



# North Carolina Department of the Secretary of State

*Hon. Elaine F. Marshall, Secretary*

**June 2015 SECURITIES NEWSLETTER • Vol. 7, No.5**

## In this Issue:

Jenkins Sentenced	1
Wax House Ringleaders Sentenced	2
Secretary of State Urges People to Report Elder Abuse	3
Elder Abuse Growing, Underreported	3
Stepping Out Against Elder Abuse	4
Planning for Financial Diminished Capacity	5
Survey on Anti-Fraud Messaging	8
Staff News	9
BrokerCheck Ad Campaign	9
Investor Education In Your Community	13
On the Docket	14
Enforcement Actions	15
News from the Regulators	16

**NC Securities Division  
Investor Protection  
Hotline**

**1-800-688-4507**

[www.secretary.state.nc.us/Sec/](http://www.secretary.state.nc.us/Sec/)

## Mailing Address:

PO Box 29622  
Raleigh, NC 27626-0622

[www.sosnc.com](http://www.sosnc.com)

## Michael Anthony Jenkins Sentenced in \$1.79 Million Securities Fraud Case



Michael Anthony Jenkins

A multi-year investigation and prosecution by the North Carolina Secretary of State’s Securities Division came to a close on May 26 with a guilty plea from Michael Anthony Jenkins and a lengthy prison sentence.

Wake County Superior Court Judge Donald W. Stephens sentenced Jenkins to a minimum of nine years and eight months and a maximum of just over 13 years in prison following Jenkins’ guilty plea to three counts of felony securities fraud and one count of felony obtaining property by false pretenses.

Secretary of State Securities Investigators say Jenkins defrauded at least 435 victims – most of them North Carolina residents - out of an estimated \$1.79 million dollars. From January of 2011 through January of 2012, Jenkins told investors he would use their funds to trade commodities futures or “E-mini futures” through his company, Harbor Light Asset Management, LLC. Jenkins instead converted funds to his personal use and used money from later investors to pay earlier investors.

Jenkins was never registered with the NC Secretary of State’s Office to sell securities, nor was he registered with the US Commodity Futures Trading Commission to act as a commodities trader.

In February of 2014, a United States District Court Order for a permanent injunction was entered against Jenkins and Harbor Light Asset Management, LLC, requiring they jointly pay \$1.3 million in restitution and \$3.9 million in civil penalties, and imposing permanent trading and registration bans.

“This Ponzi scheme took a serious financial toll on victims,” said Secretary of State Elaine F. Marshall following the sentencing. “We hope that the people hurt by this scam will take a measure of comfort in this prison sentence for Mr. Jenkins. I also want to urge investors to always call our Securities Division at 1-800-688-4507 to make sure the people pitching you investment deals are licensed before handing over any of your money. Calling our Securities Division would have revealed that Mr. Jenkins was never registered to sell securities, and that should always send up a major red flag for anyone considering an investment.”

The Securities Division gratefully acknowledges the assistance and cooperation of the US Commodity Futures Trading Commission, as well as the Honorable Lorrin Freeman and the Wake County District Attorney’s Office, in the successful investigation and prosecution of Jenkins and Harbor Light Asset Management, LLC.



# Leaders of Operation Wax House Sentenced to Lengthy Prison Terms

Senior U.S. District Judge Graham C. Mullen on May 26 sentenced four defendants involved in mortgage and investment fraud schemes codenamed “Operation Wax House,” including three of the conspiracy’s leaders, announced Jill Westmoreland Rose, Acting U.S. Attorney for the Western District of North Carolina.

Judge Mullen sentenced James Tyson, Jr., 34, of Charlotte, to 30 years in prison, Carrie Tyson, 61, of Winterville, N.C., to 18 years in prison, Victoria Hunt, 36, of Rockville, Maryland, to 8 years in prison, and Vonetta Tyson Barnes, 41, of Mililani, Hawaii, to 30 days in prison. Each defendant was also sentenced to serve a term of three years supervised release. Tyson, Jr., his mother, Carrie Tyson, and Victoria Hunt are three of the leaders of the Racketeering Influenced Corrupt Organization (RICO) (the “Enterprise”) which operated in

Mecklenburg and Union Counties from approximately 2005 until the defendants were arrested in 2012. A fourth leader, Ramin Amini, remains a fugitive. The Enterprise was responsible for a mortgage fraud and an investment fraud scheme that collectively defrauded victims of more than \$75 million.

John A. Strong, Special Agent in Charge of the Federal Bureau of Investigation (FBI), Charlotte Division and Thomas J. Holloman, III, Special Agent in Charge of the Internal Revenue Service, Criminal Investigation Division (IRS-CI) joined Acting U.S. Attorney Rose in making the announcement.

