



North Carolina Department of the Secretary of State

Hon. Elaine F. Marshall, Secretary

Securities Division



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NC Secretary of State Brings Closure to E*Trade Auction Rate Securities Case



Secretary of State
Elaine F. Marshall

On March 9, 2011, the North Carolina Secretary of State's Office announced that a final consent order has been entered regarding E*Trade Securities LLC over auction rate securities (ARS) products the company once sold to North Carolina investors. ([Click here to read the Final Consent Order.](#))

"This is the first case in the country where E*Trade has signed a settlement concerning its role in selling auction rate securities to misled investors," Secretary of State Elaine F. Marshall said. "We are incredibly pleased to be the first state where we were able to make sure the investors have been made whole, where a fine has been levied, and where the bad practices used have been made public," Secretary Marshall said.

The final consent order was signed on March 8 by Hearing Officer Sidney S. Eagles, Jr., former Chief Judge of the NC Court of Appeals. As part of the order, E*Trade will pay a \$25,000 civil penalty, the maximum allowed under North Carolina law. It will also reimburse the State of North Carolina for \$400,000 in investigative costs associated with this case.

As a prerequisite to concluding the case, the company had to show investigators it had reached some form of satisfactory compensation in regards to ARS products with E*Trade's North Carolina investors. Judge Eagles' order states that should a North Carolina investor find he or she has suffered additional losses due to monies being tied up in ARS holdings, they can enter into arbitration with E*Trade for such additional damages in the future.

Investigators found at the time of the February 2008 ARS market "freeze," E*Trade had at least 47 North Carolina investors holding about \$8,375,000 in ARS products.

The case resolution resulted from an aggressive and extensive investigation by securities regulators in the Secretary of State's Office. That investigation found that E*Trade had regularly represented ARS products to customers as safe investments suitable for short-term cash management purposes. State investigators found the company consistently failed to disclose the risk that, if the auctions failed, clients would not be able to sell their ARS products and could be stuck with illiquid investments for decades. It also found that salesmen had not been properly trained by the company to sell the specialized ARS products.

Secretary of State investigators also found E*Trade did not consistently conduct suitability reviews to see if clients should be buying ARS investments as part of their investment portfolios as required by the rules applicable to brokerage firms.

"Another part of the order requires E*Trade to employ an independent consultant for two years to review their policies and training practices and to review their marketing materials," Secretary Marshall said. "We are very pleased about this because the consultant will also keep our regulators in the loop about progress or problems the company is having in achieving a higher standard of training and supervision. This is a good thing for all customers of the company."

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ARS products which were frequently marketed as short-term investments that could easily be sold for cash on short notice. However, the market for these products crashed in early 2008 leaving investors across the country trapped holding products that could not be resold.

Many investors and state securities regulators have worked since that time to free up monies stuck in ARS holdings. North Carolina regulators have been aggressive in getting firms to settle. In this regard, the North Carolina Secretary of State's Office was also the first regulator in the country to bring Credit Suisse Securities (USA) LLC to settlement of charges of its marketing of auction rate securities.

"We have made tremendous progress in helping investors trapped with ARS holdings," Secretary Marshall said, "and our plan is to keep pushing other companies to unfreeze these ARS investments."

HENDERSON COUNTY MAN SENTENCED TO TWENTY-FIVE YEARS IN FEDERAL PRISON FOR DEFRAUDING LOCAL RETIREES THROUGH INVESTMENT SCAM



Bryan Keith Noel

On February 24, 2011, NC Secretary of State Elaine F. Marshall joined U.S. Attorney Anne M. Tompkins and Joseph S. Campbell, Acting Special Agent in Charge of the FBI, Charlotte Division, in announcing that Bryan Keith Noel, 41, of Hendersonville, NC and Alexander Klosek, 33, of Etowah, NC were sentenced in U.S. District Court in Asheville to serve

terms of imprisonment and ordered to pay restitution in connection with their involvement in a Hendersonville-area business known as Certified Estate Planners, Inc.

Noel and Klosek were charged separately in U.S. District Court in 2009 with conspiracy to commit mail and wire fraud, and other crimes, in connection with a fraudulent investment business started by Noel in 1999 to solicit investors and to offer estate planning services geared toward retirees.

