

North Carolina Department of the Secretary of State

Hon. Elaine F. Marshall, Secretary

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Business Start-Ups get a Boost from Entrepreneur Program in Morrisville

Most small businesses start with an idea. The Morrisville Innovation Foundation's HOTTovation program is designed to give entrepreneurs with a good idea the business expertise they need to 'percolate' their ideas into fully formed strategic plans to help their start-ups grow and thrive in the real world.

Five Wake County entrepreneurs gathered this month to share their business pitches as part of their graduation from a five month program of rigorous mentoring. A little more "Dolphin Tank" than "Shark Tank," HOTTovation (HOTT is an acronym for Morrisville's slogan "Heart of the Triangle") focuses on giving participating business owners support by providing a panel of experienced executives to coach and give feedback on their business plans.

Secretary of State Elaine F. Marshall spoke at the event, applauding the program and the innovative ideas of the young companies participating. A former small business owner herself, Secretary Marshall told the crowd she understands that each new business start-up is someone following their dreams.



**Secretary Marshall
addressing the
HOTTovation pitch event**

"It's not that different than being a performing artist in music or pursuing a record in the sports world—you put your heart into an idea and you do everything you can to see it become a successful company." Secretary Marshall told the entrepreneurs that SOSNC is there to help facilitate their dreams by incorporating their corporate entities, registering state trademarks, planning for securities offerings and protecting investors.

Some 70 area entrepreneurs, small business advisors, attorneys and consultants—potential investors for the participants—came out to watch the five start-ups make their pitches. Noting the mutually-supportive atmosphere of the event, Secretary Marshall told the graduating start-ups, "everyone here is really rooting for you all. Everyone here, me included, is hoping we may be seeing another Microsoft or Amazon in the making right in front of us."

The Morrisville Innovation Foundation is the charitable arm of the Morrisville Chamber of Commerce. To learn more about HOTTovation and the Foundation's other programs, visit morrisvilleinnovation.org.



SEC Adopts Rules to Permit Crowdfunding

On October 30 the Securities and Exchange Commission adopted final rules to permit companies to offer and sell securities through crowdfunding. The Commission also voted to propose amendments to existing Securities Act rules to facilitate intrastate and regional securities offerings. The new rules and proposed amendments are designed to assist smaller companies with capital formation and provide investors with additional protections.

Crowdfunding is an evolving method of raising capital that has been used to raise funds through the Internet for a variety of projects. Title III of the JOBS Act created a federal exemption under the securities laws so that this type of funding method can be used to offer and sell securities.

“There is a great deal of enthusiasm in the marketplace for crowdfunding, and I believe these rules and proposed amendments provide smaller companies with innovative ways to raise capital and give investors the protections they need,” said SEC Chair Mary Jo White. “With these rules, the Commission has completed all of the major rulemaking mandated under the JOBS Act.”



The final rules, Regulation Crowdfunding, permit individuals to invest in securities-based crowdfunding transactions subject to certain investment limits. The rules also limit the amount of money an issuer can raise using the crowdfunding exemption, impose disclosure requirements on issuers for certain information about their business and securities offering, and create a regulatory framework for the broker-dealers and funding portals that facilitate the crowdfunding transactions.

The new crowdfunding rules and forms will be effective 180 days after they are published in the Federal Register. The forms enabling funding portals to register with the Commission will be effective Jan. 29, 2016.

The Commission also proposed amendments to existing Securities Act Rule 147 to modernize the rule for intrastate offerings to further facilitate capital formation, including through intrastate crowdfunding provisions. The proposal also would amend Securities Act Rule 504 to increase the aggregate amount of money that may be offered and sold pursuant to the rule from \$1 million to \$5 million and apply bad actor disqualifications to Rule 504 offerings to provide additional investor protection.

The SEC is seeking public comment on the proposed rule amendments for a 60-day period following their publication in the Federal Register.

Editor’s Note: The [October issue](#) of the NC Securities Division Newsletter featured a story on a symposium at Campbell Law School focused on the future of crowdfunding. The symposium featured comments from Secretary of State Marshall on the state outlook for crowdfunding legislation.