See [“Wax House”](#) continued on Page 10

## Fort Mill Man Sentenced to Nine Years in Prison in Operation Wax House

Senior U.S. District Judge Graham Mullen on May 6 sentenced a South Carolina man to 108 months in prison for his role as the “Chief Investment Officer” for an entity involved in the \$75 million racketeering conspiracy known as “Operation Wax

*“Toby Hunter and other members of this vast racketeering enterprise showed utter contempt for the law and callous disregard for the victims.”*

*Elaine F. Marshall  
Secretary of State*

House,” announced the Jill Westmoreland Rose, Acting U.S. Attorney for the Western District of North Carolina. In addition to the lengthy prison term, Toby Hunter, 39, of Fort Mill, S.C. was also sentenced to three years of supervised release and was ordered to pay \$8,095,903.80 in restitution to victims.

North Carolina Secretary of State Elaine F. Marshall and John A. Strong, Special Agent in Charge of the Federal Bureau of Investigation (FBI), Charlotte Division and Thomas J. Holloman III, Special Agent in Charge of the Internal Revenue Service, Criminal Investigation Division (IRS-CI) joined Acting U.S. Attorney Rose in announcing the sentence.

“Our agents and enforcement attorneys worked diligently with our federal partners on this case for several years, and we were gratified to see this end result in federal court. Toby Hunter and other members of this vast racketeering enterprise showed utter contempt for the law and callous disregard for the victims. I want to thank our federal partners for their work in bringing this case to such a successful conclusion and giving victims some comfort in knowing that justice has been done,” said Elaine F. Marshall, North Carolina Secretary of State.

“Toby Hunter was a financial predator, now unable to harm investors for a long time. We are grateful for our partnership with the North Carolina Secretary of State, Securities Division, the FBI, and the IRS. With such a team, fraudsters and scammers should beware: we are coming for you,” said Jill Westmoreland Rose, Acting United States Attorney.

According to filed court documents and statements made during Hunter’s sentencing hearing, Hunter and his conspirators collectively stole over \$27 million from more than 50 investor victims.

See [“Hunter”](#) continued on p. 10



# Secretary of State Urges Citizens to Report Elder Abuse

*'Crime of the 21<sup>st</sup> Century' costs victims \$2.9 billion a year*



In recognition of World Elder Abuse Awareness Day coming up on June 15, Secretary of State Elaine F. Marshall is urging citizens to value and protect North Carolina's senior citizens by reporting possible abuse.

"There are many forms of elder abuse, including physical, emotional, neglect or abandonment, and financial elder abuse," said Secretary Marshall. "Financial abuse is considered the most common form of elder abuse, and it costs seniors an estimated \$2.9 billion a year."

The NC Department of the Secretary of State is joining the North American Securities Administrators Association (NASAA) and the National Adult Protective Services Association (NASPA) in urging people to report financial abuse and exploitation, including investment fraud.

"Financial losses from investment scams can be especially devastating for senior citizens, and it often takes a physical and emotional toll as well as a financial one," noted Secretary Marshall. "Investment scam artists are in my opinion some of the worst criminals out there. They will spend months gaining the trust of their victims and then act without remorse to take their life savings. Sadly, in most cases by the time authorities are alerted, the bulk of victims' money is gone. That is why it is imperative that financial abuse be reported quickly. If you see something, say something."

Investment fraud should be reported to the NC Secretary of State's Securities Division at 1-800-688-4507. Other types of elder abuse can be reported to your county Department of Social Services, the NC Department of Health and Human Services' toll-free Care Line at 1-800-662-7030, or to local authorities. You may also report abuse through the national Eldercare Locator at 1-800-677-1116.

For more information about the North Carolina Department of the Secretary of State's role in protecting investors, visit [www.sosnc.com](http://www.sosnc.com). Investors are encouraged to call the Secretary of State's Securities Hotline at 1-800-688-4507 before investing their money to find out if a broker, adviser, or investment offering is registered with the State. Check out SOSNC's [Patient Education Brochure](#) to learn how to spot the signs of possible elder financial abuse.



## Elder Abuse a Growing, Vastly Underreported Problem

A report released in May by Stateline, a nonpartisan, nonprofit news service of the Pew Charitable Trusts, takes a close look at elder abuse.

The report suggests that while advocates and officials have little doubt the problem is growing as the senior population grows, capturing the issue's full scope is proving difficult. Elder abuse is underreported and no official national statistics exist indicating just how many seniors are suffering abuse, leaving state and local governments struggling to cobble together a patchwork system of reporting methods and regulation.

Read [Stateline's full report](#).

## ***JOIN US AS WE UNITE AGAINST ELDER ABUSE!***

Each year, an estimated 2 MILLION OLDER AMERICANS are victims of abuse, neglect and exploitation. Join us in raising public awareness of ELDER ABUSE and learn ways that **YOU** can make a difference in your community!

