

reasonable and based on the actual losses attributable to the broker misconduct.

Although you do not need to be represented by legal counsel in an arbitration case, it may be wise to hire one. Don't be misled into thinking arbitration is informal, like small claims court. An attorney will surely represent the brokerage firm.

If you seek legal representation, find an attorney familiar with securities law and how investor arbitration works. Be sure to check out the attorney's credentials. Determine the potential cost of legal help and the fee options available to you. Your state or local bar association may be able to assist you in finding a qualified lawyer.

Finally, when you agree to arbitration, you agree to accept the outcome of the arbitration. The methods of selecting arbitrators vary among organizations, but most investor arbitration panels consist of a chairperson, one panelist from outside the securities industry, and one from within the industry. There are instances where there will only be one arbitrator, however.

Most securities arbitration cases are heard under the auspices of one of these four organizations:

NASD Regulation, Inc.  
Arbitration Department  
125 Broad Street, 36th Floor  
New York City, NY 10004-2193  
(212) 858-4400

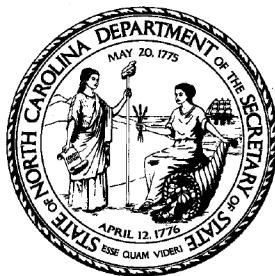
American Arbitration Association  
140 W 51st Street, 9th Floor  
New York City, NY 10020  
(212) 484-4000

Municipal Securities Rulemaking Board  
1900 Duke Street, Suite 600  
Alexandria, VA 22314  
(703) 797-6600

New York Stock Exchange, Inc.  
20 Broad Street  
New York City, NY 10005  
(212) 656-2772

## North Carolina Department of the Secretary of State

Hon. Elaine F. Marshall  
Secretary of State



*For more information,  
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<http://www.sosnc.com>

The North Carolina Department of the Secretary of State's Securities Division gratefully acknowledges the assistance of the North American Securities Administrators Association, Inc.  
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## NORTH CAROLINA DEPARTMENT OF THE SECRETARY OF STATE SECURITIES DIVISION

# RESOLVING PROBLEMS WITH SECURITIES FIRMS



## THE RULES YOUR BROKER MUST FOLLOW

While the vast majority of investment professionals are never accused of fraud or abuse, there are some who engage in misconduct. Here are the major areas you should consider when reviewing your transactions you have with your investment professional:

- A broker is required to adhere to the “know your customer” rule and should recommend only those investments that match your investment objectives and risk tolerance as stated on your New Account Form.
- Unless you grant your broker “discretion” over your account, (s)he is required by law to get your permission prior to trading in your account.
- Your broker is obligated to be truthful — and complete — in presenting investment opportunities to you. An example of misrepresentation is if your broker tells you that investing in a new issue of stock is as “safe as a CD.”
- Most investment professionals earn commissions when they buy and sell investments on behalf of their clients. If your broker trades excessively in your account for his or her benefit and not yours, you might have a valid claim against that broker for “churning.”

## MONITORING YOUR ACCOUNT

If you are dissatisfied with your brokerage house or investment professional for any reason, do not feel guilty about switching your account to another representative or firm. Remember, it is your financial future that is at stake — not theirs.

Be sure to keep accurate and complete records. Start a file and include your new account form, all correspondence, account statements, and other materials that pertain to your accounts. You should also keep a written diary of all conversations with your investment professional, especially phone calls. Such records will be helpful if you ever have a dispute with your broker.

You will receive a confirmation statement from your broker whenever a transaction takes place in your account. Be sure to check these statements against your regular account statement

to confirm only authorized transactions have taken place and that the fees or charges are correct. If you do not understand or agree with something, contact your broker immediately and get an explanation. If your broker cannot provide a satisfactory explanation, contact the branch office manager. Documenting your attempts to resolve a discrepancy or problem immediately will be important evidence if the dispute continues.

You may receive a “happy letter” from your broker. These are letters from the brokerage firm asking if you have any concerns about your account. Firms send out these letters when they detect abnormal activity in an account. Follow up by asking the firm's compliance officer to explain any problems indicated in the letter.

## RESOLVING PROBLEMS WITH YOUR INVESTMENT PROFESSIONAL

If you lose money due to fraud or abuse at the hands of an investment professional, you may be able to recover the resulting losses by taking these steps:

1. If you do not understand statements from or action taken by your brokerage firm, contact your broker immediately and request a thorough explanation.
2. If you do not agree with the explanation, explain your view of the problem. Tell them you expect resolution within a specific period of time. Follow up in writing. Keep notes of your conversations with your broker, including date, time, and subject, and keep copies of all correspondence.
3. Contact the broker's branch office manager if the situation is not corrected in the specified time. Again, keep your notebook up to date, keep copies of all correspondence, and **follow up in writing** to the branch manager.
4. Contact the compliance division of the brokerage firm if you do not receive a satisfactory resolution at this stage. Again, keep notes and follow up in writing.
5. If you have trouble getting a satisfactory resolution to the problem, you can send a copy of your letter to the Securities Division (address listed on the back of this brochure).



Don't wait to act! Federal and State laws limit the amount of time you have to take action against an investment professional. Time could run out, making it impossible for you to recover your losses.

## ARBITRATION

Most new account forms include an “arbitration clause” that requires arbitration if you have a dispute over your rights or liabilities under the agreement. Although you do not have to sign the arbitration agreement and can ask that it be removed from your new account form, it is likely the brokerage firm will not accept your account without an arbitration agreement.

Although arbitration is not part of the court system, it is binding and subject to review by a court on a very limited basis. If you do not understand your rights under arbitration, you should seek legal advice before agreeing to arbitration.

## FILING AN ARBITRATION

The arbitration process begins when you file a claim and pay a filing fee with an arbitration service. Among the documents you'll be asked to complete is a statement of claim that sets forth the nature of the dispute, the amount to the claim involved, and the damages that you are seeking. You will need the documents related to your account, as previously stated.

Your statement of claim should be clear and accurate. Exaggerated claims or inaccuracies can hurt your credibility and any chance of recovery. The damages you seek should be