

North Carolina

Department of the Secretary of State







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Secretary of State Issues Cease and Desist Order to "Profitable Sunrise"



NC Secretary of State Elaine F. Marshall (file photo).

On February 27, 2013, North Carolina Secretary of State Securities officials issued a <u>Temporary Order to Cease and Desist</u> to Roman Novak, Radoslav Novak and Inter Reef LTD d/b/a Profitable Sunrise to bar them from offering and selling or attempting to sell securities in the form of investment contracts to North Carolina's investing public.

Secretary of State investigators say the respondents promoted five different "investment plans" through a website that offered rates of return ranging from 1.6-percent per business day to 2.7-percent per business day. Investors were told their money would be used to fund short-term loans to businesses. Investors were also told their investments were "risk-free," "with a certain rate of return and no chance of default," and that "all funds deposited with us are insured against loss." Secretary of State investigators have also discovered that victims were making wire transfers of money to financial institutions in Eastern European countries.

However, the respondents were never registered with the North Carolina Secretary of State's Securities Division to sell securities and the investment itself was not registered as a security in accordance with the North Carolina Securities Act.

"We have issued this Cease and Desist Order because we believe this solicitation poses a real danger to the investing public," Secretary of State Elaine F. Marshall said. "Proper registration of securities and the individuals selling securities is fundamental to protecting the public from con artists and investment fraud. That is why it is so important to call our Securities Division before investing your hard-earned money to make sure that the investment you are considering is registered. This case also demonstrates the perils of web-based investment marketing."

Marshall urged anyone in North Carolina who has invested with Profitable Sunrise to contact the Secretary of State's Securities Division at 1-800-688-4507. To read the entire Order, click the link above.

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|))) TEMPORARY ORDER |
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|) CEASE AND DESIST |
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|))) FILE NO. 13SEC005) |
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Pursuant to the authority granted by Chapter 78A of the North Carolina General Statutes (the North Carolina Securities Act), hereinafter referred to as the "Securities Act," and the rules promulgated thereunder, the Securities Division of the Department of the Secretary of State, hereinafter referred to as the "Securities Division," has investigated the activities of Roman Novak, Radoslav Novak, and Inter Reef LTD d/b/a Profitable Sunrise (hereinafter, the "Respondents") to determine if any of them has engaged in, or is about to engage in, any act or practice constituting a violation of the Securities Act or any rule or order thereunder.



FORMER NORTH CAROLINA RESIDENT SENTENCED TO TEN YEARS IN PRISON FOR MONEY LAUNDERING CONSPIRACY



Defendant ordered to pay more than \$31 million in restitution for his role in the Queen Shoals Ponzi scheme

A former North Carolina resident was sentenced on March 12, 2013, in U.S. District Court for his involvement in the \$32.5 million Queen Shoals Ponzi scheme, announced Anne M. Tompkins, U.S. Attorney for the Western District of North Carolina. Chief U.S. District Judge Robert J. Conrad, Jr. sentenced Gary D. Martin, 61, of St. Augustine, Fla. to 10 years in prison to be followed by two years of supervised release. Judge Conrad also ordered the defendant to pay \$31,707,038 as restitution to the victims of the Ponzi scheme and ordered defendant liable to forfeit and repay the Government for the approximate \$28,500,000 in proceeds of the scheme.

Joining U.S. Attorney Tompkins in making today's announcement are Roger A. Coe, Acting Special Agent in Charge of the Federal Bureau of Investigation (FBI), Charlotte Division, and the North Carolina Secretary of State Elaine F. Marshall.

In February 2012, Martin pleaded guilty to one count of 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. Martin and others induced victims to invest over \$28.5 million in the Queen Shoals Ponzi scheme operated by Sidney Hanson. Court records show that 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. Specifically, Martin falsely claimed 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 fact, Martin had no such experience, held no professional licenses related to finance or investments and had never 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 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 falsely claimed that QSC had a "proven method of diversification [that] spreads the risk nicely for a balanced portfolio," when, in fact, QSC offered no such diversification and funneled victim funds solely into the Queen Shoals Ponzi scheme. Court records show that Martin 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 when, in fact, Martin personally invested only \$4,000. According to filed documents and today's sentencing hearing, 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.