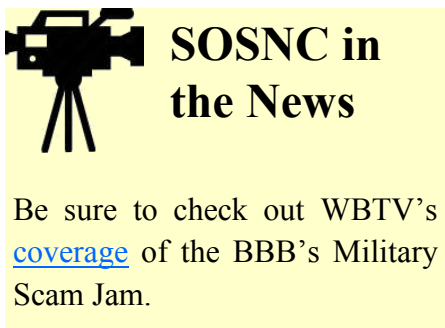
You can read Secretary Marshall’s comments in their entirety [here](#).

Charlotte Scam Jam Helps Veterans and Military Families Combat Fraud

Our nation’s military veterans are too often on the front lines of the fight against financial crime. Con artists target veterans, recognizing them as a group with a reliable stream of cash from their military retirement pensions. That issue topped the agenda this month in Charlotte, where the Better Business Bureau sponsored a ‘Scam Jam’ for active duty and retired military on the heels of Veterans Day.



Secretary Marshall addressing the crowd at Scam Jam.

A graphic with a yellow background. On the left is a black silhouette of a video camera on a tripod. To the right of the camera, the text "SOSNC in the News" is written in a bold, black, sans-serif font. Below the graphic, there is a line of text: "Be sure to check out WBTV's [coverage](#) of the BBB's Military Scam Jam." The word "coverage" is underlined and blue, indicating a hyperlink.

Be sure to check out WBTV's [coverage](#) of the BBB's Military Scam Jam.

Delivering the event’s featured remarks, Secretary of State Elaine F. Marshall told the crowd that SOSNC Securities Agents have worked cases over the past 12 months that resulted in 17 investment crooks being charged, convicted or sentenced. The known amount of money lost by victims in those cases totaled more than \$109 million, or about \$6.4 million per criminal on average.

Secretary Marshall added that the true number of victims and amount of money lost is unclear because many victims never come forward to report the crime to the authorities out of embarrassment at having been conned. Urging all fraud victims to never hesitate to report the crimes, Marshall noted that SOSNC’s investigators have seen doctors, lawyers and business people who have fallen prey to scams. She noted that military veterans are also sadly targeted by affinity fraudsters who may spend months building a sense of community and comradery with their would-be victims, all the while setting them up.

“They will attend your church for weeks, maybe months, before they try to pull their scam,” warned Secretary Marshall. “They will take lots of time to visit with your or

your social group or civic organization before they even begin to talk about money. They may key in on that “Semper Fi!” bumper sticker on your truck...or that “Army” tee shirt...or that blue hat you wear with your beloved U.S. Navy ship’s name on it.”

Noting that the best weapon against financial fraud is information, Secretary Marshall advised everyone to call SOSNC’s toll-free Securities Hotline at 1-800-688-4507 when considering a new investment to make sure that the individual marketing the opportunity is properly registered to sell securities in North Carolina, and that the investment opportunity itself is registered. She also urged everyone to periodically check their broker’s or adviser’s disciplinary history.



Secretary Marshall speaking with veterans at Scam Jam.

Noting her late husband’s military service, Secretary Marshall also took a moment to express her personal gratitude to veterans and active duty military for their service and sacrifice. She urged everyone to reach out to veterans who may be struggling as they make the transition back to civilian life.



Michigan Man Charged With Wire Fraud Conspiracy for Operating \$6.8 Million Internet Ponzi Scheme

Investment Scam Solicited over 10,000 Victims before Collapsing in February 2015

A criminal indictment was unsealed November 3, 2015 in federal court charging Troy Barnes, 53, of River-view, Michigan, with wire fraud conspiracy and wire fraud, for operating a \$6.8 million Internet Ponzi scheme that defrauded more than 10,000 investor victims worldwide, announced Jill Westmoreland Rose, U.S. Attorney for the Western District of North Carolina. Barnes' conspirator, Kristine Louise Johnson, of Aurora, Colorado, pleaded guilty in June 2015 to wire fraud conspiracy for her role in the scheme.

Matthew Quinn, Assistant Special Agent in Charge of the United States Secret Service, Charlotte Field Division joined U.S. Attorney Rose in making the announcement.

