

North Carolina Department of the Secretary of State

Hon. Elaine F. Marshall, Secretary

December/January SECURITIES NEWSLETTER Vol. 9, No. 1

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NC Securities Division
Investor Protection
Hotline

1-800-688-4507



Mailing Address:

PO Box 29622
Raleigh, NC 27626-0622



Caleb Fackrell Sentenced to more than Five Years for Securities Fraud

Charles Caleb Fackrell

A stockbroker and operator of a \$1.4 million Ponzi scheme was sentenced to 63 months in prison by U.S. District Judge Richard Voorhees on December 6, announced Jill Westmoreland Rose, U.S. Attorney for the Western District of North Carolina. Charles Caleb Fackrell, 37, of Booneville, N.C., was also ordered to serve three years under court supervision after he is released from prison, and to pay \$819,918 as restitution to his victims. Fackrell pleaded guilty to one count of securities fraud in April 2016.

U.S. Attorney Rose was joined in making the announcement by John A. Strong, Special Agent in Charge of the Federal Bureau of Investigation (FBI), Charlotte Division, and North Carolina Secretary of State Elaine F. Marshall.

According to filed court documents and the sentencing hearing, from about May 2012 to about December 2014, Fackrell executed a Ponzi scheme using approximately \$1.4 million in funds he solicited from at least 20 victim investors in Wilkes County and elsewhere. According to court records, Fackrell was a stockbroker who used his position of trust to solicit victim investors and steer them away from legitimate investments to purported investments with “Robin Hood, LLC,” “Robinhood LLC,” “Robin Hood Holdings, LLC,” “Robinhood Holdings, LLC” and related entities (collectively, “Robin Hood”). These were entities Fackrell controlled and through which he could access the victims’ funds.

Court records indicate that Fackrell solicited his victim investors by making false and fraudulent representations, including that the investors’ money would be invested in, or secured by, gold and other precious metals, when in fact Fackrell spent only a fraction of investor money on such assets. According to court records, Fackrell also falsely told victims that Robin Hood was a very safe investment, paying guaranteed annual returns of 5% to 7%. According to court records, contrary to the promises he made to his victims and instead of investing the victims’ funds as promised, Fackrell used the majority of the money to cover personal expenditures, including hotel expenses, groceries, and medical bills, to make purchases at various retail shops and to make large cash withdrawals.



In the News

Check out the Winston-Salem Journal’s coverage of Fackrell’s sentencing [here](#).

Fackrell also used a portion of the victims' money to make purported "interest" payments to investors who demanded their money back and to induce further investments from existing investors and their friends and family members. In all, according to court records, Fackrell diverted over \$700,000 of his victims' money – nearly half of the investor money he obtained – back to other investors in Ponzi fashion payments.

According to court records, in an attempt to conceal his fraud, Fackrell asked a third party to destroy a computer and documents related to the Ponzi scheme, explaining that he was in trouble with the U.S. Securities and Exchange Commission.

In making the sentencing announcement, U.S. Attorney Rose said, "Fackrell is a scammer. He betrayed his victims who believed his sales pitch and trusted him with their hard-earned money. Fackrell took that money and used it to enrich himself and to perpetuate his fraud. Thanks to the great work of our law enforcement partners Fackrell's fraud was uncovered, putting a stop to his business of siphoning his clients' money. His dishonesty caused a lot of financial hardship to a lot of people, and for that, Fackrell will serve a well-deserved prison sentence," Rose added.

"This is one of the most vicious financial crimes we have seen in North Carolina in many years," Secretary of State Marshall said following the sentencing. "Caleb Fackrell was a registered stockbroker who completely betrayed that trusted position to rip off his victims using the name 'Robin Hood' in the title of his Ponzi Schemes no less," Marshall said. "His punishment today is well deserved."

Fackrell has been in federal custody since April 2016. All federal sentences are served without the possibility of parole.

In imposing the sentence Judge Voorhees noted the horrendous damage to the victims caused by the defendant involving the loss of their nest eggs, and that the defendant was motivated largely by personal greed.

The investigation was led by the FBI and the Securities Division of the North Carolina Department of the Secretary of State. U.S. Attorney Rose also thanked the North Carolina State Bureau of Investigation, the Yadkinville Police Department and Kinston's Department of Public Safety for their invaluable assistance in this investigation.

Assistant United States Attorney Daniel Ryan, of the U.S. Attorney's Office in Charlotte, prosecuted the case.



