


*State of North Carolina*  
*Department of the Secretary of State*

ELAINE F. MARSHALL  
SECRETARY OF STATE

**Memorandum**

**Date:** December 4, 2009

**To:** Joint Legislative Commission on Governmental Operations  
Fiscal Research Division, North Carolina General Assembly

**From:** David Massey   
Deputy Securities Administrator

**Re:** Investor Protection and Education Trust Fund  
Report for Fiscal Year ending June 30, 2009

Pursuant to N.C.G.S. § 147-54.5(f), the Department of the Secretary of State respectfully submits this report on the Investor Protection and Education Trust Fund (hereinafter, "Fund") activity for the fiscal year ending June 30, 2009. This report includes a requested update regarding the effectiveness of investor awareness education efforts by the Department of the Secretary of State.

**Executive Summary**

The Securities Division of the North Carolina Department of the Secretary of State was created to protect the investing public and to enhance legitimate capital formation. The Securities Division enforces the North Carolina Securities Act, the Investment Advisers Act and the Commodities Act. The Division analyzes investment-related complaints received from the public or other sources, establishes jurisdiction, responds to inquiries and makes referrals, conducts investigations and initiates enforcement actions appropriate to protect investors from fraudulent securities activities. The Division is responsible for registering both investment products and investment professionals, and for conducting licensing reviews of same, to protect the investing public from investment fraud. As part of its enforcement responsibilities, the Division investigates allegations of fraudulent activity committed against the general investing public by brokers and investment advisers and their respective representatives. This includes conducting undercover investigations of suspected perpetrators of Ponzi schemes as well as taking the lead in a multi-state investigation into the role that certain investment institutions played in the marketing of auction rate securities to their clients. A further element of the Division's enforcement responsibility is to conduct public anti-fraud education outreach activities. These activities are directly funded by the Fund which is supported solely and completely by the settlement payments the Division collects through its enforcement actions.

The 2008-2009 fiscal year was notable for the large amount of outreach and investor education accomplished, while at the same time, the Fund completed the fiscal year with an almost \$36,000 increase in its balance. Approximately 7,300 North Carolina investors received direct, in-person education and training during the fiscal year. Carefully targeted printed materials reached more than 22,500 North Carolinians. Financial support and shared expertise was also given to other high-quality investor education efforts in the State.



## I. Investor Protection and Education Trust Fund Activity for FY 2009

The Fund's opening balance on July 1, 2008, was \$1,706,614.96. During the 2009 fiscal year, there were two deposits to the Fund, totaling \$162,001.11. One of the deposits, in the amount of \$82,417.11, constitutes interest income generated by the Fund. The second deposit came as a result of the action described in the following paragraph.

On October 24, 2008, the Securities Administrator issued and entered a Consent Order ordering a prominent investment bank to cease and desist from violating the North Carolina Securities Act in connection with the unregistered sales of securities to the North Carolina investing public. The order was in settlement of and concluded the securities investigation into the investment bank's failure to maintain adequate systems to reasonably ensure compliance with state securities laws and failure to reasonably supervise its salesmen. The settlement amount was \$79,584.00.

## II. Investor Protection and Education Trust Fund Expenditures for FY 2009

The Fund's closing balance on June 30, 2009, was \$1,742,461.82. During the 2009 fiscal year, expenditures from the Fund totaled \$126,154.25. This amount was comprised of the following components:

- A. Payments totaling \$126,154.25 to conceive, coordinate and execute all of the Department's investor education outreach activities and initiatives. During FY 2009, such initiatives included (but were not limited to):
  - 1. Co-sponsorship with AARP of Scam Jam Ads (see #B below).
  - 2. Sponsorship of informational booths at anti-fraud events in Charlotte and Greenville (See #C below).
  - 3. Conceiving and implementing a series of investor protection presentations for civic and professional organizations. During FY 2009, the Securities Division provided investor education presentations at a total of 62 events in 33 different cities spanning 24 different counties, and presented to almost 6000 people.
  - 4. Responding to constituent queries and requests for information, meeting with interested constituents and constituent groups about investor education and protection activities, and researching investor education/protection topics for articles, letters and speeches. During FY 2009, the Securities Division provided over 6,500 pieces of investor education materials in response to direct citizen requests received at the office for these materials. This does not include materials picked up during presentations or that were handed out during the NC State Fair. Furthermore, the Division arranged for over 16,000 investor education booklets specifically designed for members of the armed services to be shipped directly to Ft. Bragg and Pope Air Force Base for distribution to service members through the U.S. Family Readiness offices on both bases.
- B. An on-going priority for the Department of the Secretary of State is preventing investment fraud aimed at senior citizens. Information collected by the Securities Division and securities regulators across North America show that senior citizens are a favorite target of promoters of fraudulent investments. Since FY 2006, the Securities Division has partnered with the North Carolina AARP to promote attendance at free consumer protection seminars called "Scam Jams." Senior citizens learn about the latest scams and ways to protect themselves from becoming victimized. This partnership continued through FY 2009, during which payments totaling \$7,579.50 were made to various newspapers around the state to advertise the public meetings. As part of the Scam Jam series, the Securities Division gave investor education/protection presentations at 19 sites across the state. Approximately 1,400 people attended this year's series of Scam Jams.



- C. Since FY 2006, the Department of the Secretary of State has sponsored and staffed a booth at the annual Scam Jam and Senior Expo presented by the Better Business Bureau Consumer Foundation of Charlotte. In addition, the Department also sponsored a booth at the NC Conference on Aging. Total expenditures to these events were \$4,175.00.
- D. A new initiative undertaken during FY 2009 included the development of a 6.5-hour course of continuing legal education (CLE) providing an overview of securities law for lawyers without prior training in this field of practice. The intent was to increase the general knowledge base about securities law within the state's bar so that more attorneys would be prepared to assist clients with securities law claims. The event was held in May 2009 with subsequent video replays around the state. To date, approximately 100 attorneys have taken the course. Actual expenses for putting on this program were not incurred until after the close of FY 2009. These expenses will be included in the FY 2010 IPET Activity Report.
- E. Another initiative undertaken during FY 2009 was the development of a series of educational courses to be delivered through the Small Business Center Network of the NC Community College System. The goals of this series of courses are three-fold: To help the general investing public better understand the investment-related account statements they receive from their investment professional(s); to help the general investing public recognize and avoid potential investment frauds; and to help small businesses and entrepreneurs better understand the process of raising business capital lawfully. This program is still under development.
- F. Payments totaling \$14,561.49 were made to various vendors for equipment maintenance, office supplies, printing and shipping costs.

This concludes the FY 2009 IPET activity report. Please contact me if the Department can provide further information.

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