegal.* While many companies that do not register or file reports with the SEC may be exempt from registration, you assume more risk when you invest in a company about which little or no information is publicly available. You should always check whether an offering is registered by using the SEC's [EDGAR database](#), contacting the SEC's toll-free investor assistance line at (800) 732-0330, or by calling the NC Investor Hotline at (800) 688-4507.

**Be Alert to Affinity Fraud.** Affinity frauds target members of groups, such as older investors or religious or ethnic communities. The SEC has brought several cases where fraud scams targeted military members and their families – and sometimes the scam artists even served in the military. The lesson from these cases is that even if you know the person making the investment offer, be sure to check out both the investment and the investment professional's background – no matter how trustworthy the person seems.

**5. Be Wary of an Investment that Sounds Too Good to be True.** Claims that an investment is a "can't miss" opportunity or promises "guaranteed" returns are classic warning signs of fraud. Be alert to *any* promise of high returns with little or no risk. And never invest before you have a chance to think about it and do research. No legitimate investment requires a rash decision.



**6. Take Advantage of the Thrift Savings Plan (TSP).** The TSP is the federal government's version of a 401(k) and one of the best options for retirement savings. Contributions can be automatically deducted from your pay and provide tax advantages either [today \(traditional\)](#) or [in the future \(Roth\)](#). TSP offers fees that are much lower than even the average index fund. The TSP website ([TSP.gov](http://TSP.gov)) explains the benefits available to the military. You can sign up for TSP using [MyPay](#).

**Learn more about the Blended Retirement System**

The Blended Retirement System (BRS) will go into effect for those joining the military after 1 January 2018 and those who opt into the new system. Generally, the BRS lowers the amount of the retirement annuity you can get after 20 years from the existing retirement plan, but adds up to a 5% match for TSP contributions and a continuation pay bonus of at least 2.5 times base pay at the mid-career point in exchange for additional service.

If you take advantage of the BRS, consider maximizing the employer match for TSP by contributing at least 5% of your pay to TSP. That's free money! For more information on BRS, see the [Department of Defense's BRS page](#) and [MilitaryOneSource](#), and talk to your base's financial manager/specialist.

**7. Don't Ignore Fees.** All investments have fees, and they vary from product to product and from firm to firm. [Even small differences in these costs can have a significant impact on earnings over time.](#)

**8. Diversification is Important.** By picking a mix of investments, you may be able to limit your losses and reduce the ups and downs of your returns without sacrificing much in potential gains. [Mutual funds](#), [ETFs](#) and [lifecycle funds](#) can help you diversify since these are investments that typically pool money from many investors and then invest the money in stocks, bonds, other securities or assets, or some combination of these investments.



**9. Contact Us If You Have Questions:** If you have questions about investing, or about how to check the license or registration status of an individual or firm, call the SEC's toll-free investor assistance line at (800) 732-0330 (dial 1-202-551-6551 if calling from outside of the United States). You can [report a problem](#) concerning your investments or [report possible securities fraud](#) to the SEC, email [Help@SEC.gov](mailto:Help@SEC.gov) or file a [complaint](#) with the NC Secretary of State's Securities Division.

**10. Use These Free Resources.** The SEC, NC Securities Division and others have free publications and tools that can help you:

[Financial Field Manual: The Personal Finance Guide for Military Families](#)

[A Salute to Smart Investing](#)

[Saving and Investing: A Roadmap to Your Financial Security Through Saving and Investing](#) (also available [in Spanish](#))

[Ask Questions: Questions You Should Ask About Your Investments](#) (available [in Spanish](#))

[MilitaryOneSource.mil](http://MilitaryOneSource.mil)

[DOD Blended Retirement Page](#)

FINRA's [Save and Invest.org](http://SaveandInvest.org) website for military

CFPB's [information for service members](#)

FTC's [Military Consumer Website](#)

[MilitarySaves.org](http://MilitarySaves.org)

[Thrift Savings Plan](#)

Also, the SEC participates in the Department of Defense's Financial Readiness Roundtable and regularly conducts investor education sessions on investing and avoiding fraud at military bases. If you are interested, contact [Outreach@SEC.gov](mailto:Outreach@SEC.gov).