The case arose from a fraud investigation conducted by agents of the Securities Division of the Office of the North Carolina Secretary of State and the Charlotte Division of the Federal Bureau of Investigation. Noel, who was tried by a federal jury and found guilty in March 2010 received a sentence of 25 years imprisonment and was ordered to pay restitution in the amount of approximately \$11 million to his victims. Klosek, who entered a guilty plea to one count of

conspiracy to commit mail and wire fraud, received a sentence of 87 months imprisonment and was ordered to pay restitution in the amount of approximately \$10.5 million to his victims.

According to official court documents, from around January 2003 until about July 2006, in Henderson County, Noel and others solicited over 100 clients, mostly local retirees, to invest large sums of their savings with Noel's business, Certified Estate Planners, Inc. According to testimony and evidence offered during Noel's criminal trial in February and March 2010, Noel and Klosek, without the investors' knowledge, diverted several million dollars, assets belonging to the clients of Certified Estate Planners, Inc., to a start-up lumber composite company of Noel's. (For related action, see the administrative action filed by the NC Securities Division against Noel and others on [November 14, 2006](#).)

This activity significantly decreased the value of the clients' investments. Noel and Klosek then continually misrepresented the value of the clients' assets to them on their quarterly statements in order to conceal from investors the true diminished value of their assets. Not only were the investors deceived about the diminished value of their assets, they were lied to by Noel and Klosek, who told them by July 2006 that their assets had grown to a total of approximately \$16 million. According to trial testimony and evidence, the clients' assets had dwindled at that time to only about \$1 million. Noel filed for Chapter 7 bankruptcy protection in August 2007. Noel was found guilty on two counts of making a false oath in connection with a bankruptcy

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proceeding, along with 25 separate counts of mail fraud and a single count of conspiracy to commit mail fraud. Klosek pled guilty, as charged, to one count alleging conspiracy to commit mail fraud and wire fraud.

“This investment fraud devastated the lives of retirees in this district. This conduct will be severely punished. Federal and state law enforcement are committed to joining forces to combat securities fraud, and we will work these cases vigorously,” said U.S. Attorney Anne M. Tompkins of the Western District of North Carolina.

In total, Noel, with Klosek’s aid, defrauded the investors who paid into Certified Estate Planners, Inc. of approximately \$10 million.

“My investigators and I join with the victims in this case in thanking the Court for making such a powerful statement about white collar crime in this State,” North Carolina Secretary of State Elaine F. Marshall said. “The FBI and U.S. Attorney’s Office did a masterful job

of proving how much damage this scam did to its victims.”

“Many of us think to one day retire and live off our nest egg, hoping financial concerns won’t be an issue. Retirees are often victims of fraud, and to steal their financial security is unconscionable. These men stole millions of dollars from people who don’t have the opportunity to restore the savings they’ve spent their lives building,” said Joseph S. Campbell, Acting Special Agent in Charge of the Charlotte Division of FBI.

The prosecution of this case was handled for the government by Assistant U.S. Attorneys Melissa Rikard, Edward R. Ryan and Benjamin Bain-Creed, of the Charlotte U.S. Attorney’s Office. The government also acknowledges the work of former Assistant U.S. Attorney Matthew T. Martens who was part of the trial team. Federal sentences are served without the possibility of parole.

Federal Court in North Carolina Orders Dennis Todd Hagemann and Yellowstone Partners, Inc. to Pay More than \$1.6 Million for Defrauding Investors in a Foreign Currency Ponzi Scheme

The U.S. Commodity Futures Trading Commission (CFTC) announced on March 10, 2011, that it obtained a federal default judgment order requiring defendants **Dennis Todd Hagemann** and his company, **Yellowstone Partners, Inc.** (Yellowstone), both of Raleigh, N.C., to pay more than \$1.6 million in restitution and civil monetary penalties for defrauding investors in a foreign currency (forex) Ponzi scheme (see CFTC [Press Release 5795-10, March 15, 2010](#)).