### ***2015 2nd Annual Walk Toward Awareness***

# ***“STEPPING OUT AGAINST ELDER ABUSE”***

*In celebration of World Elder Abuse Awareness Day*

## **Monday, June 15th**

**10:00AM-2:00PM**

**Elizabeth City, N.C.**

*Walk will begin at the  
Pasquotank County Courthouse-206 E. Main St. & continue to  
Mariner’s Wharf Park at 400 S. Water St.  
on the waterfront !*

***Lunch Provided***

*Entertainment, Food, Exhibits and more!*

***Event T-shirts will be available for \$5!***

*an Education and Advocacy Event*

*Sponsored by the:*

## **Albemarle Commission’s Area Agency on Aging**

*In partnership with:*

City of Elizabeth City

Pasquotank County

ECPC Parks and Recreation Department

Elizabeth City Police Department

Elizabeth City Fire Department

***YOU MUST PRE-REGISTER.***

**CONTACT: *LYNNE RAISOR AT 426-5753 EXT. 226***

## ***REGISTRATION DEADLINE is JUNE 8<sup>TH</sup>.***







# Investor Bulletin and Consumer Advisory: Planning for Diminished Capacity and Illness

*The SEC's Office of Investor Education and Advocacy and the CFPB's Office for Older Americans issued this bulletin to help investors and consumers understand the potential impact of diminished capacity on their ability to make financial decisions and to encourage investors and consumers to plan for possible diminished financial capacity well before it happens.*

## **What is diminished financial capacity?**

“Diminished financial capacity” is a term used to describe a decline in a person’s ability to manage money and financial assets to serve his or her best interests, including the inability to understand the consequences of investment decisions. While the inability to manage one’s money is clearly a problem in itself, when people of any age lose the capability to manage their finances, they may also become more vulnerable to investment fraud and other forms of financial abuse.

## ***Preparing for Your Own Financial Future: Hope for the Best, But Plan for the Worst.***

Losing the ability to manage your finances may be something you’d rather not think about. We often think about our financial capabilities, like our ability to drive, as an important measure of our independence. But planning ahead may help you stay in control of your finances, even if diminished financial capacity becomes a serious problem. Taking the steps listed below now may help avoid or minimize problems for you and your family.

- **Organize your important documents.** Organize and store important documents in a safe, easily accessible location. That way, they are readily available in an emergency. Give copies to trusted loved ones or let them know where to find the documents. Typically, the following documents will be most relevant to your finances:
- **Bank and brokerage statements and account information.** Make a list of your accounts with account numbers. *Keep a separate list of online bank and brokerage passwords and PINs and keep the lists in a safe place.* In addition, make a list of the locations of your safe-deposit boxes, including where the keys to the safe-deposit boxes are located. Also, keep your recent bank and brokerage statements available, as well as information about how to get those statements online if you access them electronically.
- **Mortgage and credit information.** Make a list of your debts and regular payments, with account numbers and names of the financial institutions that issued the loans or credit cards.
- **Insurance policies**
- **Pension and other retirement benefit summaries**
- **Social Security payment information**
- **Contact information for financial and medical professionals,** such as doctors, lawyers, accountants, and securities professionals.
- **Provide your financial professionals with trusted emergency contacts.** If you have a financial professional, such as a broker or investment adviser, provide that person with emergency or alternate contact information in case he or she cannot contact you or suspects something is wrong. You may wish to discuss with your financial professional what you would consider to be an “emergency,” and specify when he or she may contact someone on your behalf. Discuss what information can be shared with your emergency contact. For example, you might provide your financial professional with a simple written instruction, such as: *“Please call my son Mark at (222) 555-5555 if: (i) you are unable to reach me and there appears to be unusual activity regarding my*

account; (ii) you are unable to reach me for two weeks irrespective of any unusual account activity; or (iii) if you think I am confused or acting strangely.” Providing an emergency contact generally will not enable the person to make investment decisions on your behalf – so be sure to take other steps if you want someone else to manage your accounts if you cannot.

- **Consider creating a durable financial power of attorney.** A financial power of attorney gives someone the legal authority to make financial decisions for you if you cannot. That person is called your agent. The document is called “durable” because it remains in effect even if you become incapacitated. You retain the ability to change it or cancel it as long as you are still able to make decisions. A financial power of attorney differs from a health care power of attorney, which only covers health care decisions. You may want to consult with a lawyer to determine whether a durable financial power of attorney is right for you. After signing a durable financial power of attorney, you can still manage your money and property as long as you have the ability to make decisions. Also, it is important to remember that you always have the option to change who you choose to act as your appointed representative and the individuals you allow to access your financial information. *As you are essentially giving financial decision-making authority to your agent, it is critical that he or she be someone you can trust.*
- **Think about involving a trusted relative, friend, or professional.** Besides listing them as emergency contacts, you may wish to give a trusted relative, friend, or professional an overview of your finances (even if you don’t want to share all the details). For example, you might ask your broker or bank to send duplicate statements to your daughter or accountant. You might also consider asking a trusted friend or relative to join you on periodic visits to your financial professional. This would give someone you trust a sense of your financial situation and with whom you’ve been doing business. *If you choose to involve a relative or friend, it is very important it is someone you are sure you can trust. Consider discussing the selection of the person with a number of other trusted friends or relatives.*
- **Keep things up to date.** Be sure that if something changes (for example, you open a new account) you keep your information as current as possible. Also, your trusted contact may change over time. Keep your financial professionals informed of changes regarding who has authority to review your account or whom they should contact in case of an emergency.
- **Speak up if something goes wrong.** If you ever think someone is taking advantage of you, or that you’ve been the victim of a fraud, speak up. Sadly, sometimes even financial professionals and people we know commit financial crimes. There’s no shame in being a victim, and the sooner you let someone know about it, the better chance there is of putting an end to it. Contact information for reporting abuse appears at the end of this article.