# Investor Bulletin: Alternative Mutual Funds

The SEC's [Office of Investor Education and Advocacy](#) is issuing this [Investor Bulletin](#) to inform you about features, and some potential risks, of alternative mutual funds.

## Alternative Mutual Funds Are Not Typical Mutual Funds

Alternative mutual funds (sometimes called alt funds or liquid alts) are publicly offered, SEC-registered [mutual funds](#) that hold non-traditional investments or use complex investment and trading strategies. Investors considering alt funds should be aware of their unique characteristics and risks.

- **Investment Objectives:** Alternative mutual funds include a wide range of investment objectives designed to meet various investment needs. Many alt funds try to minimize swings in the value of their investments and reduce risks by spreading their investments among different asset types and/or using complex trading strategies. Some alt funds seek to generate above-market returns relative to other mutual funds that have a similar benchmark.



- **Investments:** Unlike traditional mutual funds, alt funds often seek to accomplish their investment objectives by investing in non-traditional investments. For example, alt funds might invest in assets such as global real estate, start-up companies, or commodities such as gold or oil. These investments can sometimes offer greater diversification or different returns than more traditional investments such as stocks, bonds, and cash.

- **Strategies:** Alt funds generally use more complex investment and trading strategies than more traditional mutual funds. For example, alt funds may sell stocks [short](#), use [derivatives](#), or follow "absolute return" or "market neutral" strategies that seek positive returns even when the stock markets fall. However, these strategies may result in higher costs and additional risks than traditionally managed funds.



## How Do Alternative Mutual Funds Compare with Hedge Funds?

Alternative mutual funds often have similar investments and strategies to those of [hedge funds](#), and thus alternative mutual funds may sometimes be marketed or sold as "hedge fund-like" options for retail investors. However, alt funds differ from hedge funds in several important ways.

- **Regulatory safeguards:** As mutual funds, alt funds are regulated under the Investment Company Act of 1940, which provides certain safeguards. These protections include limits on illiquid investments, restrictions on borrowings and debt, and the requirement to allow investors to sell their shares at any time. Hedge funds are not required to follow these regulations, and therefore may pursue non-traditional strategies and investments without the same regulatory safeguards.
- **Open to the public:** Any investor may purchase shares of alternative mutual funds. In contrast, hedge funds shares can only be purchased by "[accredited investors](#)" or "qualified purchasers" who are required to have a minimum level of income or assets. This is designed to limit investors in hedge funds to those who are financially sophisticated and generally can bear the risks of investing in funds that are not subject to the regulatory safeguards.



- **Potentially Lower Fees:** Investors in alternative mutual funds generally pay lower fees than hedge fund investors. Many alternative mutual funds have an annual fee equal to two percent or less of the fund's assets. In contrast, investors in hedge funds generally pay advisory fees at a similar level plus a percentage of any profits earned. For example, one fee structure is the so-called 2/20 meaning an advisory fee which is generally equal to 2 percent of the fund's assets, plus a 20 percent fee of any profits earned.



## Before You Invest

Alt funds have unique characteristics and risks. It is important that you understand these characteristics and risks to make sure the investment is a good fit for you. Before you invest in an alternative mutual fund, here are some points to keep in mind:

- **Investment Objectives:** Alt funds have a wide variety of investment objectives. One fund might be designed to capitalize on management expertise in a specific area, such as investing in specific commodities. Others might be designed to provide diversification through exposure to commodities, foreign currencies, and other alternative investments. Be sure the alt fund you are considering meets your investment needs.



- **Strategy Risk Factors:** In addition to the usual market and investment risks associated with traditional mutual funds, alt funds may face additional risks to the extent they use relatively complex investment and trading strategies. Depending on the strategy being used, these potential risks can include use of [derivatives](#) and leverage, [futures contracts](#), [short selling](#) and swaps.



- **Operating Expenses:** Alternative mutual funds may have higher expenses than their traditional mutual fund peers. The strategies pursued by alt funds are often complex and may require significant expertise and active management, which increases costs. In addition, the more complex strategies themselves may generate additional expenses.