In separate but related actions, Hagemann was originally arrested on March 10, 2010, by law enforcement agents from the North Carolina Securities Division on two felony counts of securities fraud and one felony count of obtaining property by false pretense following a state investigation into alleged actions by Hagemann through Yellowstone Partners, Inc. Following his release after posting a \$250,000 secured bond, Hagemann was re-arrested by Securities Division agents on March 22, 2010, on 54 additional charges of felony securities fraud and obtaining property by false pretense. He has since been in custody in the Wake County jail under a \$1 million secured bond while awaiting trial.

In the federal case, the order, entered by Chief U.S. District Judge Louise W. Flanagan of the U.S. District Court for the Eastern District of North Carolina, requires Hagemann and Yellowstone jointly and severally to pay restitution of \$827,779 and a civil monetary penalty of \$827,779. The order also permanently prohibits defendants from engaging in any commodity-related activity and from registering with the CFTC in any capacity.



Dennis Todd Hagemann

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The order finds that, from at least September 2009 through March 9, 2010, Yellowstone Partners fraudulently solicited and received \$1,505,000 from at least 25 pool participants. The order further finds that Hagemann was running a Ponzi scheme and misappropriated approximately \$1.3 million of customer funds. Hagemann fraudulently solicited pool participants through personal solicitations during which he falsely claimed to have experience and success in forex trading, promised profits of 100 percent to 300 percent and stated that he had well-placed contacts who could help his investments and had \$500 million under his control, the order finds.

In its statement announcing this action, the CFTC acknowledged the assistance of the North Carolina Department of the Secretary of State, Securities Division.

Securities Division to Hold 7th Workshop for IAs



Small Business Center in
Winston-Salem

On April 7, 2011, the Securities Division will conduct an educational compliance workshop for investment advisers and investment adviser representatives. It is designed to provide a basic overview of the compliance issues surrounding an investment adviser's practice, common violations and what to expect during an audit. The intended target audience includes all current North Carolina registered investment advisers and representatives, anyone thinking of becoming a registered investment adviser or representative, and any current SEC-registered adviser with less than \$100 million in assets under management.

The workshop will be held at the [Forsyth Technical Community College's Small Business Center](#), located in the Chamber Building at 601 West 4th Street, Suite 105, in Winston-Salem. The workshop will be held from 10:00 a.m. and will last until approximately 2:00 p.m. A registration fee of \$25.00 per person covers the cost of morning refreshments, a workshop notebook, and a boxed lunch. Seating is limited to the first 40 registrants. For more information about the registration requirements, email or call [John Maron](#) at (919) 981-5088.

This session will be the seventh such workshop the Securities Division has conducted. Prior workshops have been held in Asheville, Charlotte and Cary. To date, almost 250 advisers or their representatives -- more than two-thirds the total number of state-registered advisers -- have attended one of the workshops.

Securities Division Reaches Out to Entrepreneurs and Extension Agents



Dr. Cammie Hunt, Acting Dean of the UNC-Pembroke School of Business addressing Entrepreneurship Summit attendees.

The Securities Division wants entrepreneurs and small businesspersons to know that it is “open for business,” and has taken this message on the road in recent weeks.

In separate appearances at the UNC-Pembroke Entrepreneurship Summit, and the NC Cooperative Extension Service’s Spring Training Institutes in Asheville, Winston-Salem and Greenville, John Maron, Director of Investor Education, has told audiences that the Securities Division can be a source of helpful information for those entrepreneurs wanting to raise business capital through securities offerings.

“Conducting a securities offering correctly can be very difficult and time-consuming,” Maron said. “Small businesspersons tend to want to focus on what they do best – running their businesses. We have seen instances where a business owner will contract out his or her capital needs to some other person or entity who promises a ‘turn-key’ offering package that purportedly will be in compliance with federal and state securities laws.

“Unfortunately, we have seen all too often that these packages are not in compliance, and the offerings have been made fraudulently,” Maron explained. “Then, not only has the small businessperson lost whatever money was paid

to the third party consultant, he or she exposes him- or herself to the risk of potential civil lawsuits from investors as well as administrative or – in severe cases – criminal charges from state or federal securities regulators. To compound these problems, as a securities law violator, that small businessperson is then barred from taking advantage of relief from filing requirements the law provides for some securities offerings. That’s what you call a ‘triple-whammy!’”