It's Your Money: Investigate Before You Invest

When it comes to investing your hard-earned money, the only bad questions are the ones you don't ask. If someone is offering you an investment opportunity, here are a few questions you should ask:

- ◆ Are you—and the investment opportunity you are marketing—registered with the NC Securities Division?
- ◆ Have you ever been disciplined by a regulator?
- ◆ What financial training do you have?
- ◆ Are you paid by commission or by the amount of assets under your management? Which method would be most beneficial to me given my specific circumstances?

Before you sign over any of your money, please call the NC Secretary of State's Investor Hotline at 1-800-688-4507 to confirm whether the people offering you an investment opportunity—and the investment opportunity itself—are registered to sell securities in North Carolina and whether they have a disciplinary history.

Registration in and of itself is no guarantee against fraud, but not being registered is a very big red warning flag. Know before you invest.



SOSNC on YouTube

Have questions about becoming a notary public or filing annual reports for your LLC or business corporation? A series of informative videos available now on [SOSNC's YouTube channel](#) has you covered!

We have recently added several new instructional videos detailing the qualifications to be a notary, the process to become a notary, and walking you through completing your North Carolina Notary Public application.

If you have a business corporation or LLC registered with the Secretary of State's Office, we also have videos that give step-by-step instructions for filing your annual reports with our Corporations Division.



Sign up for Our RSS Feed!

You can now sign up for SOSNC's RSS (Really Simple Syndication) feed to receive our monthly Securities newsletter direct to your computer.

No checking your email inbox—just the latest securities and investor education updates from SOSNC each month, direct to your computer. Just click on the orange RSS icon above to sign up!

And follow SOSNC on Twitter, Facebook, LinkedIn and YouTube for more frequent updates on everything from investor education to trademarks enforcement and charitable solicitation regulation.

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



Tax filing season is just around the corner and the Federal Trade Commission (FTC) wants everyone armed with information to steer clear of tax identity theft. Identity thieves can use your social security number to claim your tax refund or get a job.

The FTC will mark [Tax Identity Theft Awareness Week](#) from January 30 through February 3 with a series of educational events, including:

A January 30 [webinar](#) giving tax professionals great practical information on cybersecurity, new scams targeting client information, and how to help clients who have fallen prey to identity theft.

A February 1 [Twitter chat](#) hosted by the FTC and the Department of Veterans Affairs to help service members, veterans, and their families learn more about avoiding and responding to tax identity theft.

Click [here](#) to get all the details on these and other events during Tax Identity Theft Awareness Week.



Crowdfunding Podcast

SOSNC Business Outreach Legal Specialist Leo John recently sat down with "Focus on Business" Host Lea Strickland on WCOM-FM to discuss investment crowdfunding and its implications for business start ups in North Carolina.

The full hour-long interview is available [online](#) now.



Richard Wyatt
Davis, Jr.

Mecklenburg Co. Man Facing Federal Charges In Connection With \$19 Million Investment Fraud Scheme

Defendant Misused Victim-Investors' Funds to Pay for Vacation Homes, Vehicles, a Chef and Other Personal Expenses

A Mecklenburg Co. man is facing federal charges in connection with an investment scheme that defrauded 100 victims of \$19 million, announced Jill Westmoreland Rose, U.S. Attorney for the Western District of North Carolina. A federal grand jury returned a criminal indictment against Richard Wyatt Davis, Jr., a.k.a. Rich Davis, 40, on Tuesday, December 13, 2016, charging him with one count of wire fraud, two counts of securities fraud, and three counts of tax evasion. The indictment was unsealed today following Davis's arrest by law enforcement.

U.S. Attorney Jill Westmoreland Rose was joined in making the announcement by Michael Rolin, Special Agent in Charge of the United States Secret Service, Charlotte Field Division and Michael C. Daniels, Acting Special Agent in Charge of the Internal Revenue Service, Criminal Investigation Division, Charlotte Field Office (IRS-CI).

According to allegations contained in the indictment:

From approximately 2005 and continuing through in or about 2016, Davis defrauded more than 100 investors of more than \$19 million by inducing his victims to invest in fraudulent investment funds controlled by him, including the DCG Commercial Fund I and DCG Real Assets, as well as other fraudulent investment vehicles (collectively, Davis Entities).