According to filed court documents, Barnes was the owner of "Work with Troy Barnes, Inc." (WWTB), which did business over the Internet under the name of "The Active Community" (TAC). Barnes was the President and Marketing Director of WWTB responsible for promoting the online scheme. Johnson served as TAC's Chief Financial Officer, and managed TAC's day-to-day operations, including the company's bank accounts. Filed court documents indicate from about April 2014 to February 2015, Barnes induced victims to invest money in TAC, claiming "Achieve is the answer to all of our prayers..." and falsely promising investors would receive a bogus 700% return on their investment. Barnes also told his victims they could make as much money as they wanted claiming the investment was "never-ending," when, in fact, TAC operated solely as a pyramid scheme and initial investors were paid with later victims' money. Barnes also falsely touted TAC as a "lifetime income plan," with "limitless returns, even though by August 2014, Barnes and Johnson had discussed TAC's inevitable shortfall and knew that TAC did not have sufficient funds to cover weekly payouts to investors, much less operating expenses.

According to court filings, as the scheme grew in size and scope, Barnes and his conspirators concealed the true nature of the scheme through multiple misrepresentations. According to court records, when the conspirators became concerned that the use of the term "investment" would draw scrutiny from regulators, they instructed victim-investors that "We ARE NOT an INVESTMENT program, please don't use that term when you speak or post about our re-purchase strategy." Even when TAC was unable to operate because their payment processor concluded that TAC was indeed operating a Ponzi scheme and ceased doing business with the company, Barnes and his conspirators lied to victims, falsely stating that "The only reason that [TAC] is not paying out today is that our processor can't handle the volume of money we are paying our members."

According to court records, in order to sustain the scheme, Barnes and his conspirators encouraged investors to "re-purchase" positions in the matrix, thereby reducing the amount of money needed to pay out to early investors and enabling the fraudsters to prolong the scheme. As indicated in court documents, the investment scheme began to crumble when payment processors stopped processing the Ponzi payments to victim-investors. By the time the scheme collapsed in February 2015, the conspirators had defrauded over 10,000 investors in the Charlotte-area and worldwide, and owed victim-investors at least \$51 million in purported investment returns, yet only had available approximately \$2.6 million. According to court records, over the course of the scheme, Barnes used over \$140,000 of the victims' money for his own enrichment.

Barnes had his initial appearance on November 3 and was released on bond.

The case was investigated by the U.S. Secret Service. In making the announcement, U.S. Attorney Rose thanked the Denver Regional Office of the Securities and Exchange Commission for its assistance with the case. Assistant U.S. Attorney Corey F. Ellis is in charge of the prosecution.



NASAA Cautions Investors About ‘The Next Big Thing’

Spotlight on Marijuana-related Investments, Binary Options, and Digital Currency

The North American Securities Administrators Association (NASAA) issued an advisory on November 9 reminding investors to be cautious when considering investing in three products recently making news: marijuana-related investments, binary options and digital currency.

“At first glance, these products appear to have no real connection to one another. But what they all have in common is their recent emergence as three investments that both sellers and buyers hope will become the ‘next big thing.’ Before you consider investing, make sure you understand what these products are, their benefits, and their risks,” said Judith Shaw, NASAA President and Maine Securities Administrator.

The advisory includes information to help investors better understand each of these products, including their risks.

As more jurisdictions clarify their legal definitions on the growth and use of medical and recreational marijuana, an increasing number of companies focused on the marijuana industry are seeking funds from investors. The advisory notes that marijuana investment opportunities could be particularly susceptible to ‘pump-and-dump’ scams in which promoters use misinformation to pressure investors to get in on the ‘ground floor’ thereby inflating the company’s share prices before the shares are sold by the promoters.



A binary option contract is based on the investor’s prediction of an underlying security’s value at a predetermined date. There are only two possible outcomes: the investor may receive a fixed amount of money for guessing correctly, or lose the entire investment for guessing incorrectly. Binary options are simplified options contracts that look more like online gambling than a traditional security or investment, according to the advisory.



Bitcoin and other digital currency remain in the headlines as new exchanges emerge claiming to be licensed and regulated by federal, state, or jurisdictional financial authorities and a growing number of brand-name retailers accepting digital currency as payment for goods and services. Since different countries and jurisdictions have little uniformity on how Bitcoin and digital currency is regulated, scammers will take advantage of the confusion and contradictions to misinform potential investors,” the advisory said.



“The bottom line is that before making any decisions with your money, ask questions, make sure you understand the risks, and check with your jurisdiction’s securities regulator before you invest,” Shaw said.

Are You an Informed Investor?