- **Performance History:** Many alternative mutual funds have limited performance histories. For example, many were launched after 2008, so it is not known how they would perform in a down market. They may perform differently than broad indexes such as the S&P 500.

- **Fund Manager:** Learn as much as you can about the fund manager, such as how long he or she has managed the fund and his or her prior management or professional experience. You can find certain information about the fund manager in the fund's [prospectus](#).



To better understand any funds you are considering investing in, read the fund's prospectus and shareholder reports. They can be found on the SEC's [EDGAR database](#).



## 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](#).

2/28/17	Wilson	"Business Essentials" presentation at Wilson Community College, located at 902 Herring Ave East. Time: 6:00 PM -- 9:00 PM. The North Carolina Department of Revenue, North Carolina Secretary of State and NC Industrial Commission will present a seminar entitled "Business Essentials." Each agency will cover basic requirements to help businesses in North Carolina understand the laws and obligations necessary to be compliant. Department of Revenue – Covers the basics of tax compliance ranging from registering your business, to withholding from employees, and sales and use tax requirements. Information will be provided on a program for businesses that have fallen behind on sales and use, withholding, and other trust taxes. At the end of the seminar, there will be a question and answer session with the presenters and networking possibilities with other business owners. Don't miss this great opportunity! For additional information, please contact Rhonda High at (877) 252-3052.
3/4/17	Charlotte	"Investment Fraud: Guarding Your Assets in a Scary World" presentation to the NC Association of Family & Consumer Sciences Annual Conference at Johnson & Wales University, located at 801 W Trade Street. Time: 11:30 AM -- 12:30 PM. A representative of the NC Department of the Secretary of State Securities Division will give a presentation on investment frauds aimed at the elderly as well as on the Advance Health Care Directive Registry which the Department maintains. For more information, please contact Reno Palombit at <a href="mailto:Reno.Palombit@dpi.nc.gov">Reno.Palombit@dpi.nc.gov</a> .
3/14/17	Sanford	"Choosing a business structure" at Lee County Small Business Center, 1801 Nash Street. Time: 6:00 PM -- 8:00 PM. Choosing a business structure will have a major impact on your venture and the right choice can make all the difference. Leo John of the NC Securities Division will discuss the various options for structuring a business along with the features and implications of each. The presentations will provide insight into the policies, procedures and regulations of the Department that relate to small businesses. For additional information, please contact Kelly Dehring, <a href="mailto:sbc@cccc.edu">sbc@cccc.edu</a> .
3/17/17	Winston-Salem	NC Association on Aging Conference at Winston-Salem Marriott, 425 N Cherry St. Winston-Salem. Time: 7:30 AM -- 1:30 PM. To register, please visit <a href="http://www.ncaoa.org/">http://www.ncaoa.org/</a> . The North Carolina Association on Aging is hosting their annual conference March 16-17, 2017, at the Marriott Hotel in Downtown Winston Salem. Secretary of State Elaine F. Marshall will be speaking March 17 at the NCAOA Awards Luncheon & Conference Closing. Additionally, a representative of the NC Department of the Secretary of State Securities Division will give a presentation on investment frauds aimed at the elderly and the Advance Health Care Directive Registry which the Department maintains. For more information, contact Nina Walters at <a href="mailto:ncaoaconferencecord@gmail.com">ncaoaconferencecord@gmail.com</a>