In order to recruit his victim-investors, Davis made false misrepresentations regarding his credentials, including his educational background and about being a Registered Financial Consultant. Davis also purported to victim-investors that his fraudulent investment vehicles were low risk investments involving real estate, precious metals, and natural resources and touted the investments as a safe alternative to the stock market. Davis also falsely assured victim-investors that their investments were growing in value. For example, Davis falsely represented to a number of investors that Davis Entities transactions had received an average net internal rate of return of 32-percent, which was not true. As a result of his many lies and falsehoods, Davis's investors frequently rolled over their entire retirement savings into entities controlled by the defendant.

Davis generally targeted investors residing in and around Charlotte, N.C. His clients included professional athletes and individuals who were recruited through Davis's church. Davis also spoke at events for "preppers" and survivalists, thereby targeting victim-investors who were fearful of the stock market and the banking system. Davis preyed upon these investors' fears of traditional financial markets and took advantage of their trust into someone who shared their religious views.

Contrary to promises made to his investors, in reality Davis invested none of the victims' money. Rather, Davis transferred the majority of the victims' funds to other entities he controlled, and used some of the money to make Ponzi-style payments to earlier investors in an effort to conceal and prolong the scheme. Davis also diverted victim-investors' money to support his personal lifestyle, including to pay for his and his then wife's personal credit cards, mortgage payments, nannies, a groundskeeper, a personal chef, vehicles, significant cash withdrawals, payments to family members, and to pay for large administrative and overhead expenses that did not increase value for investors.

To avoid fulfilling victim withdrawals requests, Davis provided numerous excuses, including that the victims' money was unavailable because the funds were tied up in investments with specific maturity periods. Davis also falsely advised victims that they needed to invest additional funds in order to secure the return to their original investment. Davis was also frequently evasive or failed to report to investors' inquiries about the status of their investments, and even threatened to discontinue managing the investments if investors asked for too much information.

The indictment also alleges that Davis filed false tax returns for 2009 and 2011 which reflected negative total income. Davis also failed to file individual income tax returns for 2010 and 2012. During the same time period, Davis submitted various financial statements to banks and courts, claiming his annual income was anywhere between \$385,000 and upwards of \$1.5 million.

Davis had his initial appearance today before U.S. Magistrate Judge David Keesler. Davis was ordered to remain in custody until his detention hearing, which was scheduled for December 20, 2016.

The wire fraud charge carries a maximum prison term of 30 years and a \$1 million fine. The securities fraud charge carries a maximum prison term of 20 years and a \$250,000 fine per count. And the maximum prison term for the tax evasion charge is five years and a \$250,000 fine per count.

All the charges contained in the indictment are allegations. The defendant is presumed innocent until proven guilty beyond reasonable doubt in a court of law.

In making the announcement U.S. Attorney Rose thanked the U.S. Secret Service and the IRS for leading the joint investigation.

Assistant U.S. Attorney Jenny G. Sugar, of the U.S. Attorney's Office in Charlotte, is in charge of the prosecution. In June 2016, the U.S. Securities and Exchange Commission (SEC) filed a civil complaint against Davis. Without admitting or denying the allegations, Davis has entered into a partial settlement with the SEC, which bars him from any further sale of securities in a pooled investment vehicle, as well as from future violations of antifraud and securities registration provisions of the federal securities laws. Davis is also required to cooperate with a court-appointed receiver.

See <https://www.sec.gov/litigation/litreleases/2016/lr23554.htm>



Investor Bulletin: Ten Investment Tips for 2017

Whether you are a first-time investor or have been investing for years, here are 10 tips from the SEC's Office of Investor Education and Advocacy to help you make better informed investment decisions and avoid common scams in 2017.

1. Always check the background of an investment professional—it is easy and free. You can find details of an investment professional's background and qualifications through the search tool on the SEC's website for individual investors, Investor.gov and by calling the NC Secretary of State's Investor Hotline at (800) 688-4507. If you have any questions about checking the background of an investment professional, you can call our toll-free investor assistance line at (800) 732-0330 for help.



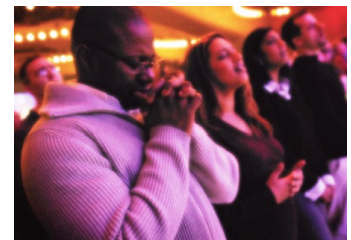
2. Promises of high returns with little or no risk are classic warning signs of fraud. Every investment carries some degree of risk and the potential for greater returns often correlates with greater risk. Ignore so-called "can't miss" and "guaranteed risk-free" investment opportunities. Better yet, [report them](#) to the SEC. You can also file a complaint with the NC Secretary of State's Securities Division [here](#).