The Next Big Thing

*At first glance, **marijuana**, **binary options**, and **digital currency** appear to have no real connection to one another. But what they all have in common is their recent emergence as three investments that both sellers and buyers hope will become the “next big thing.” Before you consider investing, make sure you understand what these products are, their benefits, and their risks.*

Marijuana Investments

As more states and jurisdictions clarify their legal definitions on the growth and use of medical and recreational marijuana, an increasing number of companies focused on the marijuana industry are seeking funds from investors. Still illegal at the federal level and in many states, there are several factors that investors should be aware of when it comes to marijuana investment opportunities.

- The emerging marijuana market is highly volatile and only semi-legitimate because regulations for medical and recreational use vary greatly between states and jurisdictions. For this reason, the secondary market for these kinds of investments is limited and investors may have difficulty recouping their money. In some cases, the business may be forced to cease operations by law enforcement, leaving investors with no recourse to recover their funds.
- The standard information investors use to make informed financial decisions is limited for many marijuana investments. For example, since this is an emerging market there would be no specific data on historical trends, making all forecasted profits extremely speculative.
- Due to marijuana’s questionable legal status, there are limited traditional financial avenues for day-to-day and necessary business operational transactions. For example, most banks refuse to open business accounts for these companies, forcing them to transact on a cash-only basis with suppliers and other service providers
- Marijuana investment opportunities could be particularly susceptible to scams, such as “pump-and-dump,” which use misinformation to pressure investors to get in on the “ground floor” thereby pumping up the company’s share prices.

(over)

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To learn more or for help with these or other products, contact:

NC Department of the Secretary of State, Securities Division, PO Box 29622, Raleigh, NC 27626-0622
www.sosnc.com | Phone: (800) 688-4507 or (919) 733-3924 | Fax: (919) 807-2183 | E-mail: secdiv@sosnc.com



Binary Options

A binary option is a simplified options contract that looks more like online gambling than a traditional security or investment. The binary option contract is based on the investor's prediction of an underlying security's value at a predetermined date. There are only two possible outcomes: the investor may receive a fixed amount of money for guessing correctly, or lose the entire investment for guessing incorrectly. For example, an investor enters into a binary option contract worth \$100 that promises to pay the investor a 95% return if Company ABC's stock rises from its current trading price of \$20 per share to \$25 per share by a certain date. If it does, the payout is 195% of the contract's original value, or a total of \$195 (\$100 + \$95). If it doesn't, the payout is \$0 – a complete loss of the original investment.

- While some binary options are offered on a registered exchange or a designated contract market subject to SEC and CFTC oversight, the amount of Internet-based trading platforms has surged in recent years. Many of these platforms are unregulated or are completely illegal.
- Binary option contracts are an attractive strategy for scammers because they target unsophisticated investors with a simple-to-understand "investment opportunity" and a perceived low entry cost. The contracts can be executed for hourly, daily or weekly terms. Illegal or fraudulent binary option issuers and platforms have refused to pay out on investors' contracts; have stolen and sold investors' personal and financial information, such as bank account and credit card numbers; or have based the platform on software that favors the scammers by generating losing trades for the investor.

Before considering binary options, check with the following regulators to verify registration:

- Binary option registration:
 - [SEC Edgar](#)
 - [Canadian Securities Administrators National Registration Search](#)
- Trading platform registration:
 - [SEC](#)
 - [Commodities Trading Futures Commission](#)
- Financial professional licensing:
 - Contact the North Carolina Department of the Secretary of State Securities Division or visit FINRA's [BrokerCheck](#)

Digital Currency

Bitcoin and other digital currency are poised to be back in headlines again as new exchanges emerge claiming to be licensed and regulated by federal, state, or jurisdictional financial authorities and a growing number of brand-name retailers accepting digital currency as payment for goods and services.

As Bitcoin and other digital currencies attract the attention of private companies and regulators, investors should be aware of the following when approached with potential investment opportunities.

- Digital currency value fluctuates wildly because it is decentralized and often the subject of "breaking" news and rumors.
- Since different countries and jurisdictions have little uniformity on how Bitcoin and digital currency is regulated, scammers will take advantage of the confusion and contradictions to misinform potential investors.
- Hackers are attracted to digital currency because it's intangible, can be difficult to trace, and is vulnerable to cyberattacks.

The bottom line: There are many investment opportunities among the above-mentioned categories, but before making any decisions with your money, ask questions, do your homework and contact the North Carolina Department of the Secretary of State Securities Division.



