



**February 2012 NEWSLETTER** • Vol. 4, No. 2

FORMER NORTH CAROLINA RESIDENT PLEADS  
 GUILTY TO MONEY LAUNDERING CONSPIRACY

***Defendant Engaged in Money Laundering Scheme In Connection with Queen Shoals Ponzi Scheme***

A former North Carolina resident pleaded guilty to conducting a money laundering conspiracy in connection with the \$32.5 million Queen Shoals Ponzi scheme announced Anne M. Tompkins, U.S. Attorney for the Western District of North Carolina. Gary D. Martin, 60, of St. Augustine, FL, entered his guilty plea on Wednesday, February 8, 2012, before U.S. Magistrate Judge David C. Keesler.

Joining U.S. Attorney Tompkins in making this announcement are Chris Briese, Special Agent in Charge of the Federal Bureau of Investigation (FBI), Charlotte Division, and the North Carolina Secretary of State Elaine F. Marshall.

A criminal bill of information filed on January 25, 2012, charged Martin with engaging in a money laundering conspiracy in connection with the Queen Shoals Ponzi scheme. According to court documents and court proceedings, on or about December 2007, Martin formed Queen Shoals Consultants, LLC (QSC) in North Carolina. Thereafter, Martin and others induced victims to invest over \$28.5 million in the Queen Shoals Ponzi scheme operated by Sidney Hanson.

**[Editor's note: Hanson pled guilty in July 2009 to securities fraud and mail fraud. He was sentenced to 22 years in federal prison and 3 years of supervised release on March 31, 2011. For more information, see the [April 2011](#) edition of the Securities Division newsletter.]**

*(Continued on p. 2)*

Keep Alert: 12 Investment Traps  
 Waiting to Spring in 2012

Spring is in the air these days but so is a fresh crop of brand new or revamped bad investments and outright financial scams waiting to snare unwary investors in 2012, North Carolina Secretary of State Elaine F. Marshall cautions.

"We expect to continue to see investments pitched that are not appropriate to 'mom and pop' investors, and investment scams getting more sophisticated in these modern times," Secretary Marshall said Monday. Marshall advises particular caution on 12 investment "traps" in 2012.

*(See "Investment Traps" p.5)*

*New Feature! Page 9*

**Multimedia Section**

One of the exciting features of our new FlipBook format is the ability to include audio and video clips in our monthly newsletter. This will enable us to bring interesting, informative and (hopefully!) instructional audio and video clips on relevant investor education topics.

For our inaugural segment, check out the video on [elder investment fraud prevention](#) on p. 9 of this newsletter. This video compliments the instructional seminar the Department of the Secretary is co-sponsoring on March 23 at the Sticht Center on Aging at Wake Forest Baptist Medical Center (see flyer on page 8).



*(Continued from p. 1)*

Although Hanson never directly told Martin that Queen Shoals was a Ponzi scheme, Martin induced victims to invest in the Queen Shoals Ponzi scheme through a series of false and fraudulent representations, omissions of material facts and deceptive half truths. Specifically, Martin admitted to falsely claiming that QSC had over 20 years experience in financial services and international finance and that he had a vast background in financial services, including the silver, gold and foreign currency trading markets. In truth and fact, Martin had no such experience, held no professional licenses related to finance or investments, and never had engaged in any silver, gold or foreign currency trading.

According to court documents, Martin, through the QSC web site and other means, also made false claims about, among other things, QSC's financial expertise in "Self-Directed IRA Strategies and Fixed Rate Accounts." Martin held QSC out as "leaders in Professional Private Placement Retirement Planning" and claimed that QSC had a "proven method of diversification [that] spreads the risk nicely for a balanced portfolio." In truth and fact, QSC offered no such diversification, funneled victim funds solely into the Queen Shoals Ponzi scheme, and had received no recognition as "leaders in Professional Private Placement Retirement Planning." Martin admitted that he routinely vouched for the success and reliability of Queen Shoals by claiming to have personally invested a significant amount of his own money into Queen Shoals. On at least one occasion, Martin claimed that he invested his retirement life savings in Queen Shoals. In truth and fact, while Martin and others induced victims to invest over \$28.5 million in Queen Shoals through QSC, Martin personally invested only \$4,000.

According to the plea agreement and other filed documents, Martin engaged in money laundering transactions by utilizing the referral fees he received

from Hanson to pay commissions to himself and the so-called QSC consultants. From in or about 2007 to in or about 2009, Martin received over \$1.9 million in referral fees from Hanson and paid the consultants over \$1.5 million during the relevant time period in return for inducing victims to invest in the Queen Shoals Ponzi scheme. These payments caused QSC consultants to induce additional victims to invest in the Queen Shoals Ponzi scheme, thereby perpetuating the scheme.

The bill of information filed against Martin includes a notice of forfeiture, which gives notice that the defendant must forfeit to the United States all of the property involved in the offenses charged in the information, and all property which are proceeds of such offenses.

Martin, who was charged with and pled guilty to one count of money laundering conspiracy, has been released on bond. At sentencing, he faces a maximum of 10 years imprisonment and a \$250,000 fine or a fine of not more than twice the amount of criminally derived property involved in the money laundering conspiracy. A sentencing date has not been set yet.