### ***Helping Others Who May Have Diminished Financial Capacity***

*You may have a parent or other loved one with diminished financial capacity, or who you worry may face that issue in the future. If so, consider the following steps to help.*

- Have an open conversation about investments and other financial matters sooner rather than later. Even if it feels awkward, it is important to have an honest conversation about finances. Ask your loved one to consider taking the steps outlined above. Even if he or she wants to maintain control of his or her finances in the future. Explain that advance planning is a way to make sure that a trusted person makes decisions if he or she no longer can.
- Help your relative or friend with managing finances. You may also offer to take a more active role in helping your loved one manage his or her financial accounts. Be alert both to mistakes that your loved one may make in managing finances and to any signs of elder financial abuse. It can be hard to tell whether actions are the result of confusion or of financial exploitation. For example, if you find that a loved one has paid the same bill twice by mistake, you should help him or her fix the error. But beware that multiple or unusual payments could also be a sign of financial exploitation, so don’t rule out that possibility without looking into it. Be on guard for any sudden changes in investments that seem out of keeping with the loved one’s longstanding goals, values and investment style. These changes may have come about because of confusion or may be a sign of financial exploitation.

- **If your family member or friend has named you to manage money or property**, understand your responsibilities and how you can protect your loved one from financial exploitation. For example, your loved one may have named you as an agent under a power of attorney or a trustee under a revocable living trust. Read the Consumer Financial Protection Bureau's [Managing Someone Else's Money](#) guides. They walk you through your duties, tell you how to watch out for financial exploitation and scams, and tell you where you can go for help.

*If you've been asked by a loved one or friend to help out with his or her finances, here are some things you can do to help.*

- **Help with ongoing financial responsibilities.** You may need to take on immediate tasks, such as helping to pay bills, arranging for benefit claims, preparing tax returns, or helping with investment decisions.
- **Review their investment portfolio.** This might be a good time to help reevaluate the person's portfolio in light of his or her financial and medical situation. Does the person expect a big increase in health care, personal care or other costs as a result of his or her illness or disability? If so, will he or she have enough cash or liquid assets on hand to cover those costs? (Liquid investments are assets that the owner can sell readily and without paying a hefty fee to get money when it is needed.) These can be complex questions and you may wish to discuss them with a financial professional. Keep in mind that buying and selling investments on behalf of a loved one requires legal authority, through a power of attorney, a trust or similar arrangement.
- **Assess the riskiness of their investment portfolio.** All investments involve some level of risk. But do the investments present the right level of risk at this stage of the person's life? If not, you may wish to consider contacting a registered investment adviser representative or registered broker-dealer representative for help.
- **Contact their investment professional.** If your loved one has a financial professional and has authorized that person to speak with you, make the professional aware of your loved one's condition. This is critical so that the financial professional can make recommendations appropriate to the client's financial needs and can watch for signs of declining financial skills or potential abuse.

Your financial professional, or that of your loved one, may raise topics discussed in this bulletin. Financial services firms are paying increasing attention to improving communications on this subject. If a financial professional does not raise these topics, however, you should feel free to raise them yourself.

**To report suspected elder financial abuse involving brokers or investment advisers, contact:**

**The NC Secretary of State's Securities Division** at 1-800-688-4507 or file a complaint online at <http://www.secretary.state.nc.us/sec/complaint.aspx>.

**The SEC** at (800) 732-0330 or [www.sec.gov/complaint/select.shtml](http://www.sec.gov/complaint/select.shtml)

**The Financial Industry Regulatory Authority (FINRA)** at (240) 386-HELP (4357) or <http://www.finra.org/investors/investor-complaint-center>.

To report suspected elder abuse in general, locate the appropriate adult protective services agency by contacting the Eldercare Locator at (800) 677-1116, or [www.eldercare.gov](http://www.eldercare.gov).

Elder financial abuse often violates one or more criminal laws. To report it, contact your local police or sheriff.



## IOSCO publishes results of its survey on anti-fraud messaging

The International Organization of Securities Commissions (IOSCO) on May 6, 2015 published the results of its [Survey on Anti-fraud Messaging](#), which describes strategies used by some securities market regulators to educate individual investors about how to protect themselves against investment fraud.

The report provides information and real examples of strategies that may help other IOSCO members identify effective methods of educating investors about investment fraud. The report is based on a fact-finding survey of the members of IOSCO's Committee on Retail Investors gathering information on issues such as:

- types of fraudulent securities offerings or investment schemes in which investors have been victimized;
- common characteristics of such offerings or schemes;
- common characteristics of victims of investment fraud;
- content of anti-fraud messaging;
- communication channels used to deliver anti-fraud messages; and
- efforts to evaluate the effectiveness of anti-fraud messaging strategies.