This **Informed Investor Advisory** is brought to you by the North Carolina Department of the Secretary of State Securities Division, a member of the North American Securities Administrators Association. For more investor alerts and advisories, visit the NASAA website at www.nasaa.org.





Secretary Marshall joined SOSNC staffers Horace Farrar and Alexandria Stallings in greeting folks at the Department's State Fair booth.

SOSNC staff manned the Department's booth in the Kerr Scott Building throughout the State Fair, answering questions and offering information about everything from incorporating your business to protecting yourself from investment fraud. Secretary of State Elaine F. Marshall was also on hand meeting fair-goers and fielding questions.

The Department handed out over 47,000 brochures and other materials to fair-goers. If you missed us at the fair, you can always visit us online at www.sosnc.com to learn more about everything from protecting yourself from investment scams to researching charities licensed with the Secretary of State's Office.

SOSNC at the State Fair

The 2015 North Carolina State Fair was the second most highly attended on record, with 1,019,738 people passing through the gates over the course of the fair's 11 day run. In between the elephant ears, midway rides and agricultural exhibits, thousands of fair-goers got a little financial education from the Secretary of State's Office.

SOSNC staff manned the Department's booth in the Kerr Scott Building throughout the State Fair, answering questions and offering information about everything from incorporating your business to protecting yourself from investment fraud. Secretary of State Elaine F. Marshall was also on hand meeting fair-goers and fielding questions.

NC Investment Advisers & Representatives: Remember to Renew!

For those investment advisers and investment adviser representatives who have attended our compliance workshops in recent years, the image below should be a familiar one to you.

It is to remind you that, while you are sitting around eating Thanksgiving dinner, you need to remember to renew your registration as an adviser or representative for 2016. You will recall that, by statute, your registration as an investment adviser or representative automatically terminates on December 31 **UNLESS** you take steps to renew it. For the 2016 renewal season, Preliminary Renewal Statements became available beginning November 16, 2015, and the deadline for receipt of Preliminary Renewal Statement payments is **December 18, 2015**. Firms must use their FINRA Renewal Accounts to pay their annual renewal fees.

For more information, please visit the [FINRA IARD Renewal Program](#) information page.



NASAA Launches New Website to Protect Senior Investors

A new website launched this month by the North American Securities Administrators Association (NASAA) focuses on providing easy access to information that can protect senior citizens from investment fraud through education and awareness.

ServeOurSeniors.org provides a central clearing house of information, with sections geared specifically toward senior investors, caregivers, the financial industry and the officials shaping policy. We hope you will take the time to check out this valuable new resource and add it to your browser bookmarks!

Follow SOSNC on Social Media!



The North Carolina Secretary of State's Office has launched accounts on several popular social media platforms as part of our ongoing efforts to enhance our community outreach.

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

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



Operator of Multi-Million-Dollar Ponzi Scheme Sentenced to More Than Nine Years in Prison on Securities Fraud Charges

Daniel H. Williford, 57, of Fleetwood, N.C. was sentenced on Tuesday, October 27 to 110 months in prison for operating a Ponzi scheme that defrauded nearly 100 investors, announced Jill Westmoreland Rose, U.S. Attorney for the Western District of North Carolina. In addition to the prison term, U.S. District Judge Max O. Cogburn, Jr. ordered Williford to serve three years of supervised release and to pay \$17,915,013.35 as restitution.

U.S. Attorney Rose is joined in making today's announcement by John A. Strong, Special Agent in Charge of the Federal Bureau of Investigation (FBI) in North Carolina.

According to filed court documents and statements made in court, from January 2007 through July 2013, Williford operated a fraudulent investment scheme, through which he obtained more than \$44 million from over 200 investors in Charlotte and elsewhere, causing nearly \$18 million in losses to more than 100 investors by the time the scheme collapsed. Court records show that Williford lied to his victims, promising their money would be invested in wireless Internet equipment, Internet towers, and other facilities and companies. According to court records, rather than investing the victims' money as promised, Williford used the majority of the funds to run a Ponzi-style scheme and used a portion to fund his personal lifestyle. Court records show that over course of the fraud, Williford invested only \$7.7 million of the victims' money and used approximately \$32 million to pay some of his victims' supposed "profits" on their investments and to cover personal expenses.