In announcing today's sentence, Judge Conrad described the impact of the Ponzi scheme on the victims. "This Ponzi scheme had devastating results," Judge Conrad said. "People in their 60's, 70's, 80's and even 90's lost everything because Hanson and Martin defrauded them." Judge Conrad also noted that Martin, "went into homes, got people to rely on him and told them things that weren't true, and based on false representations, many lost their life savings...He is seriously culpable."

Martin was released on bond and was ordered to self-report to the Federal Bureau of Prisons upon designation of a federal facility. Federal sentences are served without the possibility of parole.

Sidney Hanson, the mastermind of the Queen Shoals Ponzi scheme, was convicted of securities fraud and wire fraud and is currently serving a 22-year federal sentence. He was also ordered to pay over \$31,000,000 in restitution. To date, over \$9,000,000 has been paid to the Clerk of Court to pay victims of the Ponzi scheme. In addition, other assets, including federally forfeited precious metals and federally forfeited real estate, will be liquidated and the net sale proceeds will be paid to victims.



U.S. Attorney Tompkins thanked the Justice Department's Asset Forfeiture and Money
Laundering Section, the CFTC, and the North Carolina Secretary of State for their invaluable
assistance in recovering assets, thereby ensuring that Hanson's victims receive restitution
money owed to them. U.S. Attorney Tompkins commended the quick asset seizures before the collapse of Queen
Shoals, which will result in the return of nearly 30 percent of victims' losses. The U.S. District Court has begun
issuing restitution payments of the recovered funds to identified victims of the Ponzi scheme.

Martin's 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 acknowledged 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.

NASAA to Team with AARP on Webinar

Protect Your Finances: Tips to Avoid Financial Fraud

Join AARP and NASAA for a free, online interactive discussion on Tuesday, April 23, 2013, at 2 p.m. as we answer your questions about ensuring the security of your nest egg. We'll also highlight tips to help you hang on to your hard-earned money, including:

- · Spotting common warning signs of a scam
- Making sure investment products are right for you
- Checking out your financial professional

You can submit a question in advance by emailing moneywebinars@aarp.org or ask your questions during this live conversation. Register now

Can't make it on this day? No worries. Register anyway and you will receive the link to the webinar recording so you can listen to it later at your convenience.

UPDATE: Investor Education in Your Workplace® Program



The Fall 2012 *Investor Education in Your Workplace*® (*IEiYW*®) *Program* has ended. The results are published in the charts at the bottom of this page.

As the charts demonstrate, North Carolina finished third in the total number of program participants and second in the total number of courses completed, total number of participants passing all ten course and "graduating" from the program. More importantly, statistics show that the average

improvement in financial knowledge from start to finish among all participants was almost 30%! This last statistic is proof that the IEiYW® program is an effective educational tool.

The Division has therefore decided to sponsor another round of the IEiYW® program beginning on May 6 and running for approximately 14 weeks into August. The Division will again use a grant from the Investor Protection Trust, a Washington, DC-based nonprofit organization that is devoted to funding investor education programs and materials, to enable up to 1185 people to participate in the program free of charge. If you think your company would benefit from having a more financially knowledgeable workforce, please encourage your company's decision makers to register for one or more of the upcoming free webinars designed to explain how the program works. To register for a webinar, go to https://www.ieiyw.com/webinars/.

