

Securities Bulletin

Ohio Department of Commerce, Division of Securities

From the Commissioner, Andrea Seidt



A Quick Look at Robo-Advisers

One of the most interesting aspects of my job as Ohio Securities Commissioner is witnessing the evolution of market players in the securities industry over time. Having held this position for a little over a decade, the most significant development during my tenure has been the birth and rapid expansion of fintech. Fintech has greatly enriched our economy, as well as the lives of many individual investors who have embraced the convenience of 24-hours-a-day, online access to financial tools and advice.

In the securities space, one of the biggest fintech success stories has been the rise of robo-advisers. Robo-advisers are digital platforms that provide automated, algorithm-driven investment management. To learn more about this emerging market player, I teamed up with colleagues at the Georgia Secretary of State’s Securities Division to research firms operating in this area. We reviewed literature, analyzed firm websites and regulatory filings, and separately conducted telephone interviews from April to October 2018 with staff from nine robo-adviser firms.

We learned a lot about robo-advisers as part of this research project, but some of the more important takeaways from my perspective were:

- Robos are huge business. Investors love the ease, convenience, and low-pressure environment. Early adopter Betterment alone has more than \$14 billion in assets under management while the larger robo market is estimated to surpass \$2 trillion by next year.
- Every aspect of even the most sophisticated platform is still being run by a live human being – the technology is not modeling, programming, implementing, or marketing itself (at least not yet anyway). In many ways, the firms are simply making technological tools long used by advisers directly available to consumers without the human middlemen. Costs have spiraled down as a result.
- The model itself is constantly evolving. When we first started our research, most firms were focused on a pure robo experience – no direct human interaction with the consumer. Fast forward six months later, many had migrated toward a hybrid approach, where human advisers are available for consultation, typically for a higher fee in a premium service package.
- The robo product mix is also changing. At the start, all firms we reviewed offered a limited menu of low-cost, well-diversified exchange-traded funds and/or mutual funds. Newer firms are offering equities, catering to niche clientele, and leveraging social investing strategies.
- There is recognition that regulators need to update their rules and recalibrate their resources to address the unique compliance and oversight challenges posed by robo firms. Outdated forms like the Form ADV, for example, were never drafted with robos in mind. We would like to avoid the scenario where firms are pushed to force square pegs into round holes. Regulators also need greater technological expertise and resources to capably oversee these intermediaries.
- There are many regulatory questions to ponder. For example, how do conduct standards work in the digital context, e.g., is a survey coupled with an algorithm sufficient to satisfy an adviser’s fiduciary duty to clients? How should licensure work, e.g., what about those people behind the curtain, should they be licensed? These questions are important and are slowly but surely getting answered.

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As a result of this research initiative, Professor Eric C. Chaffee from the University of Toledo College of Law invited me last fall to present the team’s findings at the school’s Law and Technology Symposium and to follow up with a short paper for inclusion in the University of Toledo Law Review. Our article, *Paying Attention to That Man Behind the Curtain: State Securities Regulators’ Early Conversations with Robo-Advisers*, was recently published in Volume 50, Number 3, of the Spring 2019 edition. [Please check out the article](#) if you want to learn even more about robo-advisers or contact me if you have any of your own robo or fintech observations to share.

Division News

Leo Fernandez Joins Division as Forensic Accountant



Leo Fernandez joined the Division in May to provide expertise in the physical reconstruction of financial records related to securities fraud cases.

Prior to joining the Division, Leo was a forensic accountant in the Bureau of Criminal Investigations of the Ohio Attorney General’s Office. In that role, he assisted law enforcement, prosecutors, and state investigative agencies with investigating various types of financial crimes. Before that he was with the Ohio Auditor of State’s Office as a senior audit manager where he planned, performed, consulted, and supervised special fraud audit engagements to identify and uncover fraud, waste and abuse of public monies.