Court records also show that even after Williford ceased having any legitimate business operations, he continued to solicit money from investors for several years. One victim told the court yesterday evening that he was Williford's co-pilot in a commercial airliner, and that Williford had literally defrauded him on the runway before takeoff. Other victims spoke about being unable to retire, declaring bankruptcy, losing children's college savings, and one victim told the court he would have to sell his businesses, jeopardizing the jobs of over 50 employees as a result of the fraud. Williford pleaded guilty to securities fraud in July 2014.

Judge Cogburn said that Williford's lengthy sentence was intended to "frighten those who will think about doing this, to make them think twice about stealing other people's money" and to make such people realize "that going to prison for that long is not worth it." Judge Cogburn also noted that the victims "will suffer a long time," and pointed to the "callousness and huge period of time in which [Williford] took these people's money" as a basis for the sentence.

The FBI investigated the case. Assistant U.S. Attorney Dan Ryan of the U.S. Attorney's Office in Charlotte prosecuted the case.



IARD System Fee Waiver Announced for Investment Adviser Firms

NASAA Continues Reduced System Fees for Investment Adviser Representatives

The North American Securities Administrators Association (NASAA) announced on November 3 that the waiver of the Investment Adviser Registration Depository (IARD) system fees for investment adviser firms and the continuation of substantially reduced initial set-up and annual system fees paid by investment adviser representatives (IARs).

“We are pleased that we are able to once again waive system fees while maintaining a quality IARD system,” said Judith Shaw, NASAA President and Maine Securities Administrator.



For 2016, the initial IARD set-up and renewal fee will continue to be \$10 for IARs, reduced significantly from the \$45 charged when the IARD system first became operational. NASAA’s Board of Directors monitors the IARD system’s revenues and, if warranted, will make future adjustments to ensure that the system continues to operate effectively and efficiently, Shaw said.

The IARD system is an Internet-based national database sponsored by NASAA and the SEC that provides investment advisers and their representatives a single source for filing state and federal registration and notice filings. The IARD serves state and federal regulators as a nationwide database for the collection and dissemination of information about individuals and firms in the investment advisory field. IARD system fees are used for user and system support and for enhancements to the system.

The system contains the employment and disciplinary histories of more than 29,000 investment adviser firms and more than 325,000 individual investment adviser representatives. This information is used to help the public research an investment adviser’s background through the Investment Adviser Public Disclosure (IAPD) database, which provides instant access to registration documents filed by SEC- or state-registered investment advisers.

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. You owe it to yourself and your family to check.



Rutherford Co. Man Sentenced to 57 Months in Prison on Securities Fraud Charges for Stealing More Than \$2 Million from More Than 30 Investors

U.S. District Judge Max O. Cogburn, Jr. on October 27 sentenced Chuckie Beaver, 52, of Ellenboro, N.C. to 57 months in prison for defrauding more than 30 investors of over \$2 million, announced Jill Westmoreland Rose, U.S. Attorney for the Western District of North Carolina. Judge Cogburn also ordered Beaver to serve three years under court supervision after he is released from prison.

Matthew Quinn, Assistant Special Agent in Charge of the United States Secret Service, Charlotte Field Division and Thomas L. Noyes, Inspector in Charge of the Charlotte Division of the U.S. Postal Inspection Service (USPIS) join U.S. Attorney Rose in making the announcement.

According to information contained in court documents and the sentencing hearing, Beaver was the sole owner of "Best Services, Inc.," (Best Services), a company specializing in the repair of industrial electronic equipment. Court records show that from June 2012 to April 2014, Beaver induced over 30 victims, including friends, neighbors, and fellow church members, to invest in his fraudulent scheme, falsely claiming that his company needed additional capital to purchase materials to complete a large number of outstanding repair orders from major corporations.

To further the scheme, Beaver created and showed his investors fake documents, including bogus repair orders indicating significant work activity, fake customer checks, and fake customer e-mails, giving a false impression he had strong relationships with major corporations.

Court records show that Beaver often gave his victims post-dated checks at the time of their initial investment, written for the full amount of the promised investment plus as much as 100% interest. According to court records, when the investors' checks were returned by the bank for insufficient funds, Beaver made up a number of excuses to his victims, and, in some instances, he induced the victims to invest additional funds with the promise of even greater returns.

Beaver previously admitted in court that contrary to what he promised his investors, he used their money to pay for personal expenses and to make payments to earlier investors, commonly referred to as Ponzi payments. In total, over the course of the scheme, Beaver defrauded more than 30 individuals from Mecklenburg, Gaston, Cleveland and Lincoln counties of more than \$2 million. Beaver pleaded guilty to securities fraud in November 2014.