Survey responses indicated that investment fraud has many of the same characteristics across jurisdictions. Fraudsters cold-call investors or send unsolicited emails, offering unrealistic returns or using other high-pressure sales or persuasion tactics.

In addition to raising awareness about common persuasion tactics, survey respondents also issue a similar variety of anti-fraud messages: Some warn against specific scams, but most focus on the importance of dealing with a registered investment professional (and to some extent, a registered investment product).

The securities regulators surveyed also use a variety of communication channels to send anti-fraud messages, although the most common is the traditional website. Most respondents are exploring innovative methods to reach retail investors, including mobile apps, video games and multi-media public awareness campaigns, and collaborate with others in their jurisdictions to spread anti-fraud messages.

*"This report illustrates with concrete, creative and innovative examples taken from many parts of the world, how regulators are engaged with investors to raise awareness of investment fraud,"* said Howard Wetston, Q.C., Vice Chair of the IOSCO Board, Chair of the Committee on Retail Investors and Chair of the Ontario Securities Commission. *"I trust that the report will be a helpful source for regulators in developing their own strategies to prevent fraudulent behaviors."*



### 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.



# Comings and Goings

Investor Education Specialist and Military Liaison Barbara Bennett retired from the Secretary of State's Office at the end of May after many years of dedicated state government service. Barbara crisscrossed North Carolina countless times over the years to help educate the state's investing public through workshops and presentations. She went anywhere people had questions, from senior centers to schools to military bases. We all wish Barbara well as she begins making plans for trips that won't require packing a PowerPoint presentation!

We have added two new educators and legal specialists, Lauren Benbow and Leo John, to help conduct our vital public outreach.

Lauren Benbow is now conducting investor education presentations, and will place particular emphasis on our Elder Investment Fraud & Financial Exploitation (EIFFE) Prevention Program. She will also be helping to get word out about our Advance Healthcare Directive Registry. If you are interested in having Lauren speak to your group, please contact her at [lbenbow@sosnc.com](mailto:lbenbow@sosnc.com).

Leo John is focusing more on business outreach activities, including the successful "Business Essentials" workshops that continue to be held across the state to answer business start-ups' questions about state government programs and regulations. If you are interested in having Leo speak to your group, please contact him at [LJohn@sosnc.com](mailto:LJohn@sosnc.com).

You can also direct any questions or requests for presentations to Investor Education Program Director John Maron at [jmaron@sosnc.com](mailto:jmaron@sosnc.com) or 1-800-688-4507.



## FINRA Launches National Ad Campaign Promoting BrokerCheck

The Financial Industry Regulatory Authority (FINRA) launched a national ad campaign on July 1 promoting BrokerCheck ([brokercheck.finra.org](http://brokercheck.finra.org)), FINRA's free online tool that allows investors to access information about every broker's employment history, certifications and licenses, as well as regulatory actions, violations or complaints made against them.

The ads, created by Ogilvy & Mather, feature humorous examples of people taking action without conducting any background research, including:

- a bride surprised by her organist's song choice;
- a man too late in reading the listed side effects of the medication he has taken; and
- a truck driver blissfully ignorant of a road's clearance restrictions.

Viewers are urged not to make the same type of leap-before-you-look mistakes when choosing a broker—they should use BrokerCheck.

The 15-second spots will run for five weeks on cable channels, including *CNBC*, *Bloomberg*, *CNN*, *MSNBC*, *Fox Business*, *Fox News*, *ESPN*, *Discovery*, *The History Channel* and *HGTV*. A print ad will run in *The Wall Street Journal* tomorrow. The campaign will run digitally on relevant sites that include *Bloomberg*, *CNBC*, *Fortune*, *Reuters*, *TubeMogul*, *the Undertone Network* and *Wall Street Journal*, and search engines *Google*, *Bing/Yahoo* and *YouTube*.

Chairman and Chief Executive Officer of FINRA, Richard G. Ketchum, said, "BrokerCheck is a key component to FINRA's ongoing efforts to help investors make informed choices about brokers and brokerage firms. People immediately go online to check out a new restaurant where they might spend \$25 for a meal, but don't think to use BrokerCheck when they're handing over \$2,500—or \$25,000 of their life's savings or even more—to an investment professional to invest. That has to change, and we hope this campaign will help."

[“Wax House”](#) continued from p. 2

“As leaders of the racketeering conspiracy, James Tyson, Jr., Carrie Tyson and Victoria Hunt were single-handedly responsible for the financial hardships so many of their victims have suffered. In many instances, the victims knew and trusted the defendants, only to find themselves conned out of their money and left to deal with the devastating consequences of the fraud. The lengthy sentences deliver a heavy dose of justice to the masterminds of a vast scheme that has been financially and psychologically devastating for so many individuals,” said Acting U.S. Attorney Rose.

“More than sixty people, from all walks of life, were cheated out of their hard earned money by those involved in these complex fraud schemes. These sentencing represent the leaders of this vast racketeering enterprise which utilized mortgage fraud and high yield investment schemes to enrich themselves at a time our country was facing a tenuous economic future. The numerous convictions stemming from this long term investigation are proof of the FBI’s commitment toward holding accountable all those who put our nation’s economy at risk,” said John Strong, Special Agent in Charge of FBI Charlotte.