3. Be careful when using social media as an investment tool. Social media and the Internet have become important tools for investors, but also present opportunities for fraudsters to lure investors into a wide range of scams. For additional information on ways to avoid fraud through social media, please read our bulletin on [Social Media and Investing](#).

4. It can be costly to ignore fees associated with buying, owning, and selling an investment product. Expenses vary from product to product, and even small differences in costs can mean large differences in earnings over time. An investment with high costs must perform better than a low-cost investment to generate the same returns. Read our bulletin on [How Fees and Expenses Affect Your Investment Portfolio](#) to learn more.

5. Be alert to affinity fraud. [Affinity frauds](#) target members of identifiable groups, such as the elderly, religious or ethnic communities, or the military. Even if you know the person making the investment offer, be sure to check out the investment and the person's background—no matter how trustworthy the person seems. For more information about avoiding affinity fraud, check out the brochure, [Affinity Fraud: Scamming an Entire Group](#), on the NC Secretary of State's website.



6. Any offer or sale of securities must be either registered with the SEC or exempt from registration. Otherwise, it is illegal. Registration is important because it provides investors access to key information about the company's management, products, services, and finances. Always check whether an offering is registered with the SEC by using the SEC's [EDGAR database](#) or contacting the SEC's toll-free investor assistance line at (800) 732-0330. Investors in North Carolina are encouraged to call the NC Secretary of State's Investor Hotline at (800) 688-4507 to make sure the person offering you and investment opportunity and the investment opportunity itself are properly registered with the State.



7. Diversification can help reduce the overall risk of an investment portfolio. By picking the right mix of investments, you may be able to limit your losses and reduce the fluctuations of your investment returns without sacrificing too much in potential gains. Some investors find that it is easier to achieve diversification through ownership of [mutual funds](#) or [exchange-traded funds](#) rather than through ownership of individual stocks or bonds.



8. Did you know that active trading and some other very common investing behaviors actually can undermine investment performance? According to researchers, other [common investing mistakes](#) include focusing on past performance, favoring investments from your own country, region, state, or company, and holding on to losing investments too long and selling winning investments too soon.

9. If you are investing or saving toward a goal, or just want to learn about how your money can grow under various hypothetical scenarios, take advantage of our [compound interest and savings goal calculators](#). These calculators are great tools to help inform any decisions you make about your investing and saving.



10. Unbiased resources are available to help you make informed investing decisions. Whether checking the background of an investment professional, researching an investment, or learning about new products or scams, unbiased information can be a significant advantage for investing wisely. A great starting point is [Investor.gov](#).



If you have questions about your investments, your investment account or a financial professional, don't hesitate to contact the SEC's Office of Investor Education and Advocacy [online](#), call the SEC's toll-free investor assistance line at (800) 732-0330, or contact the NC Secretary of State's Securities Division toll-free at (800) 688-4507.



FINRA Foundation Publishes In-depth Analysis of U.S. Investors

Survey Shows More Than Half of Respondents Use Financial Professionals, But Knowledge of Investment Concepts is Low and Generational Divides Exist

The FINRA Investor Education Foundation (FINRA Foundation) has announced the results of its [Investors in the United States 2016](#) report, which provides a detailed analysis of 2,000 survey respondents from across the United States who hold investments in non-retirement accounts.

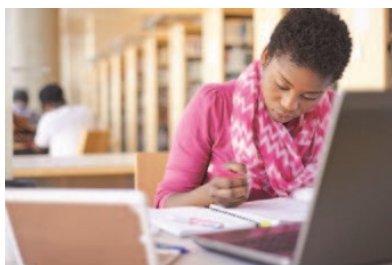


This Investor survey is a new component of the FINRA Foundation’s [National Financial Capability Study](#) (NFCS), one of the largest and most comprehensive financial capability studies in the country. In July 2015 (several weeks after the 2015 NFCS data had been collected), NFCS respondents who identified themselves as owning investments outside of retirement accounts were contacted and asked a battery of questions intended to provide the Foundation and researchers with a better understanding of how and why investors make investment decisions.

In a series of follow-up interviews, researchers explored topics such as investors’ relationships with financial professionals, understanding and perceptions of fees charged for investment services, usage of investment information sources, attitudes towards investing and investor literacy. The survey’s full data set, methodology and related questionnaire are available at USFinancialCapability.org.



More than half of respondents (56 percent) report using a financial professional—such as a broker or advisor—primarily to improve investment performance (81 percent), avoid losses (78 percent) and learn about investments (63 percent). Survey results indicate that knowledge of investment concepts is low—particularly among women.