In announcing Beaver's sentence, Judge Cogburn said that, "Everybody needs to watch out for this defendant" and stated that he did not trust anything the defendant said. "It is obvious he is a con man," Judge Cogburn noted, adding, "Once a con man always a con man."

Beaver is in federal custody and will be transferred to the custody of the Federal Bureau of Prisons upon designation of a federal facility. All federal sentences are served without the possibility of parole.

The investigation was handled by the Secret Service and USPIS. Assistant United States Attorney Kevin Zolot, of the U.S. Attorney's Office in Charlotte prosecuted the case.



FINRA Orders an Additional Five Firms to Pay \$18 Million in Restitution to Charities and Retirement Accounts Overcharged for Mutual Funds

The Financial Industry Regulatory Authority (FINRA) announced on October 27 that it has ordered five firms to pay restitution estimated at more than \$18 million, including interest, to affected customers for failing to waive mutual fund sales charges for eligible charitable organizations and retirement accounts. The following firms were sanctioned:

- Edward D. Jones & Co., L.P. – \$13.5 million in restitution
- Stifel Nicolaus & Company, Inc. – \$2.9 million in restitution
- Janney Montgomery Scott, LLC – \$1.2 million in restitution
- AXA Advisors, LLC – \$600,000 in restitution
- Stephens Inc. – \$150,000 in restitution

In [July 2015](#), FINRA had ordered Wells Fargo Advisors, LLC; Wells Fargo Advisors Financial Network, LLC; Raymond James & Associates, Inc.; Raymond James Financial Services, Inc.; and LPL Financial LLC to pay restitution for similarly failing to waive mutual fund sales charges for certain charitable and retirement accounts. Collectively, an estimated \$55 million in restitution will be paid to more than 75,000 eligible retirement accounts and charitable organizations as a result of those cases and the cases announced today. Brad Bennett, FINRA's Executive Vice President and Chief of Enforcement, said, "These actions are further evidence of our commitment to pursue substantial restitution for adversely affected mutual fund investors who were not afforded the full benefit of available sales charge waivers. Cooperation credit was granted to those firms that were proactive in identifying and remediating instances where their customers did not receive applicable discounts."

Mutual funds offer several classes of shares, each with different sales charges and fees. Typically, Class A shares have lower fees than Class B and C shares, but charge customers an initial sales charge. Many mutual funds waive their upfront sales charges on Class A shares for certain types of retirement accounts, and some waive these charges for charities.

FINRA found that although the mutual funds available on the firms' retail platforms offered these waivers to charitable and retirement plan accounts, at various times since at least July 2009, the firms did not waive the sales charges for affected customers when they offered Class A shares. As a result, more than 25,000 eligible retirement accounts and charitable organizations at these firms either paid sales charges when purchasing Class A shares, or purchased other share classes that unnecessarily subjected them to higher ongoing fees and expenses.

FINRA also found that Edward Jones, Stifel Nicolaus, Janney Montgomery, AXA and Stephens failed to adequately supervise the sale of mutual funds that offered sales charge waivers. The firms unreasonably relied on financial advisors to waive charges for retirement and eligible charitable organization accounts, without providing them with critical information and training.

In concluding these settlements, Edward Jones, Stifel Nicolaus, Janney Montgomery, AXA and Stephens neither admitted nor denied the charges, but consented to the entry of FINRA's findings. Investors can obtain more information about, and the disciplinary record of, any FINRA-registered broker or brokerage firm by using FINRA's BrokerCheck. FINRA makes BrokerCheck available at no charge. In 2014, members of the public used this service to conduct 18.9 million reviews of broker or firm records. Investors can access BrokerCheck at www.finra.org/brokercheck or by calling (800) 289-9999. Investors may find copies of this disciplinary action as well as other disciplinary documents in [FINRA's Disciplinary Actions Online database](#). Investors can also call [FINRA's Securities Helpline for Seniors](#) at **(844) 57-HELPS** for assistance or to raise concerns about issues they have with their brokerage accounts and investments.