“The brazen, sustained criminal activity perpetrated by these defendants lasted for years, and demanded the attention of IRS Criminal Investigation and our law enforcement partners. While the short-term gains of a financial crime wave such as this may appear enticing, the necessary consequences reflected in these sentencing are now their long-term reality,” said Thomas J. Holloman III, Special Agent in Charge of IRS-CI. According to filed court documents, evidence presented at trials, and statements made in court proceedings, including during the May 26th hearings:

The Enterprise, led by the three defendants sentenced on May 26th, stole approximately \$27 million from victims as part of its investment operations and approximately \$48 million in loans from financial and lending institutions as part of its mortgage fraud operations.

See [“Wax House”](#) continued on p. 11

---

[“Hunter”](#) continued from p. 2

Hunter and his conspirators used the victims’ money to pay for personal expenditures, including private jets, high profile offices, entertaining themselves and others, and supporting their luxurious lifestyles. Hunter pleaded guilty in December 2013 to one count of racketeering conspiracy.

According to filed court documents and statements made during Hunter’s sentencing hearing, Hunter served the racketeering enterprise as the Chief Investment Officer for Prestige Capital Advisors, one of the entities used to defraud investor-victims. Hunter was a registered commodity trading advisor with the National Futures Association (NFA), and had passed the Financial Industry Regulatory Authority (FINRA) Series 6 and Series 63 exams. Hunter registered Prestige Capital Advisor with the NFA, and used his education, licenses, and supposed experience to help lure investor victims to the scheme, including a victim defrauded of \$4 million.

Following the sentencing hearing, Hunter was released on bond and will be ordered to surrender to the custody of the Federal Bureau of Prisons upon designation of a federal facility. All federal cases are served without the possibility of parole.

Hunter’s case was investigated by the North Carolina Secretary of State, Securities Division, the FBI, Charlotte Division, and IRS-CI.

The Hunter prosecution was handled by Assistant U.S. Attorney Maria Vento and Special Assistant United States Attorney Kevin M. Harrington. Mr. Harrington is an Enforcement Attorney with the North Carolina Department of Secretary of State, Securities Division, and was appointed to serve as a Special Assistant United States Attorney (SAUSA) with the U.S. Attorney’s Office in Charlotte in September 2011. The SAUSA position reflects the partnership between the North Carolina Securities Division and the United States Attorney that helps ensure the effective and vigorous prosecution of white collar criminals, particularly in the area of securities fraud.

### **James Tyson, Jr.**

In court, prosecutors described defendant Tyson, Jr. as the leader of the leaders, the most culpable person in the RICO Enterprise, and the most culpable of the 91 defendants charged as part of Operation Wax House. Tyson led the Enterprise in all aspects of its operations, including its investment fraud, its mortgage fraud, and its money laundering operations as well as a conspiracy to distribute marijuana. In the May 26th court hearing, prosecutors described Tyson, Jr. as the linchpin of the multiple interwoven illegal schemes carried out by the Enterprise.

The Enterprise defrauded \$27 million from victims as part of its investment operations, using a series of sham corporations to steal from individual investor-victims. When the fraud associated with one sham corporation was discovered, the Enterprise would create another sham company with a different co-conspirator serving as the public front of the company, so that it could continue to steal money from unsuspecting investor victims. As the leader, Tyson, Jr. was involved in creating and running each of the various sham companies used by the Enterprise to steal money from victims, and he was directly involved in stealing nearly \$19 million from more than 60 individual victims.

When the Enterprise could not find victims who had money to invest, the conspirators induced individuals to become “credit” investors. In exchange for handing over their personal information and good credit to the Enterprise, the victims were falsely told that the loan payments would be made for them and they would receive investment returns. The Enterprise then took loans out in these victims’ names, kept the loan proceeds, and ultimately left the victims with thousands of dollars of debt.

In addition to the investment fraud scheme, Tyson, Jr. personally engaged in at least 18 different mortgage fraud transactions, resulting in losses to financial and lending institutions of more than \$11 million. Tyson, Jr. received more than \$2.3 million of the fraudulent proceeds from those mortgage fraud transactions, including more than \$1.5 million of fraudulent proceeds from financial institutions.

Tyson, Jr. pleaded guilty to racketeering (RICO) conspiracy, securities fraud, mortgage fraud, wire fraud, money laundering conspiracy and bank bribery conspiracy. As part of the RICO conspiracy, Tyson Jr. pleaded guilty to the predicate act of conspiracy to distribute marijuana. Prosecutors noted that Tyson, Jr. arranged truckloads of marijuana from Texas and elsewhere to be transported to North Carolina, distributing hundreds of pounds of marijuana. Tyson, Jr. also admitted to paying bribes of \$7,500 to \$30,000 to a bank employee in exchange for bogus letters of credit that he and his co-conspirators tried to leverage to fraudulently induce other victims.