“On a 10-question investor literacy quiz, on average, men answered 4.9 questions correctly compared to 3.8 for women. Interestingly, both genders got the same number of questions wrong: 3.4,” said FINRA Foundation President Gerri Walsh. “But women were significantly more likely to say they did not know the answer to a question compared to men, perhaps pointing to differences in investor confidence by gender.”

Additional findings include the following:

- Seventy-four percent of households surveyed report owning individual stocks and 64 percent report owning mutual funds. Individual bonds are held by 35 percent of the population and annuities by 33 percent. Fewer respondents report holding investments in exchange-traded funds (22 percent), REITS, options, private placements, or structured notes (15 percent) and commodities or futures (12 percent).
- The majority of investors (70 percent) feels that the fees they pay for their investment accounts are reasonable (5 to 7 on a 7-point scale).
- Fewer than half (43 percent) of investors who use a financial professional are worried that sales incentives present a conflict of interest.

Only 10 percent of the respondents who took a 10-question investor literacy quiz could answer eight or more questions correctly. The majority (56 percent) were able to answer fewer than half of the questions correctly.

Generational differences also emerged throughout the survey:

- Thirty-eight percent of investors between the ages of 18 and 34 have used “robo-advisors,” compared to only four percent for those ages 55 and over.
- Crowdfunding remains a mystery to those ages 55 and up, as only 22 percent had heard of the concept. However, 58 percent of investors between the ages of 18 and 34 were aware of such investments.

A greater percentage (61 percent) of younger investors between the ages of 18 and 34 are worried about being victimized by investment fraud, compared to 28 percent of those ages 55 and older.



The NFCS includes a state-by-state breakdown of data gathered on a range of topics, including whether respondents were able to save money, have a rainy day fund or have equity in their homes.

Study participants were also asked five questions to covering aspects of economics and finance encountered in everyday life, such as compound interest, inflation, principles relating to risk and diversification, the relationship between bond prices and interest rates, and the impact that a shorter term can have on total interest payments over the life of a mortgage.

Individuals need at least a fundamental level of financial knowledge. This knowledge, paired with financial decision-making skills, can best ensure an individual’s financial capability. You can see the full details of North Carolina’s results [here](#).



Investor Alert: Excessive Trading at Investors' Expense

The SEC's Office of Investor Education and Advocacy (OIEA) and Broker-Dealer Task Force are jointly issuing this Investor Alert to help investors identify excessive trading in their brokerage accounts and to educate investors about steps they should take if their brokerage firm notifies them of a high volume of trade activity in their accounts.

How can I tell if there is excessive trading in my account?

When reviewing your account statements, trade confirmations, or online account, look out for these red flags that may indicate excessive trading:



- Unauthorized Trading** – Be alarmed if you become aware of trades in your account that you did not authorize your broker to make.
- Frequent Trading** – Be wary of frequent in-and-out purchases and sales of securities that don't seem consistent with your investment goals and risk tolerance.
- Excessive Fees** — Be suspicious if the total amount of fees seems high or if one segment of your portfolio consistently generates high fees.

Churning. A [broker](#) typically earns a portion of the commissions or other fees on each purchase or sale of securities that the brokerage firm makes for an investor. When a broker engages in excessive buying and selling (*i.e.*, trading) of securities in a customer's account without considering the customer's investment goals and primarily to generate commissions that benefit the broker, the broker may be engaged in an illegal practice known as churning.

Be aware that excessive trading can occur even if the overall account value increases. Also, remember that your account statements, trade confirmations, and online account do not disclose all fees – you can find more information by asking your broker. If you do not understand the reason for a trade or the reason for a fee, contact your broker and ask about it. You also can ask the SEC a [question](#) or call the SEC at 1-800-732-0330 (or 1-202-551-6551 from outside of the U.S.).

Communicating Your Investment Goals to Your Broker. When you open a brokerage account, your broker should ask you to specify your overall investment goals (or "investment objectives") and how much risk you are willing to tolerate. Different firms use different terms to describe investment objectives or risk-tolerance levels. Some common terms are: "capital preservation," "income," "growth," "moderately aggressive," "aggressive growth," and "speculation." Make sure that you understand what these terms mean and that you know what you communicated to your broker.

What should I do if I am informed of a high volume of trade activity in my account?