Martin's guilty plea is the second conviction arising from the Queen Shoals Ponzi scheme investigation. Sidney Hanson pled guilty to securities fraud and wire fraud and was sentenced on March 31, 2011 to 22 years in prison by Chief U.S. District Judge Robert J. Conrad, Jr.

The case was investigated by the FBI with assistance from the Securities Division of the North Carolina Department of the Secretary of State. U.S. Attorney Tompkins also acknowledges the invaluable assistance provided by the Commodities Futures Trading Commission and the Florida Office of Financial Regulation, Bureau of Financial Investigations in this case. The prosecution is handled by Assistant United States Attorney Mark T. Odulio, of the U.S. Attorney's Office in Charlotte.

## Money Matters for Couples



Congratulations to the hundreds of Tarheel couples who became engaged on Valentine's Day!

While visions of wedding gowns, guest lists, honeymoon destinations and wedded bliss dance in their heads, they may have neglected to discuss one of the most important compatibility issues: MONEY MANAGEMENT. Merging two lives together for a harmonious lifetime is challenging. Finding out **after** the vows are exchanged that the bride has \$55,000 in student loans and is three payments behind, or that the groom has money control issues, can rattle the tender new roots of their financial partnership. Before saying "I do," couples should add a frank discussion about finances to their "to do" list.

Discussing money is very difficult and awkward for people in many instances. Yet a couple's chances of beating the high divorce rate and living happily-ever-after may depend on knowing how the household expenses will be handled. It isn't really **money** itself that breaks up so many marriages, it's how the couple copes with each other's financial lifestyle, attitudes, habits and expectations of spending and saving that can trigger conflict.

For couples who have already tied the knot without having this all-important conversation, it's not too late. The important thing is to muster your courage and open those lines of communication. Remember that just as there are many wrong ways to manage money, there is also more than one right way to reaching mutual financial goals.

Here are some suggestions to get started:

- Create a system that works for both partners. It does not need to be a "budget," just a plan that helps reach short and long term goals. Take a realistic look at the joint expenses: rent/mortgage, electricity, insurance, food, clothing, vacations, emergency fund, etc. This step is fairly emotion free. On the other hand, deciding who will pay these bills can create ripples of discord and resentment. If both parties have an income, one functional system is to set up three accounts: Yours, Mine and Ours. Each partner contributes (proportionate to their income) to the "Ours" account for all the joint expenses. The balance of each person's income can go to the "Yours" and "Mine" accounts giving them the freedom to use the funds as they choose, reducing feelings that they have lost control over their own earnings.



resources, is to set up separate accounts for needs, short term wants (i.e. new computer, vacation) and long term goals (a baby, retirement) so that the household needs are always met.

- Readjusting may be needed as couples find there are expenses such as lawn care for new homeowners, charitable donations or an unexpected repair, which had not been included when setting up the initial plan. Once expenses are properly estimated, this can eliminate the stress of not having enough money to pay the bills. Whether adjustments are needed or not, a regular dialog to evaluate and discuss finances keeps the topic routine and provides reassurance that the couple is on track with their goals.

- Another option, especially if there is only one income or for couples who prefer to combine their

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- **Plan ahead** for bigger goals. Buying a house, major remodeling projects, starting a business and retiring, typically take careful advance financial planning. Having children is another budget buster. It's wise to discuss with each other any thoughts about future plans that could heavily impact the household financial dynamics. When both partners are ready to commit to an increased savings plan, the necessary united financial adjustments can create great satisfaction for both partners as they work toward the new financial goal.
- Hopefully, **investing** is part of planning for a large future expense. The earlier anyone starts to save for retirement, the better chance they have of success. However, be sure to carefully check out any financial professional before handing over any of your hard earned money. Make sure any brokers or investment advisers, whether one is being considered or one already being used, is licensed and registered by calling the Securities Division at 800-688-4507. A five minute phone call can help you eliminate some of the potential scam artists plotting to steal your financial future.

## Investor Education Brochures

Click [here](#) to order your free Investor Education brochure today!



**Ten Do's and Don'ts For Investors** – Learn the ten things you can do to avoid becoming a victim of investment fraud



**Affinity Fraud: Scamming an Entire Group** – Con artists gain trust by making you believe they share your beliefs and values. Learn how to spot – and resist – their persuasion techniques.



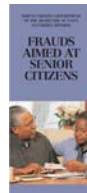
**Baby Boomers Beware** – Many boomers find themselves caring for elderly relatives and younger children and neglect to plan for themselves until they near retirement. Beware the traps.



**Choosing a Stockbroker** – Learn what you should know when choosing a stockbroker.



**Unsuitable Investments** – Understand the type of investor you are and choose investments that are “suitable” for you.



**Frauds Aimed at Senior Citizens** Seniors are the #1 target for con artists. Why? Because they have the cash. Learn how to protect yourself and your loved ones from these predators.



**Internet Fraud and Abuse** – The Internet has been called the greatest money-making machine for scammers ever. You never know who is behind the “hot” tip or what their motivations are.



**Ponzi Schemes** – Learn the history behind the most common type of investment scam and the simple things you can do to avoid falling victim.



**Resolving Problems with Securities Firms** – Learn the rules your broker must follow and how to protect your interests when you have a dispute.