John Maron addresses Extension agents in Asheville.

As the state’s securities regulator, the Securities Division cannot give individualized advice; however, Division staff can generally help entrepreneurs understand their obligations under state and federal law and, as importantly, point entrepreneurs to places where they can get information to answer their questions.

Maron also joined Dr. Carolyn Bird, Assistant Professor and Family Resource Management Specialist for North Carolina Cooperative Extension, in providing training to Extension Service agents training on the use of an investor education curriculum the Securities Division is making available through a grant by the Investor Protection Trust (IPT). The curriculum, entitled “**The Basics of Saving and Investing: Investor Education 2020**,” provides a

more comprehensive course of study than traditional financial literacy curricula. It not only focuses on budgeting concepts, it includes important information about how to invest safely for the future. Any professional teacher or trainer interested in obtaining a free copy of the curriculum may contact [John Maron](mailto:John.Maron@sosnc.com) at (919) 981-5088.



Dr. Carolyn Bird explains elements of the *Basics of Saving and Investing* curriculum.

FINRA Warns of Facebook-Linked Pre-IPO Scams

On March 15, 2011, the securities industry's self-regulating organization, FINRA, issued a warning about scams that purport to offer investors' access to pre-IPO shares of well-known social media companies, including Facebook. Seizing upon investor demand for shares of the private stock of high-profile companies, the con artists behind these scams are swindling the public by peddling non-existent shares of these companies.

As FINRA's Investor Alert [Pre-IPO Offerings — These Scammers Are Not Your Friends](#) explains, pre-IPO speculation involves buying unregistered shares in a private company before the initial public offering (IPO) of securities. While a company can sell its unregistered shares in private transactions (often called "private placements"), these investments can be fraught with undisclosed risks and are typically open to a select group of investors who meet certain income or asset thresholds.

While many pre-IPO offerings are legitimate, some are frauds in which con artists sell shares they do not actually have. Recently, FINRA became aware of potentially fraudulent schemes to sell purported shares of Facebook. Additionally, the Securities and Exchange Commission recently settled a [civil action](#) against a self-employed securities trader who allegedly bilked more than 50 U.S. and foreign investors out of more than \$9.6 million in a series of pre-IPO scams involving purported shares of Google, Facebook and other well-known companies.

"Investors might think they are getting in on the ground floor of innovative social media companies, but instead find that they may have handed over real money for non-existent shares. Any investor who receives an unsolicited offer to invest in a pre-IPO company should walk away," said John Gannon, FINRA Senior Vice President for Investor Education.

Pre-IPO Offerings helps investors separate legitimate private placements from pre-IPO scams by:

- verifying whether the person touting the stock or investment is licensed by contacting the Securities Division of the North Carolina Department of the Secretary of State;
- avoiding any unsolicited pre-IPO offer – investors should ask themselves, "Why would a total stranger tell me about a really great investment opportunity?";
- being alert to persuasion tactics – virtually all pre-IPO scams rely on the same recipe for a con: dangling the prospect of exclusive access to eye-popping returns at a discount if you act quickly;
- determining if you're being conned by a convicted criminal by consulting the [Federal Bureau of Prisons Inmate Locator](#);
- using search engines to learn as much as you can about a solicitation and those behind it; and
- getting an unbiased second opinion from a licensed investment professional or an attorney.

"Any investor who receives an unsolicited offer to invest in a pre-IPO company should walk away."

*-- John Gannon
FINRA Senior Vice President
for Investor Education.*

Investors who believe they have been defrauded — or treated unfairly by a securities professional or firm — should file a [complaint](#) with the Securities Division and FINRA.

INFORMATIONAL BULLETIN NC-IA:2011-01

To: North Carolina Registered Investment Advisers
From: Department of the Secretary of State, Securities Division
Re: Financial Reporting Requirements for Advisers with Custody or Discretion
Date: March 11, 2011

The purpose of this bulletin is to remind you of the financial reporting requirements for North Carolina Registered Investment Advisers. These requirements have been in effect since February 1, 1989 and are located at [18 NCAC 06A .1708](#). Investment advisers with custody or discretionary authority over client funds or securities must submit, within 90 days of the registrants' fiscal year end, certain financial information to the Department of the Secretary of State, Securities Division (the "Division").