He earned his bachelor’s degree in Business Administration with a major in accounting and finance from Walsh University in North Canton, Ohio. In addition to earning his Certified Public Accountant (CPA) license, Leo is also a Charter Global Management Accountant (CGMA), is certified in Financial Forensics (CFF), and holds a Master Analyst in Financial Forensics (MAFF) certification.

Staff Recognized for Service Milestones and PEER Awards



PEER Awards

Division employees nominate their co-workers for the annual PEER Awards, and Andrea Seidt selects one person for the Commissioner’s Award. This year’s winners are, front row from left to right: Chris Nelson, Unsung Hero Award; Ray Glenn, Team Player Award; Janice Hitzeman, Investor Champion Award. Back row from left to right: Kelly Igoe, Service Star Award; Tim Jones, Commissioner’s Award; Steve DeFrank, Wild Card Award.



Service Awards

Front row from left: Stephanie Talib, 35 years; Pam Edgerton-Saunders, 30 years; Jennifer Coit, 5 years; Back row from left: Harvey McCleskey, 25 years; Mark Heuerman 30 years. Not pictured: Mark Ballenger, 20 years.

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Outreach and Education Update

Presentations at community forums, industry conferences and senior-related events dominated our outreach efforts this past quarter.

April

We presented a session at the Ohio Crime Prevention Association's Annual Conference and participated in a Financial Literacy Month Information Fair at the Riffe Center with other agencies and nonprofits. We also presented at the Division of Financial Institutions' annual staff meeting.

May

The first two weeks in May were busy, starting with presentations at Dayton's Northwest and Vandalia libraries, then presenting and exhibiting at the Ohio Association of Chiefs of Police Annual Conference, followed closely by presenting at the Ohio Auditor's Fraud Conference, both in Columbus. Later in the month, we participated in the Ohio Attorney General's Elder Financial Exploitation Symposium in Marietta, and presented to the Ohio Investigators Association in the Riffe Center.

June

June was another busy month, starting with participating in the Ohio Attorney General's Elder Abuse Commission training program in Columbus, a return to Dayton with a presentation at the library's Brookville branch, a presentation at the Central Ohio Area Agency on Aging's World Elder Abuse Awareness event, and presenting at AARP Ohio's Fraud Watch program in Grove City.

Summer Outreach Schedule (as of July 1)

July

- July 18 - Buckeye State Sheriffs' Association Annual Senior Conference, Athens County
- July 30 - Senior Expo at the Ohio State Fair

August

- August 6 - Dayton Library Wilmington-Stroop branch

SEC Investor Forum Hosted by the Division

The Division hosted two informal discussions June 17 and 18 with Rick Fleming, the Investor Advocate from the U.S. Securities and Exchange Commission. The first session was held with various financial professionals, while day-two attendees included local retirees and investors with active investment accounts.

Both groups learned about the Advocate office's role in investor protection, discussed investment products and professionals, and shared their thoughts and concerns about investing in today's markets.

The Office of the Investor Advocate was established in 2014 and Fleming was appointed as the Commission's first Investor Advocate. The core functions of his office are to:

- Provide a Voice for Investors. The staff work to ensure the needs of investors are considered as decisions are made at the SEC, at self-regulatory organizations (SROs), and in Congress. They analyze the potential impact on investors of proposed regulatory changes, identify problems investors have with investment products and financial service providers, and recommend changes to statutes and regulations for the benefit of investors.



Join Us for Senior Day at the Ohio State Fair

If you're planning to attend the Ohio State Fair, consider coming July 30 for Senior Day when we join with the Ohio Department of Aging for its annual "Well Beyond 60!" Health and Wellness Expo. The event provides an opportunity for organizations to connect with seniors, from conducting health checks to educating them on programs to enhance their lives. The Division of Financial Institutions will join us by providing information on how to avoid becoming a victim of fraud.