**Investment Terminology: Words to Earn By** – The financial world is full of confusing terminology. Learn the meanings of some of the more common terms.

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*("Investment Traps" continued from p. 1)*

**The first, and one of the biggest new challenges for securities regulators,** Marshall says, is posed by the rise of social media and networking. "Just because someone has 'friended' you online does not mean that person is your friend when it comes to investing," Marshall said. "The person behind that profile you find attractive may be deliberately mimicking your likes and interests to lure you into a scam."

Historically, con artists have launched "affinity fraud" schemes by targeting victims through community civic groups, professional associations or faith-based organizations. But the rise in popularity of websites such as Facebook, Twitter, eHarmony and other online social networks and communities has given crooks a 21<sup>st</sup> Century way to conduct affinity fraud by quickly establishing trust and credibility.

"Here in 2012, crooks don't have to go door to door or join a club or start attending a church to gain the trust of their intended victims, they can just log on to find victims and money," Secretary Marshall said.

Scammers can search through online profiles on social networking sites, which may contain sensitive personal information such as their dates or places of birth, phone numbers, home addresses, religious and political views, employment histories, and even personal photographs.

"Once con artists get this kind of information they can make a highly targeted pitch to "friends" within that social group," Marshall said.

Marshall advises North Carolina investors to watch for red flags common to online investment

schemes, such as promises of high returns with no risk, operations based offshore and requests for payment through e-currency websites.

"In addition," Marshall said, "if you do feel you are interested in an investment you hear about online, do your own searches for information, and don't let anyone who has been steering you toward the investment also direct how you research for information about it."

**Secondly, high-tech schemes are not the only traps out there.** The "granddaddy" of all financial scams, the Ponzi scheme, is another ruse used by many crooks. "This is the scam where some kind of fake investment is pitched and the first



people to invest in it usually do get incredibly high rates of return—which is really just the seed money to make the scam look real," Marshall said. "Sadly what we see with Ponzi schemes is that those first victims tell other people to invest because it looks like a great deal."

In reality, in a Ponzi scheme there is typically no real product of value so the scam artist simply uses early investor money to make payments to later investors to keep building up the number of participants. Ponzi schemes collapse when there are no longer enough new victims to keep the scam running. "Often these schemes go on for years before they implode," Marshall said.

"Then suddenly you have a community with a large number of victims realizing they have lost their savings."

Investors should always be on the lookout for the tell-tale signs of a Ponzi scheme in their community such as friends or relatives talking about unrealistically high returns they are getting from a new investment where it is extremely difficult to understand how the money is made or to research the supposed investment.

**Third, distressed real estate schemes are also expected to be seen throughout 2012.** While many legitimate investment offerings are tied to real estate, schemes targeting distressed real estate have become increasingly popular with con artists. Investors should carefully evaluate investments in properties that are bank-owned, in foreclosure, pending short sales or otherwise in distress because these investments inevitably carry substantial risks.

**Fourth, investors should be very cautious about energy investments.** Regulators expect swindlers in 2012 to continue to attempt to trick investors by using high-pressure marketing tactics touting the mystique associated with untapped oil and gas reserves. Investors must realize the distinct possibility that they could lose their total investment even in legitimate ventures. Energy investments tend to be poor choices when planning for retirement and should be avoided by anyone who cannot afford to be on the losing end of a high-risk venture.

**Fifth, watch out for gold and precious metal scams.** High precious metal prices have lured unsuspecting investors into a

variety of scams. Nationally, recent schemes have been variations on old themes: a promoter seeking capital for extraction equipment to reopen a long dormant mine in exchange for a full refund plus interest and a stake in the mine. In another case, operators claimed to have special coins or nuggets to store or trade for investors in special markets. Investors suffered heavy losses in each of these cases. And despite any promises to the contrary, there are no guarantees with gold or precious metals, even in legitimate markets.

**Sixth, take promissory note pitches with a huge grain of salt.** Investors seeking safety in uncertain economic conditions or those enticed by the promise of big returns through a private, informal loan arrangement can suffer deep losses investing in unregistered or fraudulent promissory notes. These notes give investors a false sense of security with promises or guarantees of fixed interest rates. Most promissory notes and their sellers must be registered with state securities regulators. Unregistered promissory notes are often covers for investment scams. Investors should check with the North Carolina Secretary of State's Division of Securities to see if the notes and the sellers are properly registered before they consider buying into promissory note investments.

**Seventh, tread carefully around securitized life settlement contracts.** These contracts are investments in the death benefits of insurance policies that insure the lives of unrelated third parties. Legitimate investments in life settlement contracts involve a high degree of risk, and investors may end up paying costly premiums for

the policies of those who outlive their life expectancies. Crooks may deceive even cautious investors by pitching contracts "backed" by bonding companies that do not maintain sufficient assets to fulfill the guarantees, operate in an unregulated overseas territory or simply do not exist.

**Eighth, don't forget about old-fashioned affinity fraud.** Even folks who do not engage in on-line social media can find themselves the target of fraudulent investment schemes that are made in person to members of an identifiable group. The most commonly exploited are the elderly or retired, religious groups, and ethnic groups. Crooks often join churches, social groups, or find ways to be at similar gatherings in their search for investors to victimize. Financial investments should always be made on their merits after careful research, not out of personal feelings for someone pitching the investment.