- 3/23/17 Myrtle Beach "Combating Frauds Against the Elderly: A Partnership Working Together" presentation at NC Case Management Association Spring Conference. Marina Inn at Grande Dunes, 8121 Amalfi Place, Myrtle Beach. Time: 2:30 PM -- 3:30 PM. To register, or for more information, please visit [http://www.acmaweb.org/net/chapter\\_site.aspx?eID=163&chid=10](http://www.acmaweb.org/net/chapter_site.aspx?eID=163&chid=10). This seminar is designed to enlist the help of medical professionals in fighting financial fraud aimed at seniors. Seminar-goers will learn how to recognize and avoid possible investment scams, how to do their due diligence, and the questions to ask their investment professionals to avoid being victimized themselves. This seminar will help medical professionals understand what to do if they or their patients are victimized by an investment scam. Information will also be presented about the Advance Health Care Directive Registry which the Secretary of State's office maintains. For more information, please contact Stacy Wright at [stacywright@novanthealth.org](mailto:stacywright@novanthealth.org).
- 4/4/17 Charlotte Fraud Prevention 101 Panel at Charlotte-Mecklenburg Public Library, Beatties Ford Road Branch, 2412 Beatties Ford Road. Registration begins at 8:30 AM. Open only to Mecklenburg County librarians. The Charlotte-Mecklenburg Public Library is hosting a day of Financial Literacy Training for Charlotte-Mecklenburg County Librarians. A representative of the NC Securities Division will be participating in the 1:30 PM - 2:30 PM panel, Fraud Prevention 101. This professional development training is offered only to Mecklenburg County librarians. For more information, please contact: Ken McDonnell at [Kenneth.McDonnell@cfpb.gov](mailto:Kenneth.McDonnell@cfpb.gov).
- 4/5/17 Durham "Investment Fraud: Guarding Your Assets in a Scary World" presentation to Money Matter\$ Women's Group, Croasdaile Country Club, 3800 Farm Gate Ave. Time: 5:30 PM - 7:00 PM. A representative of the NC Department of the Secretary of State Securities Division will give a presentation on investment frauds aimed at the elderly as well as on the Advance Health Care Directive Registry which the Department maintains. For more information, please contact Lisa Gabriel at [lgabriel@pinaforewealth.com](mailto:lgabriel@pinaforewealth.com).
- 4/6/17 Wilmington Fraud Prevention 101 Panel at New Hanover County Public Library Main Branch, 201 Chestnut Street, Wilmington. Registration begins at 8:30 AM Open only to New Hanover County librarians. The New Hanover County Public Library is hosting a day of Financial Literacy Training for New Hanover County Librarians. A representative of the NC Securities Division will be participating in the 1:30 PM - 2:30 PM panel, Fraud Prevention 101. This professional development training is offered only to New Hanover County librarians. For more information, please contact: Ken McDonnell at [Kenneth.McDonnell@cfpb.gov](mailto:Kenneth.McDonnell@cfpb.gov).
- 4/24/17 Asheboro CPE Training - "Investment Fraud: Guarding Your (Clients') Assets in a Scary World" - Central Chapter of the NC Society of Accountants. Sagebrush Restaurant, 1505 E Dixie Drive. Time: 6:00 PM -- 8:00 PM. Open to NC Society of Accountants members and their guests. A representative of the Securities Division will provide an overview of investment fraud and how we can help you help protect your clients. Also, information will also be presented about the Advance Health Care Directive Registry which the Department manages for the State. This is another valuable resource accountants can direct their clients to when making plans for their future.

4/29/17	Clinton	<p>"Investment Fraud: Guarding Your Assets in a Scary World" at Little Piney Grove Baptist Church, 1285 Bell Woods Road, Clinton. Time: 10:00 AM -- 11:00 PM. A representative of the NC Department of the Secretary of State Securities Division will give a presentation on investment frauds aimed at the elderly as well as on the Advance Health Care Directive Registry which the Department maintains. For more information, please contact Roger Culbreth at <a href="mailto:rculbreth@burchfarmsnc.com">rculbreth@burchfarmsnc.com</a>.</p>
5/18/17	Wake Forest	<p>"Scam Jam" anti-fraud presentation sponsored by Triangle Family Services at Wake Forest Renaissance Centre, 405 Brooks Street, Wake Forest. Time: 11:00 AM -- 1:00 PM. 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. Secretary of State Elaine F. Marshall will deliver a message at 11:45 AM. 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. Attendees have learned how to keep their credit card information from being compromised, how to obtain truly free credit reports, how to protect themselves from being taken in by Ponzi schemes and other illegitimate investment come-ons, how to protect oneself against being taken advantage of by donation scams during times of national or international disaster and how to help reduce the more than 62 billion dollars in fraud that occurs each year in the Medicare program alone. Do not miss this important workshop! Bring your friends and family members! For more information, please contact Alice Lutz at <a href="mailto:Alutz@tfsnc.org">Alutz@tfsnc.org</a> or Cari Boram at <a href="mailto:cboram@tfsnc.org">cboram@tfsnc.org</a>.</p>
5/24/17	Cary	<p>"Investment Fraud: Guarding Your Assets in a Scary World" at SearStone Retirement Community, 17001 Searstone Drive, Cary. Time: 10:00 AM -- 11:00 PM. A representative of the NC Department of the Secretary of State Securities Division will give a presentation on investment frauds aimed at the elderly as well as on the Advance Health Care Directive Registry which the Department maintains. For more information, please contact Shannon Hoffman at <a href="mailto:shoffman@searstone.com">shoffman@searstone.com</a>.</p>
6/13/17	Hickory	<p>"Investment Fraud: Guarding Your Assets in a Scary World" presentation to ACAP-Hickory meeting at Mt. Olive Lutheran Church, 2780 N Center Street, Hickory. Time: 5:30 PM - 7:00 PM. A representative of the NC Department of the Secretary of State Securities Division will give a presentation on investment frauds aimed at the elderly as well as on the Advance Health Care Directive Registry which the Department maintains. For more information, please contact Frances S. Hall at <a href="mailto:fhall@compascable.net">fhall@compascable.net</a>.</p>