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- Assist Retail Investors. The Investor Advocate appoints an Ombudsman who acts as a liaison to assist retail investors in resolving problems they may have with the Commission or an SRO. Tracey L. McNeil is the SEC's first Ombudsman.
- Study Investor Behavior. Under the leadership of Dr. Brian Scholl, the Office of the Investor Advocate is responsible for investor research. The research may encompass surveys, focus groups, and other methods to gain insight into investor behavior and provide data regarding policy choices. In addition, the Office reviews the economic analyses of rulemakings to ensure they appropriately reflect the impact on investors from proposed rule changes.
- Support the SEC's Investor Advisory Committee. The Office provides staff and operational support for the Committee, and the Investor Advocate serves as a statutory member.

For more information about Rick Fleming and his office, visit the [Investor Advocate website](#).

2019 Ohio Securities Conference Focuses on "What Keeps You Up at Night?" Oct. 25, 2019 • Westin Hotel, downtown Columbus

This year brought many new challenges and changes, both nationally and in Ohio, in the areas of compliance, alternative investments, cryptocurrency, and federal court decisions affecting the industry.

Sponsored by the University of Toledo College of Law and the Ohio Division of Securities, the conference will focus on these and other issues facing securities professionals every day. Many of our presenters will provide their perspective as attorneys, financial professionals, and compliance officers, sharing with you what keeps them up at night.

Alan J. Berkeley, partner with K&L Gates, LLP, and Paul Mathews, vice president and director of FINRA Corporate Financing Department, will address the new and constantly changing world of alternative and complex investments available to the securities industry. This session will focus on the product features, the due diligence obligations, and practical considerations in connection with the sale of alternative investments to investors.

What keeps industry compliance officers and attorneys up at night? Stephen Ayers, vice president and associate general counsel with Nationwide Financial, Maureen Kiefer-Goldenberg, chief compliance officer for Diamond Hill Funds, and Carl Hollister, president and chief compliance officer with L.M. Kohn, will share their decades of experience managing the complex compliance requirements of their organizations.

July Lyzen and Stephanie Breen from the FBI's Cleveland office will present on complex financial crimes in a session called "The 9-to-5 Nightmare."

Attorney Thomas Geyer from Bailey Cavalieri and Professor Eric Chaffee, University of Toledo College of Law, will provide updates on recent federal securities litigation. Attendees will have time during lunch to meet Division section leaders and ask questions during the annual Division updates.

The Ohio Securities Conference is the only continuing legal education program dedicated exclusively to Ohio securities law. The Division will apply for six hours of continuing education for Ohio attorneys, Certified Public Accountants, Certified Financial Planners, and Certified Fraud Examiners.

In August, registration information will be mailed and available on the Division's website and updates will be provided through regular mailings and emails.

Westin Hotel Discount Available to Conference Attendees

If you're coming in before or staying Friday after the conference, we have negotiated a special room rate of \$122 per night* (plus applicable taxes) with the Westin Hotel. You can reserve your room online at [2019 Annual Securities Conference](#) or call the hotel at 614-228-3800; be sure to mention you're attending the Ohio Securities Conference. You can book, modify, or cancel a reservation until Sept. 23, 2019.

**Rate is not available for Saturday or Sunday. Contact the hotel for weekend rates.*

NASAA, SEC and FINRA Issue Senior Safe Act Fact Sheet to Help Promote Greater Reporting of Suspected Senior Financial Exploitation

In recognition of the one-year anniversary of the passage of The Senior Safe Act, the North American Securities Administrators Association (NASAA), the U.S. Securities and Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA) recently issued a fact sheet to help raise awareness among broker-dealers, investment advisers, and transfer agents of the Act and how the Act's immunity provisions work.

The Senior Safe Act Fact Sheet provides information on the immunity and training provisions of the Act, as well as additional resources from NASAA, the SEC and FINRA.

The Senior Safe Act was included as Section 303 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, which was signed into law on May 24, 2018. The Act addresses barriers financial professionals face in reporting suspected senior financial exploitation or abuse to authorities. Specifically, the Act protects "covered financial institutions" – which include investment advisers, broker-dealers, and transfer agents – and their eligible employees, affiliated persons, and associated persons ("eligible employees"), from liability in any civil or administrative proceeding for reporting a case of potential exploitation of a senior citizen to a covered agency. As an example, this immunity can be helpful when a firm wants to report potential exploitation but fears the report could violate a privacy requirement.