| Overall Fall 2012 IEiYW [®] Summary by State as of 02/25/2012 | | | | | | | |
|------------------------------------------------------------------------|------|--------------|---------|-----------|---------------|-----------|-------------|
| State | Orgs | Participants | Courses | % Courses | Passed All 10 | Graduates | % Graduated |
| AK | 8 | 307 | 2445 | 80% | 225 | 218 | 76% |
| СО | 12 | 694 | 3278 | 47% | 260 | 256 | 50% |
| DC | 5 | 69 | 390 | 57% | 30 | 28 | 49% |
| DE | 5 | 146 | 1273 | 87% | 123 | 122 | 89% |
| IA | 18 | 816 | 5343 | 65% | 474 | 470 | 68% |
| NC | 20 | 815 | 5146 | 63% | 446 | 437 | 64% |
| ОК | 7 | 177 | 1147 | 65% | 99 | 98 | 65% |
| WA | 10 | 125 | 947 | 76% | 87 | 86 | 78% |
| WI | 9 | 875 | 4985 | 57% | 436 | 428 | 64% |
| OVERALL | 94 | 4024 | 24954 | 62% | 2180 | 2143 | 65% |

| Fall 2012 IEiYW [®] Knowledge Improvement | | | | | |
|----------------------------------------------------|-----------|------------|----------|----------|--|
| | Course | Course | Points | % | |
| | Pre-Tests | Post-Tests | Improved | Improved | |
| OVERALL | 68.2% | 88.63% | 20.43 | 29.96% | |

The SEC's Office of Investor Education and Advocacy has provided this <u>Investor Bulletin</u> as a service to investors. It is neither a legal interpretation nor a statement of SEC policy. If you have questions concerning the meaning or application of a particular law or rule, please consult with an attorney who specializes in securities law. It is reprinted here for informational purposes.



INVESTOR BULLETIN: Custody of Your Investment Assets

SEC-registered investment advisers who have custody of their clients' funds or securities must safeguard those funds as required by the SEC's "custody rule." The custody rule is designed to provide additional safeguards for investors against the possibility of theft or misappropriation by investment advisers who are registered with the SEC. Despite the protections offered by the custody rule, investors still need to be proactive in ensuring the safety of their investments.

What is custody?

Custody by investment advisers means holding client funds or securities, directly or indirectly, or having the authority to obtain possession of them. For example, advisers have custody where the adviser has possession of client funds and securities or has power of attorney to sign checks on a client's behalf, to withdraw funds or securities from the client's account, including fees, or to otherwise dispose of a client's assets for any purpose other than authorized trading.



What does the custody rule require?

The custody rule imposes a number of requirements on SEC-registered investment advisers to protect client funds and securities over which the adviser has custody.

Use of "qualified custodians" to hold client assets. First, with certain limited exceptions, an investment adviser is required to maintain client funds and securities with a "qualified custodian." Qualified custodians can be banks, registered broker-dealers, futures commission merchants, or certain foreign entities. A qualified custodian either maintains client funds and securities in a separate account for each client under that client's name, or in accounts that contain only client funds and securities under the name of the investment adviser as agent or trustee for the clients.

Notices to clients detailing how their assets are being held. Second, if the investment adviser opens the custodial account, it must notify clients in writing of the qualified custodian's name, address, and the manner in which the funds or securities are maintained, promptly when the account is opened and following any changes to this information. Also, in any account statement sent by the adviser, the adviser must advise its clients to compare account statements sent by the adviser with the account statements sent by the custodian.

Account statements for clients detailing their holdings. Third, investment advisers must have a reasonable basis to believe that the qualified custodians that maintain client funds and securities send account statements at least quarterly to the adviser's clients directly. This permits advisory clients to compare the statements they receive from the custodian with any statements or other information they receive from their adviser and to determine whether account transactions, including deductions to pay advisory fees, are proper.

Annual surprise exams. Fourth, if the investment adviser has custody of client assets, it must enter into a written agreement with an independent public accountant to examine those assets on a surprise basis every year. The accountant performing the "surprise" examination will contact some, or all, advisory clients to confirm their holdings with those listed on the records of the adviser. An adviser that has custody solely because it has the authority to deduct advisory fees from client accounts is not required to obtain a surprise examination.