**Ninth, what's in a title?** State securities regulators across the country have encountered salesmen pitching financial services or products with nonexistent law degrees or CPA certificates. Others have boasted of impressive sounding designations that prove to be meaningless. Investors should always ask for full disclosure and the meaning behind all designations and claimed professional titles.

**Or tenth, what's in a term?** The securities market is constantly evolving to provide investors with new products and choices. One of the latest is "mirror trading," which is promoted as an automated trading platform that ensures investors will participate in real-time transactions placed by a skilled third party. Investors should not be lulled into a

false sense of security, and they need to continue to objectively evaluate all new or popular investment tools. They should also recognize that unscrupulous traders and promoters may use trendy platforms as a way to launch fraudulent schemes or conceal their motivations and conflicts of interest.

**Eleventh, treat "private placement" pitches carefully.** Private placements are a common way companies raise capital, but they carry risks and are meant for knowledgeable investors willing to accept possible losses. In the United States, the federal exemption for private placement securities offerings provided under Rule 506 of Regulation D continues to be abused by criminals. The North American Securities Administrators Association - the organization of state securities regulators - says that these investments resulted in the most frequent source of enforcement cases handled by its members in 2010.

**Twelfth, and finally, beware securities and investment advice offered by unlicensed agents.** State securities regulators continue to hear of unlicensed salesmen acting as securities brokers or investment advisers. For example, often insurance agents cannot legally offer securities or investment advice without a securities license. Investors should insist that anytime someone suggests any transaction related to the investor's financial holdings, that the person produce a proper license.

"The absolute, bottom line for 2012 is that if it sounds too good to be true, it probably is!" Marshall said.

## CFTC PRECIOUS METALS CONSUMER FRAUD ADVISORY



Beware of companies that sell investments in precious metals that make promises of easy profits to be made from rising prices in gold, silver, platinum, palladium, and other precious metals.

Be especially alert to companies that sell investments in precious metals claiming that you can make a lot of money, with little risk, by purchasing metal through a financing agreement with only a small payment up front.

The CFTC has seen an increase in the number of companies that offer customers the opportunity to buy or invest in precious metals. However, many of these companies do not actually purchase or store any metal for their customers.

This precious metals consumer fraud advisory describes how some precious metals companies may use fraudulent tactics to induce customers to invest, how these companies actually operate, and provides warning signs to help you identify a potential precious metals scam.

### How Precious Metals Companies Get Customers to Invest

Precious metals companies typically advertise their "investment opportunities" on radio, television, or Internet websites. Typically precious metals companies solicit personal information such as your name, your phone number, and your home address. Then, a "broker" or "salesman" from the precious metals company calls you directly to promote the purchase of precious metals such as gold, silver, platinum, and palladium.

These advertisements, infomercials, and telephone solicitations often promote precious metals as a conservative and easy way to generate investment profits in the current economic downturn. Unscrupulous brokers often verbally promise quick riches, such as the ability to double or triple your initial investments within a few months with little or no risk.

The precious metals companies, often calling themselves "metals dealers" or "merchants," typically offer consumers the opportunity to purchase precious metals and tell customers that they can make money based upon the price movement of precious metals. The investment is usually structured so that consumers pay only a small percentage of the total purchase price, between 15 percent and 25 percent. The precious metals companies claim to arrange a loan to the consumer for the rest of the precious metals purchase price and assert that the consumer can make large profits by controlling a larger amount of metal with a relatively small down payment. The precious metals companies also claim that they will store the metal for the consumer in a storage facility or "bank." Sometimes these companies ask the consumer to set up a business or corporation in order to qualify to purchase or trade in precious metals.



### What's Wrong With These Sales Pitches?

The CFTC's experience is that precious metals companies making such sales pitches often:

- Lie or overstate their ability to predict prices or the direction of the metals market;
- Lie about how long they have been in business;
- Do not purchase any precious metals for the customers at any time
- Do not actually arrange for loan financing with an independent financial institution, yet charge phony "interest" fees;

*(See "CFTC Precious Metals Alert," p. 10)*

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The Section of Gerontology and Geriatric Medicine of Wake Forest School of Medicine and the Elder Law Clinic of Wake Forest School of Law are pleased to host

## An Ounce of Prevention: Recognizing and Reporting Suspected Financial Abuse in Your Older Patients

Friday, March 23, 2012, 11:30 am – 1:30 pm

Sticht Center Auditorium, Wake Forest Baptist Medical Center  
Medical Center Blvd., Winston-Salem, NC



Financial vulnerability and abuse are growing, yet remain under-recognized problems in the aging population. Physicians and other care providers should view their patients' financial losses as a clinical issue, since adverse health effects can result from insufficient personal health care funds. Physicians generally have not had the experience or resources to screen for vulnerability to financial fraud. Upon

completion of the EIFFE\* CME program, the target audience will be better able to recognize signs of vulnerability to financial exploitation and to make appropriate referrals for patients deemed vulnerable.

