



## In the News

### Protect yourself from Investment Fraud

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By some estimates, Americans lose between \$40 and \$50 billion each year as a result of investment fraud. Misconduct by stockbrokers, financial advisors, broker-dealers, registered investment advisors and other financial institutions are an unfortunate fact. Most investors, however, don't realize they have been victimized until markets come under stress and investors begin to ask questions of their "trusted advisors." Most investors understand there is a trade-off between risk and reward and that most losses are "market losses." But, when they suffer losses due to misconduct by investment professionals, such as negligence and securities fraud, or other improper acts by investment professionals, they should seek the guidance of a skilled securities attorney with a proven track record of success.

### What are some examples of investment fraud and advisor misconduct?

Investment fraud occurs when an issuer, seller, or other promoters of an investment misrepresents or omits relevant facts about your investment and, as a result, an investor suffers damages.

Examples of advisor misconduct (aside from fraud) include breach of fiduciary duty, over-concentration, unauthorized trading, unsuitability, and "churning" (i.e., excessive trading by the broker to generate commission) and reverse churning (generating commissions through a fee-based account without providing any service). These are only a few examples of wrongdoing which can become apparent after a review of your portfolio.

There are warning signs for you as an investor. For example, your advisor shouldn't be "pitching" stocks or using terms that hype such picks, like "incredible gains." Similarly, your advisor should not guarantee returns. Keep in mind there is an inverse relationship between risk and reward—the higher the return, the higher the risk. If your investment professional promises high returns with no risk that's a red flag. If it sounds too good to be true it most likely is.

Most importantly, has your advisor taken the time to understand your financial picture and your tolerance for risk? Did they take the time to discuss your financial goals? Every advisor has a duty to "know their customer." If your advisor missed this basic step, that could be a sign of trouble.

### How do I know if I am a victim of financial advisor or stockbroker misconduct?

It is not always clear whether you are a victim of investment fraud or advisor misconduct, especially in volatile markets. Some losses are unavoidable when markets are disrupted. Warning signs that your losses are not "market losses" can include losses that far exceed current market returns, not receiving your statements or receiving statements from your advisor, but not from the financial institution itself, high-pressure sales tactics, or the promise of high returns with little risk. It is not uncommon to suspect one type of fraud and then upon review of your account by a qualified securities attorney, learn you were victimized by other advisor misconduct.

### Do I have to hire a lawyer to recover my losses?

Virtually all financial institutions require their customers to sign account opening agreements that require you to resolve your disputes and claims through binding arbitration (most regularly FINRA arbitration). Your best strategy to successfully

recover your losses is to hire a skilled securities arbitration attorney who can investigate your claim and tell you if you have a case.

A qualified Securities Arbitration attorney will have deep knowledge regarding industry standards, as well as experience with the rules of securities arbitration—which are very different from state and federal court litigation. They will help you assess your situation and identify potential claims if they exist. These attorneys regularly handle these matters and usually work on a contingent fee basis—meaning they don't receive compensation unless they achieve a recovery on your behalf.

### What steps can I take to avoid investment fraud?

Your investments represent you and your loved one's financial security. You should take the time to make sure you are doing everything you can to protect your family. There are many skilled and trustworthy financial advisors, and there are resources available to assist you in finding them. You should research the financial institution holding your investments and get a feel for their reputation in the community and the financial world. Likewise, you should also investigate your specific advisor. FINRA's on-line "broker-check" database provides important information about your advisor and whether he or she has been the subject of disciplinary proceedings or an arbitration claim. Similarly, the SEC provides information on registered investment advisors.

### How do I know if I have a good investment advisor?

A good investment professional will welcome your questions and have reliable, clear answers for you. They will take the time to learn about and understand your financial goals, time horizon, and risk tolerance, prior to making any recommendation. They should explain their recommendations to you in a manner which is clear and understandable. They should provide references to you if you ask for them. They should regularly communicate with you to update your financial profile and to make sure the course of action they have recommended still aligns with your goals, needs, and risk tolerance. Finally, a reliable investment professional is never accusatory or defensive. If you have concerns, they work with you to answer your questions and resolve your concerns. They provide clear information which you can understand.

A great resource for what questions to ask your investor can be found [here](#).

What other resources are there for me to learn more investment fraud?

If you have a question or concern about an investment, or you think you have encountered fraud or misconduct, you can contact the SEC, FINRA, or your state securities regulator to report the fraud and to get assistance.

U.S. Securities and Exchange Commission  
Office of Investor Education and Advocacy  
100 F Street, NE  
Washington, DC 20549-0213  
Telephone: (800) 732-0330  
Fax: (202) 772-9295

Financial Industry Regulatory Authority (FINRA)  
FINRA Complaints and Tips  
9509 Key West Avenue  
Rockville, MD 20850  
Telephone: (301) 590-6500  
Fax: (866) 397-3290

North American Securities Administrators Association (NASAA)  
750 First Street NE  
Suite 1140  
Washington, DC 20002



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**Robert E. Linkin** is a partner in Munck Wilson Mandala's litigation practice. Rob represents clients in complex litigation, securities litigation, and class action lawsuits. He brings more than 24 years of legal experience advising clients in business disputes, financial reporting, and commercial litigation.

### Related People

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