Additional protections when a related qualified custodian is used. Fifth, if the custodian is also the investment adviser or is affiliated with the adviser in some way, the adviser must, among other things, obtain a report from the related qualified custodian that includes an opinion of an independent public accountant regarding the effectiveness of the custodian's procedures for safeguarding client funds and securities every year. Additionally, an adviser that uses a related qualified custodian is itself subject to annual surprise exams, as described in the preceding paragraph.

What does the custody rule mean for investors?

The custody rule is designed to enhance safeguards over client assets, but it is not a substitute for investor diligence and care. The very purpose of requiring custodians to send account statements to clients at least quarterly is to make sure that clients have the information they need to review their holdings and monitor their investments.

In performing investor diligence and care, you should consider the following:

 When establishing an account with an adviser, ask about custody arrangements.

Most clients establish their own custodial accounts at firms such as banks or broker-dealers. Many advisory clients open their custodial accounts when they complete the custodian's account-opening forms at the same time that they open an advisory account. An adviser can open a custodial account for a client as well. If it is not clear when you set up your account with a registered investment adviser who will maintain custody of your assets, ask the adviser to identify the custodian and provide you with the custodian's contact information.



Whose name is on the account – yours, or your investment adviser's?

Check whether the account is under your own name or under the investment adviser's name as agent for you. Note that the adviser is not permitted to name itself as the principal on an account which it has opened for you.

• Are you getting account statements from a qualified custodian at least quarterly?

If your investment adviser is registered with the SEC and you do not receive a separate statement directly from a qualified custodian such as a bank or broker-dealer, you should contact your adviser and/or custodian to find out why.

• What should you do if you find a discrepancy between the account statement from your investment adviser and the account statement from your custodian?

If you notice a discrepancy, you should contact both the investment adviser and the custodian, preferably the supervisor of your advisory or custodial representative or a compliance officer. If the discrepancy is not resolved to your satisfaction or you continue to have concerns, contact the SEC (www.sec.gov/complaint/select.shtml). If your adviser is registered with a state, rather than with the SEC, contact the North Carolina Department of the Secretary of State Securities Division at (919) 733-3924 or toll-free at (800) 688-4507..

· What is the effect of fees on your investment?

Fees can have a material effect on your investment return. Ask your investment adviser about fees, including how the adviser's fees compare to those of other advisers. Always consider fees when making an investment decision.

The custody rule is designed to provide additional safeguards for investors against possible theft or misappropriation by SEC-registered investment advisers. Regardless, you should exercise care when making investment decisions and remain vigilant in monitoring your investments.

Related Information

Press Release: SEC Issues Risk Alert and Investor Bulletin on Investment Adviser Custody Rule.

SEC National Exam Program Risk Alert: More Than a Third of Advisers with Significant Deficiencies Have Problems with Custody and Safety of Client Assets.

For information on a particular investment adviser, including disciplinary actions, check the <u>Investment Adviser</u> <u>Public Disclosure</u> (IAPD) website (<u>www.adviserinfo.sec.gov</u>).

For information on selecting an investment adviser, read the SEC's Office of Investor Education and Advocacy's publications <u>Investment Advisers</u>: <u>What You Need to Know Before Choosing One</u> and <u>Investing Wisely</u>.