If your brokerage account has a high volume of trade activity, your brokerage firm may contact you and ask you to acknowledge the trading or to confirm that you are satisfied with how your broker is handling your account. If you receive such notification, you should ask your broker to explain:

- The rationale for the broker's recommended trading activity and investment strategy given your investment objectives;
- The total commissions or other transaction fees you paid over the past month, quarter, or year; and
- What percentage return on your investment you would need to break even on the fees you are paying.

Once you have this information, you may want to speak with the broker's manager or the firm's compliance department to understand and to question the nature of the trading in your account in light of your investment goals and risk tolerance.

- In *SEC v. Dean and Fowler*, the SEC charged two individuals with fraud for churning three customers' brokerage accounts and for recommending an investment strategy to twenty-seven customers without a reasonable basis to believe that the strategy was suitable for anyone. The customers allegedly opened the accounts after receiving cold calls from the defendants. The SEC alleged that the three customers whose accounts were churned signed account-opening documents that did not reflect the customers' true investment objectives. For the twenty-seven customers, the defendants allegedly recommended a short-term investment strategy with high per-trade transaction costs and use of margin trading without a reasonable basis to believe that the strategy was suitable for anyone. In particular, the SEC alleged that this strategy was unsuitable for anyone because the frequent trading, combined with high per-trade costs charged, all but guaranteed losses for the customers. According to the SEC's complaint, the defendants' purpose was to generate commissions and other costs, and the defendants charged approximately \$1 million in costs to the twenty-seven accounts.
- In *In the Matter of Paul T. Lebel*, the SEC charged an individual for churning several brokerage accounts of four customers. According to the Commission's settled order, the individual engaged in excessive trading of certain of his customers' mutual fund A shares (designed for long-term investing) to the detriment of those customers and with no justification other than to generate commissions. The individual was found to have received \$50,037 in commissions for these trades.

What should I do if I believe there has been excessive trading in my account?

If you believe a broker has engaged in excessive trading including churning, or to report other problems with a broker, submit a complaint in writing to the brokerage firm and to the [SEC](#) or [FINRA](#).



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 [Leo John](#) at (800) 688-4507. For a complete list of all upcoming events, please check out our online [calendar](#).

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|---------|---------------|--|
| 1/23/17 | Asheville | "Combating Frauds Against the Elderly: A Partnership Working Together" presentation to Legal Aid of NC at 547 Haywood Road. Time: 12:00 PM -- 1:00 PM A representative of the NC Department of the Secretary of State Securities Division will give a presentation on investment frauds aimed at the elderly as well as on the Advance Health Care Directive Registry which the Department maintains. For more information, please contact Angeleigh Dorsey at angied@legallaidnc.org . |
| 1/23/17 | Asheville | "Investment Fraud: Guarding Your Assets in a Scary World" presentation to Osher Lifelong Learning Institute at the University of North Carolina Asheville's Reuter Center located at 1 Campus View Rd. Time: 2:00 PM - 4:00 PM. This event is free. A representative of the NC Department of the Secretary of State Securities Division will give a presentation on investment frauds aimed at the elderly as well as on the Advance Health Care Directive Registry which the Department maintains. A representative of the Buncombe County Sheriff's Office will discuss other types of consumer frauds and scams. |
| 1/24/17 | Raleigh | "Understanding investment crowdfunding - new options for local financing" presentation at The Café, HQ Raleigh located at 310 S Harrington St. Time: 8:00 AM -- 9:00 AM. This presentation is planned as an overview of investment crowdfunding for entrepreneurs that may want to utilize this option. Leo John of the NC Securities Division will cover the following: a regulatory overview and how crowdfunding fits within securities laws; the legal do's and don'ts of a crowdfunding offering; the marketing aspects – what you can say and how to reach investors; and utilizing a web site intermediary – picking one and connecting with investors. For additional information, please contact Leo John at ljohn@sosnc.gov . |
| 1/27/17 | Fuquay Varina | "Business financing" presentation at Innovate FV located at 121 N Main St. Time: 5:00 -- 7:00 PM. This presentation is planned as an overview of investment crowdfunding for entrepreneurs that may want to utilize this option. Leo John of the NC Securities Division will cover the following: a regulatory overview and how crowdfunding fits within securities laws; the legal do's and don'ts of a crowdfunding offering; the marketing aspects – what you can say and how to reach investors; and utilizing a web site intermediary – picking one and connecting with investors. For additional information, please contact Lynanne Fowle at lynanne@fuquay-varina.com . |