## On The Docket

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

**Darren Joseph Capote**, of Patterson, NY, was indicted on July 11, 2011, in Ashe County Superior Court on three Class C felony counts of securities fraud. He is alleged to have defrauded an elderly victim in Ashe County. He was released from custody on a \$100,000 secured bond. His next court appearance is scheduled for May 30, 2017.

**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 sentenced in federal court on December 6 to 63 months in prison for one count of securities fraud. Fackrell is still facing trial in state court on charges of obtaining property by false pretenses. He is currently in custody awaiting assignment to federal prison.

## Recent Enforcement Actions

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



On **October 24, 2016**, the North Carolina Secretary of State's Securities Division entered into a **Consent Order** with **Palmetto Premier Advisors, LLC**. The Consent Order ordered that the Respondents immediately cease and desist from transacting business in this State in violation of the provisions of the North Carolina Investment Advisers Act or the rules thereunder. Click [here](#) to see the Order.

On **October 18, 2016**, the Securities Division of the North Carolina Department of the Secretary of State issued a **Final Order** against **Daniel P. Sexton**. The Order obligates Mr. Sexton to cease and desist from violating the N.C. Securities Act (G.S. Ch. 78A) and also to accurately report information on Form U-4. Mr. Sexton further agreed to amend his Form U-4 in a timely manner. In addition, the Order required a monetary payment of \$1,000.00 in settlement of the Securities Division's investigation. The Order found Mr. Sexton had failed to disclose business activities outside the scope of his employment with his securities dealer and, consequently, had filed an incomplete application for registration under the N.C. Securities Act. Click [here](#) to view the Order.

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.*

### [Action Taken on 35 of 51 Recommendations to Date](#)

**Feb. 28** —The Financial Industry Regulatory Authority (FINRA) released a [status report](#) on the recommendations made in the FINRA Dispute Resolution Task Force’s [Final Report](#) issued in December 2015. In [July 2014](#), FINRA had formed a [13-member task force](#) composed of individuals representing a broad range of interests in securities resolution to consider possible enhancements to its arbitration and mediation forum. FINRA released an [interim status report](#) in October 2016 and today’s report sets forth further progress made to date. FINRA has discussed all of the task force recommendations with the National Arbitration and Mediation Committee (NAMC). FINRA has taken action on 35 of the 51 recommendations; 16 are pending.

### [SEC Staff Issues Guidance Update and Investor Bulletin on Robo-Advisers](#)

**Feb. 23** — The Securities and Exchange Commission published information and guidance for investors and the financial services industry on the fast-growing use of robo-advisers, which are registered investment advisers that use computer algorithms to provide investment advisory services online with often limited human interaction. Because of the unique issues raised by robo-advisers, the Commission’s Division of Investment Management issued guidance for investment advisers with suggestions on meeting disclosure, suitability and compliance obligations under the Investment Advisers Act of 1940.

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:John.Maron@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](mailto: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!**