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 04/02/13 | City Goldsboro | Details Scam Jam, Wayne County Cooperative Extension Service Center, 208 W. Chestnut Street. Time: 9:00 AM Noon. Free, but registration is required. For more information, contact Delbra McIntyre at (919) 734-1178, Ext. 214. |
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| April 4-5, 2013 | Wilmington | "Elder Abuse: A Multi-Disciplinary Approach to Justice" fraud summit. Hilton Wilmington Riverside, 301 N. Water Street. Co-sponsored by the NC Conference of District Attorneys and the NC Department of the Secretary of State. Registration information available at http://www.ncdistrictattorney.org/training.html . |
| 04/05/13 | Raleigh | Encore Program for Lifelong Enrichment, " <u>Friday Snapshot – Your Money:</u> <u>How to Avoid Fraud, Scams and Financial Abuse</u> ". McKimmon Center, 1101 Gorman Street. Time: 10:45 AM 12:15 PM. Registration required. To register, click the link above or contact Nancy Huber at (919) 513-2047. |
| 04/09/13 | Charlotte | NC Continuing Care Residents Association, Western Regional Annual Meeting, Ray Hall Community Center, 2145 Cole Drive. Time: 10:00 AM – Noon. For more information, contact Kaye Steele at (828) 894-0738. |
| 04/11/13 | Raleigh | Abbotswood at Stonehenge, 7900 Creedmoor Road. Time: 10:30 AM 11:30 AM. Open to residents and guests only. For more information, contact: Connie Miller at (919) 847-3202. |
| 04/22/13 | Durham | <u>Arbor Walk Retirement Community</u> , 5705 Fayetteville Road. Time: 1:30 PM 2:30 PM. Open to residents and guests only. For more information, call (919) 213-7436. |
| 04/24/13 | Charlotte | South County Library, 5801 Rea Road. Time: 2:00 PM – 3:00 PM. Free, but registration required. For more information, contact Christine Bretz at (704) 416-6600. |
| 04/24/13 | Charlotte | Steele Creek Library, 13620 Steele Creek Road. Time: 5:00 PM 6:30 PM. Free, but registration required. For more information, click the link above or contact Susanne Webb at (704) 416-6800. |
| 05/08/13 | Goldsboro | Seymour Johnson AFB, 1200 Wright Brothers Building 3602, 2:00 PM – 3:00 PM. Saving and Investing Education. For Seymour Johnson personnel and their families only. For more information, contact Arnedrea Thomas at (919) 722-7337. |
| 05/10/13 | Chapel Hill | Carolina Meadows Retirement Community, 500 Carolina Meadows. Time: 2:00 PM 3:00 PM. Open to residents and guests only. For more information, contact Paul Joffrion at (919) 370-7185. |

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| Date | City | Details |
|----------|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 05/14/13 | Spindale | Scam Jam at <u>Rutherford County Senior Center</u> , 193 Callahan-Koon Road. Time: 1:00 PM 4:00 PM. Free, but registration is requested. To make a reservation or for more information, contact Barbara Hill at (828) 287-6409. |
| 05/14/13 | King's Mtn. | "Elder Investment Fraud & Financial Exploitation (EIFFE) Prevention Program", at H. Lawrence Patrick Senior Center, 909 E. King Street. Time: 6:00 PM 7:30 PM. For more information, contact Monty Thornburg at (704) 734-0447. |
| 05/15/13 | Raleigh | Senior Democrats of Wake County monthly meeting, Marritott Crabtree Valley, 4500 Marriott Drive. Time: 11:00 AM 12:30 PM. Open to club members and their guests only. For more information, click the link above. |
| 05/18/13 | Raleigh | The Minuteman Muster, NC National Guard Community Outreach and Open House Event/Fund Raiser, Joint Forces HQ, 4105 Reedy Creek Road. Time: 6:30 AM – 4:00 PM. For more information, click the link above. |
| 07/08/13 | Apex | Apex Masonic Lodge, 408 E. Williams Street. Time: 6:30 PM – 8:30 PM. Open to club members and their guests only. |
| 07/10/13 | Hope Mills | Hope Mills Sunshine Senior Center, "Annuity and Investments Scams". Time: 10:00 AM – 11:00 AM. For more information, contact: Ryan Gordon, Sr. Center Assistant Supervisor, at (910) 425-6707. |
| 08/20/13 | Concord | <u>Gardens of Taylor Glen</u> , 3700 Taylor Glen Lane. Time: 11:00 AM – Noon. Open to residents and their guests only. For more information, contact Sharon Stoudemayer at (704) 788-6510. |
| 08/21/13 | Knightdale | Knightdale Parks & Recreation, 950 Steeple Square Court. Time: 9:00 AM – 10:00 AM. For more information, contact: Michelle Wester at (919) 217-2236. |
| 08/22/13 | Fayetteville | "Ft. Bragg Marriage Money Matters", ACS, Building 4-2843 3rd Floor Soldier Support Center, Normandy Drive. Time: 5:30 PM 7:30 PM. Open to military personnel and their families only. For more information, contact Lynn Olavarria at (910) 907-3670. |