2/2/17	Durham	"ABCs of incorporating a business in N.C." hosted at Durham Technical Community College, Small Business Center located at 1637 East Lawson Street. Time: 11:30 AM. Leo John, from the NC Department of the Secretary of State Securities Division, will be participating in a Webinar hosted at the Durham Technical Community College. Small Business Center. He will be discussing the basics of incorporating a business in NC as well as things that all new business owners should know when starting and financing a new business. For more information, contact Leo John at ljohn@sosnc.com .
2/3/17	Durham	Durham County Bar Association CLE on Securities Laws and Crowdfunding at Hope Valley Country Club, 3803 Dover Road. Time: 9:00 AM -- 10:00 AM. Open to members of the Durham County Bar Association. Registration required: https://www.surveymonkey.com/r/DCBA_CLE2017 . A representative of the NC Department of the Secretary of State Securities Division will be conducting a one hour CLE entitled "Securities Regulation: Crowdfunding/Investor Rights" at the Durham County Bar Association Fifth Annual Two Day CLE Event. For more information, please contact Bonnie Biggs at 919-682-2012 or info@durhambar.org .
2/8/17	Morrisville	Triangle Real Estate Investors Association: Advanced Investors Subgroup meeting, Cambria Suites - RDU located at 300 Airgate Drive. Time: 1:00 PM -- 3:00 PM. Registration required. Leo John from the NC Secretary of State Securities Division will be speaking at the monthly meeting of the Advanced Investors Subgroup of the Triangle Real Estate Investors Association. For more information contact Adam Schneider at adam.schneider@homevestors.com , or visit http://www.treia.com/Events.aspx?ID=Experienced-Investors-15-2-8-2017#register
2/9/17	Jamestown	"Investment Fraud: Guarding Your Assets in a Scary World" presentation to the Cedarwood Garden Club, 412 Cedarwood Drive. Time: 10:00 AM -- 11:00 AM. Free, but open only to members of the Cedarwood Garden Club and their guests. A representative of the NC Department of the Secretary of State Securities Division will give a presentation on investment frauds aimed at the elderly as well as on the Advance Health Care Directive Registry which the Department maintains.
2/9/17	Charlotte	"Understanding investment crowdfunding - new options for local financing" presentation at HQ Charlotte, 222 S Church Street. Time: 1:00 PM -- 2:00 PM. This presentation is planned as an overview of investment crowdfunding for entrepreneurs that may want to utilize this option. Leo John of the NC Securities Division will cover the following: a regulatory overview and how crowdfunding fits within securities laws; the legal do's and don'ts of a crowdfunding offering; the marketing aspects – what you can say and how to reach investors; and utilizing a web site intermediary – picking one and connecting with investors. For additional information, please contact Liz Stevens at lstevens@hq.community .
2/11/17	Durham	"Investment Fraud: Guarding Your Assets in a Scary World" presentation to the Raleigh Chapter of Sisters in Crime. Durham South Regional Library at 4505 S. Alston Avenue. Time: 1:00 PM -- 3:00 PM. Free, but open only to members of Sisters in Crime and their guests. A representative of the NC Department of the Secretary of State Securities Division will give a presentation on investment frauds and scams.