\* Elder Investment Fraud and Financial Exploitation Prevention Program

### SPEAKERS

**Jan Busby-Whitehead, MD**

(keynote speaker)

DIRECTOR OF UNC CENTER FOR AGING AND HEALTH  
UNC Medical Center

**John Maron**

DIRECTOR, INVESTOR EDUCATION PROGRAM  
Securities Division, NC Dept. of Secretary of State

**Elaine F. Marshall**

NC SECRETARY OF STATE

**Jeff D. Williamson, MD**

SECTION CHIEF, GERONTOLOGY & GERIATRIC MEDICINE  
Wake Forest School of Medicine

**Kate Mewhinney, JD**

DIRECTOR, ELDER LAW CLINIC  
Wake Forest School of Law

**Nancy Warren**

PROGRAM ADMINISTRATOR  
NC Division of Aging and Adult Services

**Carole Spainhour, JD**

CHAIR, ELDER LAW SECTION  
NC Bar Association

Free  
CME  
activity

- ▶ Lunch provided
- ▶ Space limited to 60
- ▶ RSVP details below

### EDUCATIONAL OBJECTIVES

At the conclusion of the activity, the participant should be able to:

- ▶ Assess vulnerability of older patients to investment fraud and financial exploitation
- ▶ Refer vulnerable patients for further evaluation or potential intervention sources
- ▶ Share components of Clinician's Pocket Guide with other clinicians

### EDUCATIONAL METHODS

- ▶ Didactic lectures
- ▶ Clinician Pocket Guide
- ▶ Patient Education Brochure

### TARGET AUDIENCE

The target audience for this activity is: Geriatric, Family Medicine and Internal Medicine physicians, physician assistants, nurses and social workers.

### ACCREDITATION AND CREDIT DESIGNATION STATEMENTS

**Physicians:** The Methodist Hospital System is accredited by the Accreditation Council for Continuing Medical Education (ACCME) to sponsor continuing medical education for physicians. The Methodist Hospital System designates this live activity for a maximum of 1.0 *AMA PRA Category 1 Credit™*. Physicians should only claim credit commensurate with the extent of their participation in the activity.

**Nurses:** Connections for Health is an approved provider of continuing nursing education by the Texas Nurses Association, an accredited by the American Nurses Credentialing Center's Commission on Accreditation.

### DISCLOSURES

The Methodist Hospital System (TMHS) Office of Continuing Medical Education (OCME) makes every effort to develop CME activities that are scientifically based, accurate, current, and objectively presented. In accordance with the Accreditation Council for Continuing Medical Education Standards for Commercial Support, TMHS has implemented a mechanism requiring everyone in a position to control content of an educational activity (e.g., directors, planning committee members, contributors, peer reviewers, CME staff) to disclose any relevant financial relationships with commercial interests (drug/device companies) and manage/resolve any conflicts of interest prior to the activity. Individuals must disclose to participants the existence or non-existence of financial relationships: 1) at the time of the activity or 12 months prior; and 2) of their spouses/partners.

### EDUCATIONAL SUPPORT

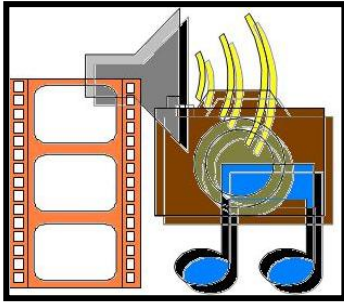
This project was made possible through a grant from the Investor Protection Trust (IPT), a nonprofit organization devoted to investor education. Additional support for this presentation is provided by the NC Department of the Secretary of State, the WF Section on Gerontology and Geriatric Medicine and the NC Bar Association, Elder Law Section. Content for the EIFFE presentation was developed by clinicians at the Huffington Center on Aging, Baylor College of Medicine, Houston, TX.



**RSVP:** <https://redcap.tsi.wfubmc.edu/redcap/surveys/?s=8PvpqY>



## MULTIMEDIA SECTION



Each month we feature a new video or audio clip on some topic relating to investor education.

This month, in advance of the special training program the Department of the Secretary of State is co-sponsoring at the Sticht Center on Aging at Wake Forest Baptist Hospital on March 23 (see brochure on page 8), we are featuring a video entitled ***“Elder Financial Fraud: A National Epidemic.”***

This video addresses and explains the widespread problem of elder investment fraud and financial exploitation and explores some of the possible solutions. The video includes interviews with elder fraud victims, their families, doctors and caretakers in addition to representatives from the Pennsylvania Securities Commission.

This video was created as part of the [Elder Investment Fraud and Financial Exploitation Prevention Program \(EIFFE\)](#) by the producers of the national MoneyTrack Public Television Series and sponsored by the Investor Protection Trust and the Pennsylvania Securities Commission.

(Continued from "CFTC Precious Metals Alert," p. 7)

- Do not store any metal with an independent bank or storage facility, but charge phony "storage" fees;
- Use most of the customer's investment to pay themselves "commissions," leaving little equity in the customer's "metals position";
- Do not disclose all of the fees and commissions they charge;
- Fail to disclose how much the price of metal must go up for the customer to break even, since large "finance" and "storage" fees and commissions are deducted from customer accounts;
- Fail to disclose that, because the customer is not paying the full purchase price of the metals (but is buying on "margin" or with "leverage"), the customer will have to send the company additional funds (or sell a portion of the customer's "metal position") if precious metals prices move unfavorably; and
- Fail to disclose what will happen to the customer's investment if the company goes bankrupt or out of business.