Do I have custody over client funds? What will I need to submit to the Division?

To answer this question, one should start by examining the Form ADV filing. If the Registered Investment Adviser ("RIA") selected "Yes" to Item 9.A.(1)(a) or (b) or Item 9.D.(1) on the Form ADV, Part 1A, then the RIA has custody and must provide the Division with a copy of an audited balance sheet within 90 days of the RIA's fiscal year end. Each balance sheet must be examined in accordance with generally accepted auditing standards and prepared in conformity with generally accepted accounting principles. The balance sheet must be audited by an independent public accountant or an independent certified public accountant. In addition, the balance sheet must be accompanied by an opinion of the accountant as to the report of financial position, and by a note stating the principles used to prepare it, the basis of included securities, and any other explanations required for clarity.

What if I require payment of advisory fees six months or more in advance and in excess of \$500.00 per client?

If the RIA requires payment of advisory fees six months or more in advance and in excess of \$500.00 per client, the RIA will be treated as if it has custody and will be subject to providing the Division with a copy of an audited balance sheet within 90 days of the RIA's fiscal year end. Each balance sheet must be examined in accordance with generally accepted auditing standards and prepared in conformity with generally accepted accounting principles. The balance sheet must be audited by an independent public accountant or an independent certified public accountant. In addition, the balance sheet must be accompanied by an opinion of the accountant as to the report of financial position, and by a note stating the principles used to prepare it, the basis of included securities, and any other explanations required for clarity.

Do I have discretionary authority over client funds? What will I need to submit to the Division?

If the RIA selected "Yes" to Item 8.C.(1), (2), (3) or (4) on the Form ADV, Part 1A, then the RIA has discretionary authority over client funds and the RIA must provide the Division a balance sheet within 90 days of the RIA's fiscal year end. The balance sheet need not be audited but must be prepared in accordance with generally accepted accounting principles. The RIA or the person who prepared the statement must include a representation that the statement was true and accurate, as of the end of the investment adviser's fiscal year.

How do I submit my balance sheet?

The Division will accept a PDF version of the balance sheet sent via email to secdiv@sosnc.com. Paper filings should be mailed to Department of the Secretary of State, Securities Division, Attn: IA Financial Reporting, P. O. Box 29622, Raleigh, NC 27626-0622.

Whom should I contact if I have questions?

If you have concerns regarding the financial reporting requirements or any other investment adviser compliance issue, please contact the Securities Division at (919) 733-3924 and ask to speak with an Investment Adviser Examiner.

Calendar of Upcoming Events



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

Date	City	Details
03/24/11	Greenville	Basics of Saving & Investing. Training for NC Cooperative Extension Agents at City Hotel & Bistro, 203 SW Greenville Blvd. Two sessions: 9:00 AM – Noon; 1:00 PM – 4:00 PM. For more information, contact Dr. Carolyn Bird at (919) 513-7793.
03/24/11	Winston-Salem	Adventures in Learning, St. Paul's Episcopal Church , 520 Summit Street. Time: 8:30 AM – 3:00 PM. Breakfast & lunch served. To register and for more information, contact Susan Meny (336) 748-0217
03/28/11	Clinton	Clinton Rotary Club, Zeng's Palace, 411 Southeast Blvd. #A. Time: 12:00 PM -- 1:00 PM. Open to Rotary Club members and their guests only. For more information, contact Pam High at (910) 590-8050.
03/28/11	Clinton	Women in Transition (WIT) presentation at Clinton-Sampson County Chamber of Commerce . For more information, contact the Chamber at (910) 592-6177.
03/29/11	Raleigh	Scam Jam live-call in show on OPEN/net . Time: 9:00 PM – 10:00 PM. Check your local listings for the cable channel in your area.
03/30/11	Hendersonville	Outsmarting Investment Fraud, Kaplan Auditorium, Henderson County Public Library , 301 N. Washington Street. Joint appearance with AARP. Time: 10:00 AM -- 11:30 AM. For more information, contact Gretchen Batra at (828) 891-7004.
03/31/11	Brevard	Outsmarting Investment Fraud, Transylvania Public Library , 212 S. Gaston Street. Joint appearance with AARP. Time:. For more information, contact.
04/04/11	Washington	Grace Martin Harwell Senior Center , 310 W. Main Street. Time: 1:00 PM – 2:00 PM. For more information, contact Carlyne Everett at (252) 975-9368.
04/05/11	Fayetteville	Financial Fitness Workshop, NCNG Military Academy, A-4595 Butner Road. Time: 1:00 PM – 4:00 PM. Sponsored by Army Community Services (ACS). Open to military service personnel and their families only. For registration/information, contact (910) 907-3670 or (910) 396-2507.
04/06/11	Denver	East Lincoln Community Center , 8160 Optimist Club Road. Time: 9:00 AM – 1:00 PM. For more information, contact Sue Brooks at (704) 736-8811.
04/07/11	Winston-Salem	Investment Adviser Workshop, Small Business Center , Forsyth Technical Community College, Chamber Building, 601 W. 4 th Street, Suite 105. Time: 10:00 AM – 2:00 PM. Registration fee: \$25.00. Registration is limited to the first 40 registrants. To register, contact John Maron at (919) 981-5088.
04/07/11	Fayetteville	Women & Finance: Saving and Investing Seminar, ACAP Basement, Soldier Support Center. Time: 1:00 PM – 4:00 PM. Open to military service personnel and their families only. For registration/information, contact (910) 907-3670 or (910) 396-2507.