The immunity established by the Act is provided on the condition employees receive training on how to identify and report exploitative activity against seniors before making a report. In addition, reports of suspected exploitation must be made "in good faith" and "with reasonable care." This immunity applies to individuals and firms.

The Senior Safe Act Fact Sheet is available on NASAA's website, www.nasaa.org.

SEC Updates List of Fake Firms and Bogus Regulators

On June 10, 2019, the U.S. Securities and Exchange Commission published an [updated list](#) of fake regulators and unregistered entities using misleading information to obtain information from unsuspecting victims or to solicit investors.

Known as the PAUSE (Public Alert: Unregistered Soliciting Entities) list, the SEC compiles this list based on investor complaints and investigations. The PAUSE list, available at www.sec.gov/enforce/pause-unregistered-soliciting-entities, can be sorted into three parts:

- fictitious governmental agencies and international organizations associated with soliciting entities (four entities with Ohio addresses listed)
- unregistered companies that have been the subject of investor complaints (nine entities with Ohio addresses listed)
- unregistered soliciting entities impersonating genuine and former U.S. registered securities firms (three entities with Ohio addresses listed)

The PAUSE list is periodically updated by the SEC's Office of Market Intelligence in coordination with the Office of Investor Education and Advocacy and the Office of International Affairs.

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These lists do not include all unregistered entities, impersonators of genuine firms, fake regulators, or entities that have been the subject of complaints received by the SEC. Also, the inclusion of a name on these lists does not mean the SEC has concluded that a violation of the U.S. securities laws has occurred or the SEC has made any judgment about the merits of the securities being offered by these entities.

If you have information, questions or comments about the entities on this list, [submit a question or complaint](#) to the SEC.

Registration Update

Misleading Issuer Names

The Investment Company Act of 1940 prohibits registered investment company (RIC) issuers from using a name that is “materially deceptive or misleading.” In 2001, the U.S. Securities and Exchange Commission adopted Investment Company Act Rule 35d-1, which requires any registered investment company with a name suggesting a particular investment type actually invest at least 80 percent of its total portfolio in those types of investments.¹ This rule has been in the news lately, thanks to the rise in popularity of “thematic” Exchange Traded Funds,² which differentiate their investment portfolios around particular “themes.” Given the recent increase of issuers in this already-crowded space, these funds seek to stand out among their peers by selecting such names. In practice, adopting such names can also attract attention from regulators who worry it may mislead investors.

Likewise, Division staff have seen filings reflecting this problem, primarily among real estate investment trusts (REITs). One commonly used naming convention is “XYZ REIT,” where the word REIT is preceded by a word or phrase describing the issuer’s area of focus (for example, “Multifamily Property REIT,” “Metropolitan REIT,” etc.). On its own, this kind of name is not prohibited. However, a problem arises if, as Division staff often see, such issuers also reserve the discretion to shift their investment focus away from the area suggested by the issuer’s name in undeterminable amounts or percentages.

The Division’s position is it would be grossly unfair and materially misleading for an issuer to select a name indicating a specialty in or focus on specific investments if the issuer does not in fact make those investments, even if contingency plans are disclosed in the Prospectus. Frequently, issuers will disclose risks related primarily to that investment focus; widely advertise its specific investment focus and yet retain authority to unilaterally depart from that investment focus, while providing investors extremely limited liquidity options.

The Division finds the rationale for Investment Company Act Rule 35d-1 persuasive in these situations. Similar to Rule 35d-1, the Division has required issuers to undertake not to allocate more than 25 percent of their total portfolio of investments to a type other than the one suggested by the issuer’s name, unless shareholders are given a liquidation option, or a shareholder vote to approve a higher proportion. This is similar to the Division’s merit standard, which prohibits corporate issuers from allocating more than 25 percent of the offering proceeds to unidentified purposes.³

¹ <https://www.sec.gov/rules/final/ic-24828.htm>

² https://www.bloomberg.com/news/articles/2019-04-12/sec-cracks-down-on-etf-names-that-could-be-misleading-investors?utm_source=google&utm_medium=bd&cmpld=google

³ See Ohio Securities Bulletin, 2003:1-2, <https://www.com.ohio.gov/secu/ExistingGuidelines.aspx#16>.