In reality, consumers who purchase or invest with fraudulent precious metals companies often never see the promised profits and usually lose all or a significant portion of their investment.

In addition, consumers should note that under the Dodd-Frank Wall Street Reform and Consumer Protection Act, leveraged commodity transactions with retail consumers (transactions where consumers pay only a portion of the total price of the commodity) are generally prohibited unless traded on a recognized exchange.

## Warning Signs

So how can you identify a potential precious metals scam? Here are some warning signs:

### Beware of precious metals companies that:

- Expressly state that precious metals transactions are not regulated by the Commodity Futures Trading Commission (CFTC) or the National Futures Association (NFA). Such statements are common in account agreements associated with precious metals scams;
- Sell investments in precious metals based on sales pitches claiming that the customer can make a lot of money, with little or no risk, by purchasing metal through a financing agreement;
- Do not identify where the physical metal is located, or claim to deliver physical metal to a foreign bank or foreign storage facility;
- Do not identify the financial institution or bank that will be loaning the customer money; and
- Require you to set up a corporation or business in order to qualify to purchase or trade metals.

(Continued on p. 11)

## Warning Signs of a Scam

Get-rich-quick schemes that sound too good to be true. There's never a free lunch. Be very careful if you recently retired or came into money and you're looking for a safe investment. You could be a very attractive target for a crook. Once your money is gone, it can be impossible to get it back.

Predictions or guarantees of large profits. Always get as much information as you can about a firm or individual's track record and verify that information—even if you know the people involved or they are recommended by friends or relatives. If you can't get solid information about your investment and the company, don't invest. Before you invest, always check it out with someone whose financial advice you can trust.

Promises of little or no financial risk. Be suspicious if the firm or individual says there is little risk. Be suspicious if someone tells you that a written risk disclosure statement is only a routine formality. Written risk disclosure statements are important to read thoroughly and understand.

Claims of trading in the "Interbank Market." If a firm claims that they will trade foreign currency for you in the interbank market, or that you should trade in the interbank market, be cautious. The term "interbank market" refers to a loose network of currency transactions negotiated between financial institutions, usually banks and investment banks, and other large companies.

Unsolicited telephone calls about investing. Be skeptical if someone you don't know calls you about investment opportunities.

Someone asking you to send cash immediately. Be very cautious if someone tries to convince you to send cash or transfer money to them immediately by overnight express, the Internet, mail, or any other method.

(Continued from p. 10)

## Use Extra Care When Dealing with U.S. Companies That Claim to Use Overseas Storage Facilities

Sometimes U.S. companies that solicit customer investments in precious metals claim that the metals will be delivered to a storage facility located outside of the United States.

If you place funds in U.S. companies that make such claims, it may be difficult or impossible for you to verify your investment or recover your money.

Therefore, ask where your funds will be deposited and kept, where the metal will be stored, and if possible, call the overseas storage facility.

[Before You Trade](#)  
[Report Suspicious Activities](#)

## NASAA Cautions Investors Not to Stumble When Interest Rates Fall Flat



The North American Securities Administrators Association (NASAA) is cautioning investors to beware of risky or outright fraudulent investments promising higher yield or returns following the Federal Reserve's announcement that interest rates are expected to remain low until at least late 2014.

"Investors running away from low yields on fixed investment products risk stumbling into the arms of unscrupulous salespeople promising low risk and high returns," said Jack E. Herstein, NASAA President and Assistant Director of the Nebraska Department of Banking & Finance Bureau of Securities. "Don't

chase the offer of high yield or returns into a dead-end investment."

Herstein said that state and provincial securities regulators are concerned that individuals who depend on fixed income investments, particularly seniors, may be tempted to turn away from their slower growing but safe investments to alternative investments without understanding the risks and terms.

All investments carry a degree of risk. The level of risk usually is related to the return that investors can expect to receive. Investments with higher yields or returns carry a higher risk to investors; the lower the risk, the lower the yield or return.

"When evaluating any investment, it pays to remember that risk and reward go together," Herstein said. "Anyone promising high yield or high returns with little or no risk should be approached with a high degree of skepticism."

Herstein noted that yield-starved investors may be more easily enticed into fraudulent schemes that can be cloaked as private placement offerings, promissory notes, securitized life settlement contracts and investments in energy, precious metals and distressed real estate, all of which are contained in Secretary Marshall's current list of Top Investor Traps ([see page 1](#)).

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(Continued from p. 11)

Before purchasing any investment, NASAA reminds investors to ask the following questions:

- ❖ Are claims made for the investment realistic? Use common sense and get a professional, third-party opinion when presented with investment opportunities that seem to offer unusually high returns in comparison to other investment options.
- ❖ Has the seller given you written information that fully explains the investment? Request written information that fully explains the investment, such as a prospectus or offering circular. The documentation should contain enough clear and accurate information to allow you or your investment adviser to evaluate and verify the particulars of the investment.
- ❖ Are the seller and investment licensed and registered in your state? Call the North Carolina Securities Division at (800) 688-4507 or (919) 733-3924 to find out. If they are not, they may be operating illegally.

## Calendar of Upcoming Events



A representative from the Securities Division will be giving an anti-fraud presentation on the following dates and locations. Dates and times are subject to cancellation (although cancellations are rare), so please call the contact number listed to confirm the event is still on before leaving for it. All presentations are free and open to the public unless otherwise indicated. If you would like to schedule a speaker for your church, business, group or organization, please contact [John Maron](#) or [Barbara Bennett](#) at (800) 688-4507.