Date	City	Details
04/11/11	Charlotte	Shamrock Senior Center , 3925 Willard Farrow Drive. Time: 11:30 AM -- 12:30 PM. For more information, contact Mariam Gonzales at (704) 531-6900.
04/12/11	Asheville	Givens Estates , 2360 Sweeten Creek Road. Time: 1:30 PM -- 2:30 PM. For more information, contact Debbie Cauble at (828) 271-6937.
04/13/11	Asheville	2 nd Annual Financial Fraud, Scam and Exploitation Summit. Time: 9:00 AM – 11:30 AM at Simpson Hall, located on the AB Tech Campus, 340 Victoria Lane. Free, but please contact register with Christina Giles , Area Agency on Aging Project Assistant, or contact her at (828) 251-6622.
04/13/11	Asheville	Scam Jam, Land-of-Sky Area Agency on Aging , 339 New Leicester Highway. Time: 12:30 PM – 4:00 PM. Free. For more information, contact Barbara Hinshaw at (828) 251-6622.
04/14/11	Brevard	Scam Jam, Silvermont Opportunity Center , 364 N. Main Street. Time: 8:30 AM – 1:00 PM. Free, but please contact (828) 884-3166 to register.
4/15/11	Winston-Salem	“Identifying Financial Fraud & Abuse Among Elderly Patients”, presentation to NC Academy of Family Physicians spring conference, Embassy Suites, 460 N. Cherry Street. Time: 4:15 PM – 5:15 PM. Open to Academy members and their guests only. For more information, contact Marietta Ellis at (919) 833-2110, Ext. 109.
04/18/11	Leland	Leland Senior Center , 1490 Village Road. Time: 9:00 AM – 10:30 AM. For more information, contact Theresa Edwards at (910) 371-3560.
04/18/11	Shallotte	Arbor Landing at Ocean Isle , 5490 Arbor Branch Drive. Time: 1:30 PM – 3:00 PM. For more information, contact Amy at (910) 754-8080.
04/20/11	Fayetteville	Scam Jam, Honeycutt Kiwanis Recreation Center , 352 Devers Street. Time: 8:30 AM – Noon. Free, but contact the Mid-Carolina Area Agency on Aging at (910) 323-4191 to register.
04/27/11	Lincolnton	Lincoln County Senior Center , 514 S. Academy Street. Time: 9:00 AM – 1:00 PM. For more information, contact Sue Brooks at (704) 736-8811.
04/27/11	Greensboro	NC Division of Aging and Adult Services annual training conference, Greensboro Downtown Marriott, 304 N. Greene Street. Registration required. For more information, contact LeShana Baldwin at (919) 733-3818.
04/29/11	Monroe	Union County Women’s Leadership Conference , Union County Agricultural Services & Conference Center, 3230-D Presson Road. Time: 8:30 AM – 1:30 PM. Registration required. For more information, contact Sally McNeill at (704) 283-3732 or Carol Tyson at (704) 296-5465.
04/30/11	Shallotte	St. Brendan’s Catholic Church , 5051 Ocean Hwy West. Time: 10:30 AM -- 12:30 PM. For more information, contact Kathy Doyle (910) 754-8548.
05/09/11	Windsor	Bertie County Council on Aging , 103 W. School Street. Time: 10:30 AM -- 11:30 AM. For more information, contact Irma Robbins at (252) 794-5315.
05/09/11	Rich Square	The Roanoke Center , Roanoke Electric Cooperative, 404 N. Main Street (Hwy 258 N). Time: 6:00 PM – 7:00 PM. For more information, contact Diana Mitchell (252) 539-4600, X601.
06/14/11	Durham	Scam Jam at Union Baptist Church , 904 N. Roxboro Street. Time: 8:30 AM -- 12:00 PM. For more information, contact Sharon Coleman at (919) 698-9205.