Quarterly Question

What is the process for submitting fingerprint results to the Division for Investment Adviser Representative (IAR) licensure in Ohio?

All IAR applicants – regardless of their home state – are required to submit fingerprint results in connection with licensure with the Division. Some individuals may meet this requirement, however, from prior or concurrent licensure with the Division and/or FINRA. All applicants should confirm with the Division if they already meet the fingerprinting requirement or if prints need to be taken.

For Ohio resident applicants, the Division requires electronic prints from [Webcheck locations](#) listed on the Ohio Attorney General’s website. When an applicant visits a Webcheck location, they should request an Ohio Bureau of Criminal Investigation background check. The applicant needs to bring the Division’s address with them because the fingerprint results must be sent directly to the Division. The Division cannot accept results submitted by the applicant or their employer. We encourage applicants to bring the Division’s phone number as well in case there are any questions to be addressed on site.

In addition, the Webcheck agency will ask the applicant the reasoning for fingerprinting. There is not a drop-down selection for IAR licensing. Applicants should ask the Webcheck agency to select “other” from the drop-down menu and fill in “IAR application, ORC 1301:6-3-16.1(c).”

Out-of-state IAR applicants must contact the Division to request Division-specific fingerprint cards and exemption forms be mailed to them.

If you have questions regarding fingerprinting, call 614-644-7381 and ask for the Licensing Section for assistance.

Mandatory Reporting of Senior Financial Exploitation

As discussed in the [Ohio Securities Bulletin](#) 2019:1, effective March 20, 2019, a new Ohio law took effect requiring additional financial professionals (dealers, salespersons, and investment adviser representatives) to report cases of suspected elder abuse or financial exploitation. During March and April, the Licensing section completed outreach to more than 4,000 firms (dealer firms and Notice Filed Investment Advisers) to inform them of the law change. In its correspondence, the Division included a link to the [“Understanding Elder Abuse”](#) handbook prepared by the Ohio Department of Job and Family Services specifically for financial service professionals.

Those who are mandatory reporters should read this information to ensure they are fully informed of their responsibilities under the new law. Firms are strongly encouraged to develop policies and procedures incorporating this requirement and document compliance.

The Division’s Licensing and Examination Section (L & E) provides timely and important information covering a wide-range of topics from “A to Z” that affects licensees.

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Follow Us on Twitter

Follow us [@OHSecuritesDiv](#) for news and information about the division, as well as tips to help Ohioans become more savvy investors and avoid getting scammed.

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2017 Investment Adviser and IAR Handbook Updated

In March 2019, the Division published its update to the March 2017 version of the *Investment Adviser and Investment Adviser Representative Handbook*. This handbook, available for download from our website or in hard copy upon request, is a compilation of material and information providing general information and assistance regarding the Division’s oversight of investment advisers and investment adviser representatives in Ohio.

For those already familiar with the March 2017 version, the Division has noted key updates in the 2019 version with yellow highlighting throughout the handbook, and listed key updates at Appendix J. If you or your clients have suggestions regarding additional topics you would like us to consider covering in the handbook, send them to: anne.followell@com.ohio.gov.

Licensing Statistics Fiscal Year 2017-2019

Licensing Statistics	FY2017	FY2018	FY2019
Securities Dealers	2,024	1,987	1,950
Securities Salespersons	181,460	186,752	190,222
Investment Advisers State Registered	837	865	862
Investment Advisers Notice Filers	1,889	1,967	2,028
Investment Adviser Representatives	19,073	19,490	20,031
Bureau of Worker's Compensation Chief Investment Officer	1	1	1
State Retirement System Investment Officers	101	97	99
TOTAL	205,385	211,159	215,193

Enforcement Update

Administrative Hearings

Craig Alan Sutherland, CRD No. 2001873

Division Notice Order No. 17-018
Hearing held. Awaiting final order.

