

Executive Session - Sub. on Aging Hearing on Financial Abuse and Exploitation

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Witness:

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Testimony:

Chairman Bond, Ranking Member Mikulski and members of the Subcommittee, on behalf of Maryland's elderly citizens, I thank you for inviting me to testify today regarding the issues that elderly consumers face in today's investment marketplace. I am testifying today in my capacity as Attorney General for the State of Maryland. I was asked to share with you some of the law enforcement cases that have been brought by my Office over the last few years and how my Office was able to assist seniors who were harmed by the businesses that were the targets of these cases.

As the Attorney General for Maryland, I hear countless stories of financial abuse against seniors ranging from bogus investment products, to high pressure telemarketers, to shady investment advisers and stockbrokers. My Office criminally prosecutes companies and individuals who commit crimes against seniors, brings civil law enforcement actions for injunctions, restitution and penalties against companies and individuals who commit securities fraud and unfair and deceptive trade practices, and seeks to educate seniors through publications and seminars so that they may be better able to protect themselves. In recent years, my Office has brought a number of cases that involve businesses that cheated seniors who were purchasing financial products and investment advice. These cases are particularly egregious because seniors, like many other consumers, rely heavily on others to provide them with accurate and truthful information about their financial and investment options.

One of the cases recently brought by my office involved a Maryland business owner, Rodney Hinkle, and his companies Money Systems, LLC and Energy Resources, Inc. Mr. Hinkle was well-known for hosting lavish all-expense paid dinner financial seminars at local hotels and restaurants. Holding himself out as a legitimate investment adviser, he used those events to pitch investments in his own companies.

Unfortunately, rather than running a legitimate business, Mr. Hinkle pooled the investment monies and paid off earlier investors with subsequent investors' monies – a classic Ponzi scheme. Among Mr. Hinkle's many victims was one of his "clients," a widow who entrusted him to make her financial decisions after her husband died. Mr. Hinkle fleeced the woman of over \$300,000 – the proceeds of her husband's life insurance policy. My Office brought an action to shut down Mr. Hinkle's activities and bar him from the securities and investment advisory business.

Earlier this year, my Office settled a case involving another investment adviser named Steven Yarn. Mr. Yarn had befriended an 84 year-old woman who did not have any immediate family. As the woman's health began to fail, Mr. Yarn took over her financial and legal affairs. He found a lawyer to revise her will and had himself named as co-executor of her estate. Upon her death, she directed her assets to be transferred into a

foundation that would donate to various charities. Over the years, Mr. Yarn transferred for his own use nearly \$200,000 of the woman's money, half of which came from the foundation after the woman's death. Our settlement requires Mr. Yarn to pay the funds back to the foundation and keeps him out of the investment advisory business until he has completed those payments.

Two other recent cases brought by my Office involve two Baltimore businesses, Answer Care, Inc. and Beneficial Assistance, Inc. The companies sold viatical settlement contracts – investments in the proceeds of another person's life insurance policy – to hundreds of investors. Salespeople pitched these investments as “guaranteed” and “safe” investments – an impossible promise when one is betting on when the insured person will die in order for the investment to “mature” and pay off. Millions of dollars were lost including the \$12,000 life savings of a retired school teacher who invested with Answer Care. A few weeks after making the investment, she began to worry and called our office. Unfortunately she didn't call us before she made the investment. Our action froze Answer Care's assets and set up a receivership to distribute those assets to defrauded investors, who hope to receive a maximum of 25 cents on their investment dollars.

We recently settled a case against another investment advisory firm that had borrowed \$350,000 from one of their clients, an 89 year-old widow and retired schoolteacher. We were able to negotiate the return of the borrowed funds, and the firm agreed never to borrow funds again from their clients. Despite that experience and our warnings, we fear that this woman might be a victim of another fraudulent investment scam.

In another disturbing case, a stockbroker with a reputable firm churned the account of a retired elderly couple who were taking care of their mentally disabled adult child. They wanted to protect and preserve their savings to use for their child's future care. The stockbroker's malfeasance caused nearly \$500,000 in losses including more than \$300,000 in commissions paid to him. Our office was able to negotiate a settlement that returned the funds to the victims and barred the stockbroker from doing business in Maryland.

In a similar vein, my office settled a case with another large brokerage firm for the unlawful activities of one of its stockbrokers, Monica Coleman. Ms. Coleman devised an investment scheme that defrauded her brokerage clients when she sold them securities in her own company. Since convicted of securities fraud in our criminal action, Ms. Coleman promised one of her victims – a 70 year old retiree – to quadruple her monthly income. Instead of keeping her promise, Ms. Coleman misappropriated \$103,000, the woman's lump sum retirement payment. My office was able to negotiate a settlement in which the brokerage firm paid the victims nearly 50% of their losses and agreed to remedial supervisory procedures.

Our actions aren't limited to local defendants. In a recent case involving a New York telemarketing boilerroom operation, my office was able to negotiate the return of some of a Maryland retiree's lost life savings and bar the offending brokers and their firm. The glib telemarketers promised handsome, tax-free profits and convinced the investor to liquidate his retirement accounts – money that had been conservatively invested in well-performing funds. The telemarketed investments, including a promissory note paying above market interest and stock in highly speculative or non-existent companies, were fraudulent.

My Office, in conjunction with Attorneys General from around the country, has been involved in a number of investigations of sweepstakes companies, which often prey on seniors by convincing them to purchase unwanted magazine subscriptions and other products based on a false impression that the purchases will increase their odds of winning. One settlement, which involved Publishers Clearing House, resulted in refunds of more than \$700,000 to more than 3,200 Maryland consumers. In another settlement, United States Purchasing Exchange paid \$608,000 in refunds to 886 Maryland consumers.

Another initiative that we have undertaken along with state securities administrators from around the country is a Senior Outreach program that is designed to educate seniors to protect themselves from investment fraud. Included in this outreach program is a new website launched last month – the Senior Investor Resource Center ([www.nasaa.org/nasaa/sirc/sirc.asp](http://www.nasaa.org/nasaa/sirc/sirc.asp)) – that is designed specifically for senior audiences. The website includes: a checklist of questions seniors should ask before making an investment decision; common sense solutions to protect assets from investment fraud; and information about the current top frauds targeting seniors.

These are dangerous times for seniors. The volatile stock markets, record low interest rates, rising health care costs, and increasing life expectancy all have combined to create the perfect storm for investment fraud against senior investors. The fear that they will be unable to meet their financial needs and will outlive their money makes seniors even more vulnerable to con-artists who specifically target seniors and prey on those fears. The States, through their securities regulators – the local cops on the securities beat – have a long history of protecting all investors through financial education and rigorous enforcement of investor protection laws.

To continue to protect our investors, it is critical that the States' ability to pursue fraudulent activity not be compromised by provisions such as those contained in H.R. 2179, The Securities Fraud Deterrence and Investor Restitution Act of 2003, which is being considered by the House Financial Services Committee. As currently written, that bill would restrict my office and other state securities regulators from taking the day-to-day actions that protect all of our investors by preventing us from imposing requirements as part of enforcement, licensing or other regulatory proceedings that go beyond federal requirements. Given the rampant financial abuse of seniors, this is not the time to handcuff the local securities cops.

This Subcommittee's examination of such abuse should be applauded. My Office and other State Attorneys General will continue to play an active role in protecting seniors. I thank the Chairman and each member of this Subcommittee for allowing me the opportunity to appear today and give my testimony.