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.

Sidney Stanton Hanson is scheduled to appear on **March 31, 2011** for sentencing in the U.S. District Court for the Western District of North Carolina in Charlotte. On July 28, 2009, Hanson pleaded guilty to charges of securities fraud, mail fraud, and money laundering for his role in a Ponzi scheme that defrauded investors out of approximately \$33 million. According to the charges contained in the original Bill of Information, Hanson was a founder and manager of Queen Shoals, LLC, and a number of related entities, all of which maintained offices in Charlotte, North Carolina. The Bill of Information stated that from 2000 through 2002, Hanson and others solicited individuals to invest in Apollo Trust by way of "loans," promising extraordinary rates of returns. The Apollo Trust ultimately failed to provide the promised returns and numerous lawsuits were filed against Hanson by aggrieved investors resulting in default judgments against Hanson for hundreds of thousands of dollars. The Bill of Information further stated that from about 2006 through 2009, Hanson and others solicited individuals to invest in Queen Shoals and the related entities by falsely representing extraordinary rates of return with practically no risk of loss of principal by investing in Treasury bills, precious metals, and foreign currency. The Bill of Information went on to say that while a fraction of investor funds were handled as promised, the overwhelming majority of the investor funds were invested in speculative business ventures. In an effort to give the appearance to investors that Queen Shoals and the related entities were profitable, investors were sent monthly interest payments, which came, not from profits, but from new investments by other unwitting investors. The information further stated that investor funds were diverted by Hanson and other family members.

Gary Keever is scheduled for trial in a Mecklenburg County Superior Court the week of **April 4, 2011**. On June 12, 2008, law enforcement agents of the Securities Division arrested Gary Keever in Mecklenburg County on 18 counts of securities fraud, 9 counts of obtaining property by false pretense and 2 counts of securities registration violation. He is accused of telling at least nine investors from North Carolina, Virginia, Tennessee, Florida and California that he was purchasing mortgages and that after servicing them for a year, he would sell them back to the banks for a profit for himself and his investors. He is accused of taking in excess of \$320,000.00 in investors' funds and never actually purchasing any mortgages.

Jotham Pruitt and Cinchpoint, Inc. d/b/a Cinchpoint Financial Services, of Durham, NC, has requested a hearing in connection with an Order of Summary Suspension of Registration that was issued on March 2, 2010, by the Securities Administrator of the North Carolina Department of the Secretary of State, Securities Division. Under the Order, Mr. Pruitt is prohibited from conducting business as a registered investment adviser and must immediately cease and desist from violating the NC Securities Act and the NC Investment Advisers Act.

Shelby Dean Martin -- Martin faces more than 80 counts of securities fraud and obtaining property by false pretense. Martin's next criminal court appearance in **Iredell County Superior Court** is scheduled to begin on **July 18, 2011**. A civil complaint, filed last March in U.S. Western District Court, alleges that since at least 1998, Martin, operating through DM Enterprises and DM Ventures, has raised more than \$10 million from more than 150 investors in North Carolina and in several other states through a variety of false and misleading statements.