Date	City	Details
03/06/12	Durham	<a href="#">Little River Senior Center</a> , Little River Community Complex, 8305 Roxboro Road. Time: 10:30 AM -- 11:30 AM. For more information, contact Corrie Smith at (919) 477-6066.
03/06/12	New Bern	<a href="#">Living Wise &amp; Aging Well in Eastern North Carolina</a> , Riverfront Convention Center, 203 S. Front Street. Conference sponsored by the Eastern Carolina Council Area Agency on Aging. "Avoiding Scams" pre-conference intensive. Time: 1:00 PM – 4:00 PM. For more information, click the link above.
03/07/12	Rural Hall	<a href="#">The Living Well Center for Lifelong Learning</a> , 7105 Broad Street. Time: 1:00 PM -- 3:30 PM. For more information, contact Barbara Bengé (336) 408-3954.
03/13/12	Dunn	Scam Jam, <a href="#">Dunn Enrichment Center</a> , 610 East Johnson Street. Time: 8:30 AM – Noon. For more information, contact (910) 892-3807.
03/13/12	Raleigh	<a href="#">Whitaker Mill Senior Center</a> , 401 E. Whitaker Mill Road. Time: 9:15 AM -- 10:15 AM. For more information, contact the Center at (919) 856-6444.
03/14/12	Salisbury	Scam Jam, <a href="#">Oak Park Retirement Community</a> , 548 White Oaks Drive. Time: 1:45 PM – 4:00 PM. For more information, contact Martha Smith at (540) 520-8345.
03/15/12	Franklinton	<a href="#">Franklinton Senior Center</a> , 602 E. Mason Street. Time: 11:30 AM -- 12:30 PM. For more information, contact Patrick Woods at (919) 494-5611.
03/20/12	Louisburg	<a href="#">Louisburg Senior Center</a> , 127 Shannon Village. Time: 10:00 AM – 11:00 AM. For more information, contact Debbie Conner at (919) 496-1131.
03/22/12	Winston-Salem	Scam Jam, <a href="#">Zion Memorial Missionary Baptist Church</a> , 101 N. Dunleith Avenue. Time: 8:30 AM – Noon. Free, but please call (877) 926-8300 to register. Be sure to specify which event you are registering for.

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- 03/22/12 Burlington [John Robert Kernodle Senior Center](#), 1535 S. Mebane Street. Time: 10:00 AM -- 11:00 AM. For more information, contact Judy Whitfield at (336) 222-5135.
- 03/23/12 Winston-Salem [Elder Investment Fraud and Financial Exploitation \(EIFFE\) Prevention Program](#) training for physicians, physician assistants, nurses and social workers. [Sticht Center Auditorium](#), WFU Baptist Hospital, Medical Center Blvd. Seating limited to 60 attendees. Keynote speaker is [Dr. Jan Busby-Whitehead](#), Director of the UNC Center for Aging & Health. One hour of AMA PRA Category 1 Credit™ available through [The Methodist Hospital System](#). See Notice on page 8 for more information.
- 03/29/12 Wilmington [Lake Shore Commons](#), 1402 Hospital Plaza Drive. Time: 2:00 PM – 3:00 PM. Open to residents and their guests only. For more information, contact Amanda Hancock at (910) 251-0067.
- 03/29/12 Wilmington [The Woods at Holly Tree](#), 4610 Holy Tree Road. Time: 4:00 PM – 5:00 PM. Open to residents and their guests only. For more information, contact Barbara at (910) 795-2419.



## 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.

**Sean Fitzgerald Mescall**, of Denver, NC, was arrested by law enforcement agents of the Securities Division on September 9, 2009, on charges of securities fraud, obtaining property by false pretense and conducting an unlawful telephone room. He is alleged to have defrauded approximately 69 victims of approximately \$1.3 million in a Ponzi scheme involving foreign currency trading since at least September 2006. In a separate action, the CFTC has filed a civil action against Mescall and Capital Street Financial. On May 25, 2010, US District Court Judge Robert Conrad, Jr., ruled Mescall to be in contempt of the Court's Sept. 2009 Preliminary Injunction. On May 4, 2011, he was sentenced to 27 months in federal prison for criminal contempt relating to the CFTC action.

**Walter Ray Reinhardt**, of Durham, NC, was served with 62 felony arrest warrants for securities violations on November 17, 2010. He is alleged to have defrauded 16 victims in Durham County out of more than \$1 million. Reinhardt had his first appearance in Durham County District Court on November 18, 2010 on 38 felony counts of securities fraud, 12 felony counts of common law forgery, and 12 felony counts of common law uttering. He is currently being held in the Durham County Jail under a \$4 million bond. No trial date has been set.

**Darren Joseph Capote**, of Patterson, NY, was indicted on July 11, 2011, in Ashe County Superior Court on three Class C felony counts of securities fraud. He is alleged to have defrauded an elderly victim in Ashe County. He was released from custody on a \$100,000 secured bond. His next court appearance in Ashe County is expected in March 2012.