**Katrina Farmer a/k/a Katrina Seiter
A Voice 4 U, LLC**

Division Notice Order Nos. 17-037 and 18-013
Hearing held. Report and recommendation issued,
recommending a cease-and-desist order. Awaiting final
order.

Jeffery Mohlman, CRD No. 4431845

Division Notice Order Nos. 17-024 and 18-008
Hearing held. Report and recommendation issued,
recommending a cease-and-desist order. Awaiting Final
Order.

**Dock Douglas Treece, CRD 866947
Treece Investment Advisory Corp., CRD No. 110449
Treece Financial Services Corp., CRD 23296**

Division Notice Order No. 18-023
Hearing held. Awaiting report and recommendation.

**Garry N. Savage, Sr., CRD No. 1195330
Advanced Strategies Agency, Inc., CRD No. 121343**

Division Notice Order No. 18-011; Amended NOH 18-021
Hearing held. Awaiting report and recommendation.

**LA Stephenson and Company, CRD No. 167629
Lucien Austin Stephenson, CRD No. 3084925**

Division Notice Order No. 19-007
Hearing date: Continued, awaiting new date.

Administrative Appeals

TAP Management, Inc. et al.

Case No. 17 CV 006942
Appeal from Division Final Order No. 17-022
Filed Aug. 2, 2017

The Division's Enforcement Section is a criminal justice agency authorized to investigate and report on all complaints and alleged violations of the Ohio Securities Act and related rules. The Enforcement Section attorneys represent the division in prosecutions and other matters arising from such complaints and alleged violations.

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Administrative Orders

Division Order No. 19-012

Malik Akbar'el aka Malik Akbar aka Tyrone Williams
Akbar & Associates Legal Corporation aka Akbar & Associates Legal Corp. aka Akbar & Associates
Legal Integrity Benefits Solution Corp. aka Integrity Benefits Solutions
Little Rock, AR

On April 30, 2019, the Division issued a Cease-and-Desist Order against the named respondents based on findings they solicited and received \$8,000 in investments from an Ohio resident based on false statements on their various websites, including promising up to a 20-percent return guaranteed, and further based on statements in their promotional materials promising returns of "\$1,500 a month for 12 months" based on a \$4,000 investment. The Order further finds respondents failed to inform the Ohio investor the principal, Malik Akbar'el, had prior criminal convictions for health-care and tax fraud in the U.S. District Court for the Eastern District of Arkansas. Securities Commissioners in Missouri, Arkansas, Pennsylvania and Illinois have all issued cease-and-desist orders against one or more of the named respondents. The investment was not registered with the Division for sale in Ohio. A hearing was not requested in this matter.

Division Order No. 19-013

Roger C. Faubel, CRD No. 1233851 (inactive)
Faubel Financial Group
Boardman, Ohio

On May 3, 2019, the Division issued a Cease-and-Desist Order against Roger S. Faubel and Faubel Financial Group based, in part, on findings Faubel, while licensed as an Ohio securities salesperson, sold brokered CDs, corporate bonds and corporate notes to at least seven clients based on misrepresentations about the terms of the securities, such as maturity dates, call dates and interest rate, and further based on omissions of material information, including the fact the one-year call dates were optional, the interest rates were variable and could drop to zero, and the maturity dates were well-past the life expectancy of the clients. The Order further finds these investments were unsuitable for certain elderly clients. A request for administrative hearing was originally presented to the Division but was subsequently withdrawn by the respondents.