Recent Enforcement Actions

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

On **January 14, 2011**, the Securities Division of the North Carolina Department of the Secretary of State issued a Temporary Cease and Desist Order directing **Claude D. McDougal**, a resident of Mecklenburg County, and **US Financial Alliance Consultants, LLC**, a North Carolina limited liability company, to cease and desist from offering to sell or selling securities, including but not limited to promissory notes,



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in violation of the North Carolina Securities Act. The temporary order finds that **McDougal** and **US Financial Alliance Consultants, LLC** were not licensed to sell securities and were selling unregistered securities, in violation of the North Carolina Securities Act. The Order directs **McDougal** and **US Financial Alliance Consultants, LLC** to immediately cease and desist from such practices. **McDougal** and **US Financial Alliance Consultants, LLC** have requested a hearing in this matter. Click here to view the Order.

On **February 9, 2011**, the Securities Division of the North Carolina Department of the Secretary of State issued a Temporary Cease and Desist Order directing **PMC Strategy, LLC**, a limited liability company formed in North Carolina, and its **directors, agents, and other persons in active concert and participation with PMC Strategy, LLC** to cease and desist from offering to sell or selling unregistered securities, including but not limited to investments in the foreign currency market, in violation of the North Carolina Securities Act. The temporary order further finds that **PMC Strategy, LLC** was not licensed to sell securities in North Carolina in violation of the North Carolina Securities Act. The temporary order directs the respondents to immediately cease and desist from such practices. (Click [here](#) to view the Order.)

On **February 11, 2011**, the Securities Division of the North Carolina Department of the Secretary of State, issued a Temporary Cease and Desist Order directing **Michael A. Smith**, a resident of Castle Hayne, North Carolina, and **Carr Miller Capital, LLC**, a New Jersey limited liability company, to cease and desist from offering to sell or selling securities, including but not limited to promissory notes, in violation of the North Carolina Securities Act. The temporary order finds that Carr Miller Capital and Smith sold unregistered promissory notes, that Carr Miller acted as an unregistered securities dealer, and that Smith acted as an unregistered salesman, in violation of the Securities Act. The temporary order directs the respondents to immediately cease and desist from such practices. (Click [here](#) to view the Order.)

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.)

[REGULATORY NOTICE 11-05](#)

Customer Option to Choose an All Public Arbitration Panel in All Cases

Effective Date: February 1, 2011

[Executive Summary](#)

Effective immediately, customers in FINRA arbitration have the option to choose an all public arbitration panel in all cases with three arbitrators. FINRA amended the Code of Arbitration Procedure for Customer Disputes to allow customers with claims over \$100,000 to choose between two panel composition methods. The first method, called the composition rules for majority-public panel, is the composition method FINRA used prior to the rule amendments. It provides for a panel comprised of a chair-qualified public arbitrator, a public arbitrator and a non-public arbitrator.

The second method, called the composition rules for **optional all public panel**, allows any party to select an all public arbitration panel. FINRA believes that providing customers with the right to exclude a non-public arbitrator from the panel deciding their case will enhance customers' perception of the fairness of FINRA's rules and the securities arbitration process.

[SR-FINRA-2011-013](#)

March 4, 2011

Proposed Rule Change to Establish a Registration Category, Qualification Examination and Continuing Education Requirements for Certain Operations Personnel, and Adopt FINRA Rule 1250 (Continuing Education Requirements) in the Consolidated FINRA Rulebook

Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to adopt FINRA Rule 1230(b)(6) to establish a registration category and qualification examination requirement for certain operations personnel. The proposed rule change also would adopt continuing education requirements for

such operations personnel and adopt NASD Rule 1120 (Continuing Education Requirements) as FINRA Rule 1250 (Continuing Education Requirements) in the consolidated FINRA rulebook with minor changes.

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 the yellow box entitled "Investment Securities".

This newsletter is produced by the Investor Education Program of the Securities Division of the North Carolina Department of the Secretary of State. If you have questions or comments about this publication, or would like to schedule an investor education presentation with your group or organization, please email [John Maron](mailto:John.Maron@sosnc.com), Director of the Investor Education Program, or call (919) 715-1067.

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!