NC Conference of District Attorneys and NC Department of the Secretary of State Jointly Co-Sponsor Two-Day Conference on Elder Fraud

On April 4-5, 2013, the NC Conference of District Attorneys and the NC Department of the Secretary of State are co-sponsoring a conference entitled, *Elder Abuse: A Multi-Disciplinary Approach to Justice*, at the Hilton Wilmington Riverside, in Wilmington, NC.

This two-day conference will offer intensive training regarding the investigation and prosecution of elder abuse. It will address the common misconceptions that often hinder the successful prosecution of such crimes, offer practical tools for overcoming these barriers, and assist in understanding the dynamics of working with elder victims. It will address all areas of elder abuse including physical and sexual abuse, financial exploitation and fraud. It is primarily intended for prosecutors, victim witness legal assistants, law enforcement, Adult Protective Services staff, advocates, and other allied professionals. (Preference will be given to teams). Registration information available at http://www.ncdistrictattorney.org/training.html.



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.

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. His trial is expected to begin later this year.

Darren Joseph Capote, of Patterson, NY, was indicted on July 11, 2011, in Ashe County Superior Court on three Class C felony counts of securities fraud. He is alleged to have defrauded an elderly victim in Ashe County. He was released from custody on a \$100,000 secured bond. His next court appearance in Ashe County has not been scheduled.

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

Recent Enforcement Actions

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

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.)

NASAA President Heath Abshure's Keynote Address at SIFMA Compliance and Legal Society Annual Meeting

March 19, 2013 – Heath Abshure, President of the North American Securities Administrators Association (NASAA), spoke on such topics as allowing aggrieved investors to seek class action relief against brokerage firms, the elimination of mandatory arbitration clauses from brokerage account agreements, and requiring brokers to adhere to the same fiduciary standards to which investment advisers must adhere. To read Mr. Abshure's complete remarks, click the link above.

FINRA Proposes Rule Change to Make More Disciplinary Actions Public

March 19, 2013 – The Financial Industry Regulatory Authority, Inc. ("FINRA") has filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to amend FINRA Rule 8313 (Release of Disciplinary Complaints, Decisions and Other Information), which governs the release of disciplinary and other information by FINRA to the public. In addition, the proposed rule change would make conforming amendments to certain rules in the FINRA Rule 9000 Series (Code of Procedure) and add a provision to FINRA Rule 9268 (Decision of Hearing Panel or Extended Hearing Panel) regarding the effective date of sanctions. Click here to read the text of FINRA's proposed rule change.



SEC Issues Guidance Update on Social Media Filings by Investment Companies

March 15, 2013 — The Securities and Exchange Commission has published a guidance update from its staff to clarify the obligations of mutual funds and other investment companies to seek review of materials posted on their social media sites. The guidance from the Division of Investment Management is the first in its "IM Guidance Update" series, which will offer the staff's views on emerging legal issues. The goal of the guidance is to increase transparency and enhance compliance with federal securities laws and regulations. Mutual funds and other investment companies are required to file certain advertisements for review by Financial Industry Regulatory Authority (FINRA). The SEC staff has learned that out of an abundance of caution, many mutual funds and other investment companies may file materials on their social media sites with FINRA unnecessarily. The IM Guidance Update provides examples of the kinds of communications that the staff believes would be subject to a requirement to file with FINRA and examples of communications that would not trigger a filing requirement.

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

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

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

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