Division Order No. 19-014

LPL Financial, LLC, CRD No. 6413
Boston, MA

On May 23, 2019, the Division issued an Administrative Consent Order against LPL Financial, LLC, based on findings the firm discontinued review of Blue Sky compliance for certain equity trades between 2006 and 2014. As a result, the Order found, in part, LPL Financial, LLC, sold unregistered, non-exempt securities during the time, failed to properly supervise agents, staff and employees to preview the sale of unregistered securities and failed to maintain books and records necessary to insure full compliance with Blue Sky laws, rules and regulations. This order was part of a NASAA global settlement. Pursuant to the Consent Order, LPL Financial, LLC ("LPL") has agreed to engage an independent reviewer to undertake a global review of all transactions in Ohio ("Historical Trade Review") and to offer remediation to investors impacted by the sale of unregistered securities. LPL will also engage an unaffiliated third party to conduct an operational review to ensure proper compliance procedures are in place to prevent future violations of Blue Sky laws. As part of the NASAA global settlement, LPL has also paid \$499,000 to the Ohio Division of Securities Investor Education and Enforcement Expense Fund.

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Criminal Trials and Hearings

State v. John Case

Case No. 18 CR 000991
Franklin County Court of Common Pleas
TBD (warrant outstanding)

State v. Brian Keith Decker CRD 4565524 (inactive)

Case No. 18 CR 395
Wood County Court of Common Pleas
Trial date: July 18, 2019

State v. Jeffrey B. Hall CRD No. 1871653 (inactive)

Case Nos. 17 CR 004124/18 CR 001232
Franklin County Court of Common Pleas
Trial date: Sept. 30, 2019

State v. Benson Jean-Louis

Case No. 18 CR 004814
Franklin County Court of Common Pleas
Trial date: August 5, 2019

State v. Paul Kratochvill

Case No. 18CRSLD001090
Lake County Court of Common Pleas
Sentencing: July 29, 2019

State v. Michael Neubig

Case No. 18 CR 004998
Franklin County Court of Common Pleas
Pretrial: July 29, 2019

State v. Shaneal Yogesh Patel

Case No. B1901113
Hamilton County Court of Common Pleas
Hearing date: TBD (warrant outstanding)

State v. Raymond D. Sarrocco

Case No. 19 CR I 04 0257
Delaware County Court of Common Pleas
Arraignment date: July 17, 2019

Criminal Cases and Appeals

State v. Jarrich K. Fowlkes and Wayne C. Moore, Jr.

Case Nos. 18 CR 000989/18 CR 000987
Franklin County Court of Common Pleas

On April 16, 2019, Jarrich K. Fowlkes, 45, pleaded guilty to grand theft, a fourth-degree felony, in the Franklin County Court of Common Pleas. Judge Christopher Brown sentenced Fowlkes to five years community control and ordered he pay restitution to the victim. Fowlkes and his co-defendant, Wayne C. Moore Jr., are jointly and severally responsible to pay full restitution to the victim in the amount of \$45,010, \$18,000 of which has been paid to the court for distribution. If Fowlkes violates the conditions of his sentence, he could serve up to one year in prison. Fowlkes and Moore were indicted in February 2018 by a Franklin County grand jury following a criminal referral by the Ohio Division of Securities. The indictment alleged from June through October 2015, they solicited an investment of \$45,010 from an Ohio investor to purchase and rehabilitate real estate through their company,

State v. John Gregory Schmidt

Case No. 2018 CR 04108
Montgomery County Court of Common Pleas
Sentencing date: June 25, 2019

State v. Jeffery Luke Westerman

Case No. 18 CR 006309
Franklin County Court of Common Pleas
Trial date: July 17, 2019

State v. Robert White

Case No. 2019 CR 000149
Clermont County Court of Common Pleas
Plea or Trial Setting Hearing date: August 19, 2019

For further information on these cases, visit:

https://www.com.ohio.gov/documents/secu_Bulletin2019FirstQuarter.pdf

https://www.com.ohio.gov/documents/secu_Bulletin2018FourthQuarter.pdf

https://www.com.ohio.gov/documents/secu_Bulletin2018ThirdQuarter.pdf

https://www.com.ohio.gov/documents/secu_Bulletin2018SecondQuarter.pdf

http://com.ohio.gov/documents/secu_Bulletin2018FirstQuarter.pdf

http://com.ohio.gov/documents/secu_Bulletin2017FourthQuarter.pdf

http://com.ohio.gov/documents/secu_Bulletin2017ThirdQuarter.pdf

http://com.ohio.gov/documents/secu_Bulletin2017SecondQuarter.pdf

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Rick and Wayne Wholesale Rehabs, LLC. The indictment alleged the funds were misappropriated for personal use. This case was prosecuted by Assistant Prosecuting Attorney Robert Lang, in the Office of the Franklin County Prosecutor Ron O'Brien.