Calendar of Upcoming Events

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

Date	City	Details
11/23/15	Black Mountain	An official from the Secretary of State's Office will give a presentation on preventing investment fraud. Location: Givens Highland Estate, 200 Tabernacle Road Time: 2:00 PM—3:00 PM. For more information contact Ayden Jones at 828-357-1049.
12/1/15	Ahoskie	An official from the Secretary of State's Securities Division will give a presentation about the "Elder Investment Fraud & Financial Exploitation (EIFFE) Prevention" program in Hertford County. For more information contact Valorie Cook at VCookevidanthealth.com .
12/4/15	Greenville	An official from the Secretary of State's Securities Division will provide information about about the "Elder Investment Fraud & Financial Exploitation (EIFFE) Prevention" program at "The Dementia Journey: Challenging Times" Conference. Location: Hilton Greenville. For more information, contact Claire Mills at millscl@ecu.edu or 252-744-5224.
12/8/15	Raleigh	An official from the Secretary of State's Office will give a presentation on preventing investment fraud to the Governor's Advisory Council on Aging. For more information contact Mary Edwards at 919-855-3437.
12/10/15	Fayetteville	An official from the Secretary of State's Office will give a presentation on preventing investment fraud to the Cumberland County Council on Aging. For more information, contact Lisa Hughes at lhughes@cccocoa.org .
12/15/15	Raleigh	An official from the Secretary of State's Office will present information about investor protection and what businesses setting up shop in North Carolina need to know as part of the 18th Annual Small Business Expo. Location: Southeast Raleigh Magnet High School, 2600 Rock Quarry Road. Time: 4:00 PM—6:00 PM. For more information please contact Maria Torres at 919-996-4271 or Maria.a.torres@raleighnc.gov .
1/6/16	Chapel Hill	Secretary of State Elaine F. Marshall presents CLE to Orange County Bar Association. Location: 1663 Restaurant. Time: Noon—1:30 PM. For more information, please contact Jeremy Browner at 919-537-8039 or jb@brownerlaw.com .



On The Docket

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

Darren Joseph Capote, of Patterson, NY, was indicted on July 11, 2011, in Ashe County Superior Court on three Class C felony counts of securities fraud. He is alleged to have defrauded an elderly victim in Ashe County. He was released from custody on a \$100,000 secured bond. His next hearing is set for March 7, 2016.

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

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

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

Recent Enforcement Actions

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



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

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

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

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



News from the Regulators

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

[SEC Proposes Rules to Enhance Transparency and Oversight of Alternative Trading Systems](#)

November 18, 2015—The Securities and Exchange Commission today announced it has voted to propose rules to enhance operational transparency and regulatory oversight of alternative trading systems (ATSs) that trade stocks listed on a national securities exchange (NMS stocks), including “dark pools.”

“Investors and other market participants need more and better information about how alternative trading systems work,” said SEC Chair Mary Jo White. “The proposed changes would represent a critical step forward in delivering greater transparency to investors and enhancing equity market structure.”

[FINRA Fines Scottrade \\$2.6 Million for Significant Failures in Required Electronic Records and Email Retention](#)

November 16, 2015—The Financial Industry Regulatory Authority (FINRA) announced today that it fined Scottrade, Inc. \$2.6 million for failing to retain a large number of securities-related electronic records in the required format, and for failing to retain certain categories of outgoing emails. Scottrade also did not have a reasonable supervisory system in place to achieve compliance with certain Securities and Exchange Commission (SEC) and FINRA books and records rules, which contributed to its record-retention failures.

Federal securities laws and FINRA rules require that business-related electronic records be kept in non-rewritable, non-erasable format (also referred to as "Write-Once, Read-Many" or "WORM" format) to prevent alteration. The SEC has stated that these requirements are an essential part of the investor protection function because a firm's books and records are the "primary means of monitoring compliance with applicable securities laws, including antifraud provisions and financial responsibility standards."

[FTC and Veterans Administration Sign Agreement Furthering Efforts To Protect Service Members Who Use Military Education Benefits](#)

November 12, 2015—The Federal Trade Commission and the Veterans Administration signed a [Memorandum of Agreement](#) to further their ongoing efforts to stop fraudulent and deceptive practices targeted at U.S. service members, veterans and dependents who use military education benefits.

The agreement is designed to enhance cooperation between the FTC and the VA in investigating and taking action against institutions that target service members with unfair or deceptive advertising or enrollment practices. It outlines terms under which the VA can refer potential violations to the FTC.

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 [John Maron](mailto:jmaron@sosnc.com), Director of the Investor Education Program, or call (919) 807-2106.

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

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