## Recent Enforcement Actions

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

On **January 17, 2012**, the Securities Division of the North Carolina Department of the Secretary of State, with the consent of **Frank S. Sparger**, issued a Final Order re-instating the securities salesman and investment adviser representative registrations of Mr. Sparger, and restricting those registrations for a period of three years. Mr. Sparger's registrations were summarily suspended by the Division in connection with events that caused FINRA to impose a suspension of his FINRA membership. The underlying events took place some years ago at a now defunct brokerage firm. Mr. Sparger cooperated with FINRA and the Division in their separate proceedings. Click [here](#) to view the Final Order.



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## News from the Regulators

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

### **[SEC Releases Risk Alert on Unauthorized Trading](#)**

Feb. 27, 2012 – The Securities and Exchange Commission has released an [alert](#) to help firms prevent and detect unauthorized trading in brokerage and advisory accounts. While this alert is primarily directed at brokerage and advisory firms, it is very relevant to investors since it is in their interest to be aware of the kinds of illegal activities that some brokerage and advisory firms are engaged in and which regulators are monitoring. The Risk Alert issued by the agency's Office of Compliance Inspections and Examinations (OCIE) notes that although broker-dealers and investment advisers are subject to different regulatory requirements, both face similar risks of financial and reputational losses arising from unauthorized trading. Unauthorized trading can include rogue trades in customer, client, or proprietary accounts or trades that exceed firm limits on position exposures, risk tolerances, and losses. Unauthorized trading can be done by traders, assistants on trading desks, portfolio managers, brokers, risk managers, or other personnel, including those in administrative positions in a firm's back office.

### **[CFTC Charges Mitchell Brian Huffman of Charlotte with Operating a Fraudulent \\$3.2 Million Commodity Pool Scheme](#)**

Feb. 17, 2012 -- The U.S. Commodity Futures Trading Commission (CFTC) announced the [filing of a complaint](#) in federal court in North Carolina, charging defendant Mitchell Brian Huffman of Charlotte, N.C., with operating a fraudulent commodity pool scheme that defrauded participants of more than \$3.2 million in connection with exchange-traded commodity futures contracts. Huffman has never been registered with the CFTC. Huffman allegedly misappropriated participants' funds for personal uses, such as purchasing automobiles, personal travel, luxury vacations, and making charitable contributions. For more information, click the links above.

### **[SEC Tightens Rules on Advisory Performance Fee Charges](#)**

Feb. 15, 2012 — The Securities and Exchange Commission announced it is tightening its rule on investment advisory performance fees to raise the net worth requirement for investors who pay performance fees, by excluding the value of the investor's home from the net worth calculation. Under the [SEC's rule](#), registered investment advisers may charge clients performance fees if the client's net worth or assets under management by the adviser meet certain dollar thresholds. Investors who meet the net worth or asset threshold are deemed to be "qualified clients," able to bear the risks associated with performance fee arrangements. The revised rule will require "qualified clients" to have at least \$1 million of assets under management with the adviser, up from \$750,000, or a net worth of at least \$2 million, up from \$1 million. A new grandfather provision to the performance fee rule will permit registered investment advisers to continue to charge clients performance fees if the clients were considered "qualified clients" before the rule changes. In addition, the grandfather provision will permit newly registering investment advisers to continue charging performance fees to those clients they were already charging performance fees. Finally, the revised rule provides that every five years, the Commission will issue an order making inflation adjustments to the dollar thresholds used to determine whether an individual or company is a qualified client, as required by the Dodd-Frank Act. The rule amendments will take effect 90 days after publication in the Federal Register, but investment advisers may rely on the grandfather provisions before then.

### **[FINRA Annual Regulatory and Examination Priorities Letter](#)**

Each year, FINRA publishes its Annual Regulatory and Examination Priorities Letter to highlight issues of importance to FINRA's regulatory programs. Although intended for securities firms and their chief compliance officers, this information could be of interest to investors since it gives insight into areas where investors need to be vigilant when dealing with their broker. This year, FINRA's priorities include yield-chasing, liquidity, cash flow characteristics, and transparency of cash flows and financial condition. For more information, click the link above.

### **[FINRA Charges Charles Schwab & Co. with Violating FINRA Rules by Using Class Action Waiver in Customer Agreements](#)**

Feb. 1, 2012 — The Financial Industry Regulatory Authority (FINRA) announced that it has filed a complaint against Charles Schwab & Company charging the firm with violating FINRA rules by requiring its customers to

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waive their rights to bring class actions against the firm. FINRA's complaint charges that in October 2011, Schwab amended its customer account agreement to include a provision requiring customers to waive their rights to bring or participate in class actions against the firm. Schwab sent the amended agreements to nearly 7 million customers. The agreement also included a provision requiring customers to agree that arbitrators in arbitration proceedings would not have the authority to consolidate more than one party's claims. FINRA's complaint charges that both provisions violate FINRA rules concerning language or conditions that firms may place in customer agreements. FINRA's complaint seeks an expedited hearing because Schwab's conduct is ongoing, as the firm has continued to use account agreements containing these provisions in opening more than 50,000 new customer accounts since October 2011. For more information, click the link above.

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

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

**Please help us publicize the educational information in this mailing by forwarding it to your contacts around the state.** If you no longer wish to receive mailings from the Securities Division, please send an email to: [jmaron@sosnc.com](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!