State v. Shaneal Yogesh Patel

Case No. B1901113

Hamilton County Court of Common Pleas

On May 15, 2019, following a criminal referral by the Ohio Division of Securities, Shaneal Yogesh Patel, 27, of Lebanon, Tennessee, was indicted by a Hamilton County grand jury on 12 counts: two misdemeanor counts for theft and 10 felonies including five counts of theft, and one count each of securities fraud, misrepresentation during the sale of a security, secured writings by deception, theft from an elderly person, and money laundering. The indictment alleges Patel solicited eight people from Ohio, Kentucky, California and Washington who invested more than \$96,000 in his investment program. Although Patel never held a securities license, he told the investors he was a successful stockbroker focusing on large-cap funds. The indictment further alleges Patel laundered the investment money through third-party accounts and used the money for his personal expenses. A warrant for Patel's arrest has been issued. This case is being prosecuted by the Hamilton County Prosecutor's Office of Joseph Deters.

State v. Raymond D. Sarrocco

Case No. 19 CR I 04 0257

Delaware County Court of Common Pleas

Following a criminal referral by the Ohio Division of Securities, Raymond D. Sarrocco, 62, was indicted on April 12, 2019, by a Delaware County grand jury on one count of securities fraud, one count of misrepresentation in the sale of a security, one count of the sale of an unregistered security, and one count of telecommunications fraud, all fourth-degree felonies. Sarrocco also was indicted on one count of theft, a fifth-degree felony. The indictment alleges from August 2017 until April 2019, Sarrocco solicited and received \$1,500 from a Nevada resident to invest in CMPG III, Ltd. based on representations the funds would be used to invest in short-term stock trades and other securities. Instead, the indictment alleges Sarrocco used the funds for personal expenses. An arraignment hearing for Sarrocco is set for July 17, 2019. This case is being prosecuted by the Office of the Delaware County Prosecutor, Melissa Schiffel.

State v. John Gregory Schmidt

Case No. 2018 CR 04108

Montgomery County Court of Common Pleas

On June 25, 2019, John Gregory Schmidt, 67, CRD 708094 (inactive) of Bellbrook, was sentenced in Montgomery County Court of Common Pleas to serve five years in prison and ordered to pay \$34,446 in restitution to his victims. He will also serve five years of community control when he is released.

A joint investigation conducted by the Ohio Division of Securities and Ohio Department of Insurance revealed Schmidt – who ran Schmidt Investment Strategies Group, in Washington Township, Ohio, while employed by Wells Fargo Advisors Financial Network – had been operating a Ponzi scheme for more than a decade and defrauded several elderly consumers. Schmidt withdrew money from client accounts and annuities without their knowledge or consent. To conceal his activities from clients, he generated fraudulent financial statements, intentionally misrepresenting their account balances. When clients sought to withdraw funds they no longer had, Schmidt would steal money from other individuals' accounts.

In March 2018, he was barred by FINRA from acting as a broker or associating with a broker-dealer firm. The Department of Insurance revoked Schmidt's Ohio insurance license for insurance law violations in June 2018. In December 2018, he was indicted on 124 counts of forgery, two counts of theft from an elderly or disabled adult, one count of telecommunications fraud, and one count of fraud or deceit by an investment adviser. Evidence showed he stole nearly \$1 million from client accounts and generated fraudulent account statements to conceal his scheme. In April 2019, Schmidt was found guilty of the charges brought against him.