- 2/15/17 Candler "Crowdfunding - NC's new option for local financing" presentation at Asheville-Buncombe Technical Community College located at 1465 Sand Hill Road, Suite 1004. Time: 1:00 PM -- 4:00 PM. This presentation is planned as an overview of investment crowdfunding for entrepreneurs that may want to utilize this option. Leo John of the NC Securities Division will cover the following: a regulatory overview and how crowdfunding fits within securities laws; the legal do's and don'ts of a crowdfunding offering; the marketing aspects – what you can say and how to reach investors; and utilizing a web site intermediary – picking one and connecting with investors. For additional information, please contact Duane C. Adams at duanecadams@abtech.edu.
- 2/22/17 Fayetteville "Starting and Financing a Venture in N.C." presentation at Womens Business Center located at 230 Hay Street. Time: 10:00 AM -- 11:00 PM. A representative of the NC Department of the Secretary of State Securities Division will discuss things that all new startups need to know when starting and financing a new business, and how the Department of the Secretary of State can assist. For more information, contact Shannon Loper at sloper@nceeed.org.
- 2/28/17 Wilson "Business Essentials" presentation at Wilson Community College, located at 902 Herring Ave East. Time: 6:00 PM -- 9:00 PM. The North Carolina Department of Revenue, North Carolina Secretary of State and NC Industrial Commission will present a seminar entitled "Business Essentials." Each agency will cover basic requirements to help businesses in North Carolina understand the laws and obligations necessary to be compliant. Department of Revenue – Covers the basics of tax compliance ranging from registering your business, to withholding from employees, and sales and use tax requirements. Information will be provided on a program for businesses that have fallen behind on sales and use, withholding, and other trust taxes. At the end of the seminar, there will be a question and answer session with the presenters and networking possibilities with other business owners. Don't miss this great opportunity! For additional information, please contact Rhonda High at (877) 252-3052.
- 3/4/17 Charlotte "Investment Fraud: Guarding Your Assets in a Scary World" presentation to the NC Association of Family & Consumer Sciences Annual Conference at Johnson & Wales University, located at 801 W Trade Street. Time: 11:30 AM -- 12:30 PM. A representative of the NC Department of the Secretary of State Securities Division will give a presentation on investment frauds aimed at the elderly as well as on the Advance Health Care Directive Registry which the Department maintains. For more information, please contact Reno Palombit at Reno.Palombit@dpi.nc.gov.
- 3/14/17 Sanford "Choosing a business structure" at Lee County Small Business Center, 1801 Nash Street. Time: 6:00 PM -- 8:00 PM. Choosing a business structure will have a major impact on your venture and the right choice can make all the difference. Leo John of the NC Securities Division will discuss the various options for structuring a business along with the features and implications of each. The presentations will provide insight into the policies, procedures and regulations of the Department that relate to small businesses. For additional information, please contact Kelly Dehring, sbc@cccc.edu.



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 has been scheduled for March 6, 2017.

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

Charles Caleb Fackrell, of Booneville, NC, was sentenced in federal court on December 6 to 63 months in prison for one count of securities fraud. Fackrell is still facing trial in state court on charges of obtaining property by false pretenses. He is currently in custody awaiting assignment to federal prison.

Recent Enforcement Actions

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



On **October 24, 2016**, the North Carolina Secretary of State's Securities Division entered into a **Consent Order** with **Palmetto Premier Advisors, LLC**. The Consent Order ordered that the Respondents immediately cease and desist from transacting business in this State in violation of the provisions of the North Carolina Investment Advisers Act or the rules thereunder. Click [here](#) to see the Order.

On **October 18, 2016**, the Securities Division of the North Carolina Department of the Secretary of State issued a **Final Order** against **Daniel P. Sexton**. The Order obligates Mr. Sexton to cease and desist from violating the N.C. Securities Act (G.S. Ch. 78A) and also to accurately report information on Form U-4. Mr. Sexton further agreed to amend his Form U-4 in a timely manner. In addition, the Order required a monetary payment of \$1,000.00 in settlement of the Securities Division's investigation. The Order found Mr. Sexton had failed to disclose business activities outside the scope of his employment with his securities dealer and, consequently, had filed an incomplete application for registration under the N.C. Securities Act. Click [here](#) to view the Order.



News from the Regulators

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

[FINRA Announces Top Exam Priorities for 2017](#)

Jan. 4, 2017 — FINRA published its [Annual Regulatory and Examination Priorities Letter](#) (the Priorities Letter) in January, highlighting what will be areas of focus for the regulator in its 2017 examinations. A common thread throughout the Priorities Letter is a focus on core “blocking and tackling” issues of compliance, supervision and risk management. Most of the topics addressed in this year’s letter have been highlighted in prior years, but specific areas of emphasis have been updated or modified based on recent observations and experience. Attention to the core regulatory requirements identified in the letter—and how to address them in light of new business challenges and market developments—will serve investors and markets well. Please read the letter in its entirety [here](#).

[SEC Names Dr. Narahari Phatak Associate Director for Policy in the Division of Economic and Risk Analysis](#)

Dec. 12, 2016 — The Securities and Exchange Commission announced that Dr. Narahari Phatak has been named Associate Director for Policy in the Division of Economic and Risk Analysis (DERA). As Associate Director, Dr. Phatak will direct the development of economic analyses to support the Commission’s rulemaking and policy development activities. Dr. Phatak will oversee the four DERA offices that provide robust and data-driven economic input on a wide range of financial market issues, particularly those related to asset management, corporate finance, financial intermediaries, and market structure. Dr. Phatak has been a member of the Division of Economic and Risk Analysis since 2012, serving as a Financial Economist Fellow in the Office of Markets, a Supervisory Financial Economist in the Office of Financial Intermediaries, and Acting Assistant Director of the Office of Corporate Finance.

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.gov. 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.gov with “Remove from mailing list” in the subject line.

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