In announcing Tyson Jr.’s sentence, Judge Mullen described the defendant as the “apex of this pyramid of criminal activity.” Tyson, Jr. has been in custody since he was arrested on October 21, 2012, returning from Senegal, where he was operating the Enterprise’s last fraud company, PEI, a purported import-export business.

### **Carrie Tyson**

Carrie Tyson was also a leader of the Enterprise, and, in some instances, mentored the conspirators on how to operate the various schemes. For example, Carrie Tyson created and served as President of one of the first companies the Enterprise used to steal money from victims, “Brighton Developers,” falsely promising investor-victims that their investments were secured by lots of land. When the terms of those investment contracts expired, Carrie Tyson wrote more than a million dollars in checks on an account which she knew had a negative balance. In total, Carrie Tyson was directly involved in defrauding at least 14 victims out of at least \$1.3 million. Carrie Tyson was also a leader of the Enterprise’s mortgage fraud operations, participating in at least five different mortgage fraud transactions, resulting in losses of more than \$4 million. Carrie Tyson’s husband, James Tyson, Sr., was charged and previously sentenced to 37 months in prison for his role in the scheme. Carrie Tyson pleaded guilty to RICO conspiracy in November 2013.

In announcing the sentencing, Judge Mullen noted that Carrie Tyson was “among the worst” of the defendants. She has been in custody since September 2013, when she was found to have been in violation of her conditions of release.

## **Victoria Hunt**

Victoria Hunt was the third leader of the Enterprise, who handled the Enterprise's investment fraud and money laundering operations. Hunt served as Vice President and then CEO of "Sovereign Equity Group" and CEO of "Prestige Capital" and the "Elite Automotive" card dealership, which were used by the Enterprise to steal money from individual victims. Hunt targeted her friends and professional acquaintances to invest in the Enterprise's sham businesses.

In total, Hunt, working with Tyson, Jr., defrauded more than 60 victims of more than \$19 million. Hunt also participated in the Enterprise's mortgage fraud operations, providing down-payment money for at least two transactions which resulted in losses of more than \$2 million.

Hunt pleaded guilty to RICO conspiracy, securities fraud, mortgage fraud, wire fraud and money laundering conspiracy in January 2013. Following the sentencing hearing, Hunt was released on bond. She will be ordered to report to the Federal Bureau of Prisons upon designation of a federal facility.

## **Vonetta Tyson Barnes**

Vonetta Tyson Barnes, Carrie Tyson's daughter, was a promoter in the Enterprise's investment fraud operations. She served as the President of "Sovereign Equity Group" after her brother, Tyson, Jr., stepped down. Barnes also created another sham company, "Inspiron Holdings," used by the Enterprise to steal money from victims. In total, Barnes was involved in stealing nearly \$900,000 from approximately 16 victims. She pleaded guilty in September 2013 to one count of RICO conspiracy. Following the sentencing hearing, Barnes was released on bond and will be ordered to report to the Federal Bureau of Prisons upon designation of a federal facility.

All federal sentences are served without the possibility of parole.

These convictions are the latest in Operation Wax House, an investigation which began in 2007. Of the 91 individuals charged, 89 defendants have either pleaded guilty or have been convicted following trial. The two remaining defendants are international fugitives. Of the 89 defendants convicted, five remain to be sentenced in the coming months.

Operation Wax House in the Western District of North Carolina is being handled by the Charlotte Division of the FBI and the Criminal Division of the IRS for the Financial Fraud Enforcement Task Force, along with the Securities Division of the North Carolina Secretary of State with respect to a separate prosecution. The Operation Wax House prosecution is being handled for the government by Assistant United States Attorney Maria K. Vento.

The charges were brought in connection with the President's Financial Fraud Enforcement Task Force. The task force was established to wage an aggressive, coordinated and proactive effort to investigate and prosecute financial crimes. With more than 20 federal agencies, 94 U.S. attorneys' offices, and state and local partners, it's the broadest coalition of law enforcement, investigatory and regulatory agencies ever assembled to combat fraud. Since its formation, the task force has made great strides in facilitating increased investigation and prosecution of financial crimes; enhancing coordination and cooperation among federal, state and local authorities; addressing discrimination in the lending and financial markets; and conducting outreach to the public, victims, financial institutions and other organizations. Since fiscal year 2009, the Justice Department has filed over 18,000 financial fraud cases against more than 25,000 defendants. For more information on the task force, please visit [www.StopFraud.gov](http://www.StopFraud.gov).



## 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
6/9/15	Candler	“Business Essentials” Presentation. A-B Technical Community College (Enka Campus), Small Business Center, Room 2046, 1465 Sand Hill Road. Time: 2:00 PM – 4:00 PM. Event is free, but <a href="#">registration</a> is requested.
6/9/15	Charlotte	Secretary of State Elaine F. Marshall addresses investor education issues at Southminster senior residential community, 8919 Park Road, Charlotte Time: 2:30 PM—3:30 PM. Event is free and open to the public. For more information, contact <a href="#">Kim Henderson</a> .
6/10/15	Charlotte	“2015 Fraud and Forensic Investigations Conference: Lessons Learned from the Experts,” sponsored by Pfeiffer University. Guest speakers include Frank Abagnale (subject of the book, movie and musical, “Catch Me If You Can”) and NC Secretary of State Elaine F. Marshall. Ritz Carlton-Charlotte, 201 E. Trade Street. Open to registered conference attendees only. Time: 8 AM — 5 PM. For more information, please contact Erica Burroughs, Director of Development, Pfeiffer University, at (704) 463-3038 or <a href="mailto:erica.burroughs@pfeiffer.edu">erica.burroughs@pfeiffer.edu</a> .
6/15/15	Elizabeth City	The 2nd Annual “Stepping Out Against Elder Abuse” Walk will feature exhibits, food, entertainment and an education and advocacy event. The walk will begin at the Pasquotank County Courthouse, located at 206 E. Main Street, and continue to Mariner’s Wharf Park, located at 400 S. Water Street. The education and advocacy event will include a presentation from the NC Secretary of State’s Office focused on how to recognize and avoid investment fraud, and how to register your Advance Health Care Directives on the Secretary of State’s secure, electronic Advance Directive Health Care Registry. Time: 10 AM — 2 PM. This event is free and open to the public.
6/16/15	Raleigh	The 2015 Triangle Caregivers Conference, McKimmon, 1101 Gorman Street. This conference will feature courses on everything from pain management to legal information for caregivers. The NC Secretary of State’s Office will have an informational booth at the conference. Time: 8:00 AM — 3:30 PM. Visit <a href="http://www.trianglcaregiversconference.org/agenda/">http://www.trianglcaregiversconference.org/agenda/</a> To see the full agenda. For more information, please contact the Triangle Caregivers Conference at (919) 719-6765.
6/18/15	Charlotte	“Investment Fraud: Guarding Your Assets in a Scary World” presentation to the <a href="#">Charlotte-Blue Ridge Chapter</a> of Hospitality Financial Technology Professionals, at Meyers Park Country Club, 2415 Roswell Avenue. Time: 11 AM — 12 PM. Open to HFTP members and guests only.



- |         |        |   |
|---------|--------|---|
| 7/16/15 | Shelby | “Business Essentials” Presentation. Cleveland Community College, 137 S. Post Road. Time: 6:00 PM – 9:00 PM. Event is free, but <a href="#">registration</a> is requested.                               |
| 9/23/15 | Cary   | Anti-investment fraud presentation. <a href="#">Heritage Pines Clubhouse</a> , 2000 Heritage Pines Drive. Time: 10:00 AM -- 11:00 AM. Free, but open to Heritage Pines residents and their guests only. |



## On The Docket

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

**Darren Joseph Capote**, of Patterson, NY, was indicted on July 11, 2011, in Ashe County Superior Court on three Class C felony counts of securities fraud. He is alleged to have defrauded an elderly victim in Ashe County. He was released from custody on a \$100,000 secured bond. His next court appearance in Ashe County has been scheduled for September 28, 2015.

**Claude Darrell McDougal**, formerly of Charlotte, appeared before U.S. Magistrate Judge David S. Cayer and pleaded guilty on July 24, 2014 to securities fraud for orchestrating a Ponzi scheme that defrauded his investor victims of more than \$2.5 million. McDougal has been released on his own recognizance and is currently awaiting sentencing.

**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. 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 property by false pretense. He is currently in the Yadkin County Detention Center under a \$2.5 million secured 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.

On **December 19, 2014**, the Securities Division of the North Carolina Department of the Secretary of State entered into a **Consent Order** with respondents, **Senior Veterans Council, LLC**, and **David L. Cole**. Respondent Senior Veterans Council, LLC, through its agent, Respondent David L. Cole improperly held itself out to the North Carolina investing public as an investment adviser licensed to legally engage in investment advisory business. The Consent Order also found that respondents engaged in the business of providing investment advisory services in North Carolina without being properly registered to do so under the North Carolina Investment Advisers Act. To read the Consent Order, please click [here](#).

# 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.*

## [FINRA Seeking Public Comment on Proposed Rule](#)

**May 27, 2015**—FINRA is accepting public comments until July 13 on a revised proposed rule that was released on May 27. The proposed rule would require brokerage firms to send investors an “educational communication” when the firm hires a broker the investors are dealing with. The aim is to make investors aware of the financial incentives their broker might have for moving to a new firm. The notices would include suggested questions investors might ask their brokers about any financial incentives the broker received to switch firms, all with an eye toward helping investors learn of any conflicts of interest and determine if it’s in their best interest to follow their broker to a new firm.

## [SEC Proposes Rules to Modernize and Enhance Information Reported by Investment Companies and Investment Advisers](#)

**May 20, 2015**—The Securities and Exchange Commission has proposed rules, forms and amendments to modernize and enhance the reporting and disclosure of information by investment companies and investment advisers. The new rules would enhance the quality of information available to investors and would allow the Commission to more effectively collect and use data provided by investment companies and investment advisers.

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), 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!**