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October 21, 2013

MEDIA ALERT

Division of Securities releases Top Investor Threats to consumers, businesses

"2013 list compiles NASAA and Utah data, focuses on schemes and offers targeting investors"

(For immediate release…)

SALT LAKE CITY, Utah – Keith Woodwell, Director of the Utah Division of Securities, announced today that the Division has released a new list of Top Investor Threats facing consumers with its partner, the North American Securities Administrators Association (NASAA). The 2013 list examines offers, practices, and investment scenarios that are being aggressively marketed to those trying to build and protect their nest eggs for retirement. The Utah Division of Securities investigators are concerned that with the passage of the JOBS Act lifting advertising restrictions on securities and other investments, consumers face even greater challenges when deciding where to invest their earnings.

"With new advertising flooding the marketplace and currency vehicles such as Bitcoin making headlines, investors are facing new and confusing messages," cautioned Director Woodwell, "Rest assured, our messages at the state level remain stable: Choose your investments carefully, don't jump into something you don't fully understand, and work with a licensed professional when it comes to protecting your money."

The 2013 list was compiled by the members of North American Securities Administrators Association.

2013 Top Threats Facing Investors & Small Businesses

Persistent Investor Threats

Private Offerings: Fraudulent private placement offerings continue to rank as the most common product or scheme leading to investigations and enforcement actions by state securities regulators. These offerings commonly are referred to as Reg D/Rule 506 offerings, named for the exemption in federal securities laws that allows private placements to be sold to investors without registration). By definition these are limited investment offerings that are highly illiquid, generally lack transparency and have little regulatory oversight. While Reg D/Rule 506 offerings are used by many legitimate companies to raise capital, they carry high risk and may not be suitable for many individual investors. With the passage of the JOBS Act and recent adoption of rules implementing certain aspects of the Act, restrictions on how Reg D/Rule 506 offerings can be marketed to the general public have been relaxed, including the lifting of an 80-year ban on general solicitations (advertising). Investors soon will begin to see advertisements for private placement offerings on a variety of platforms including social media, billboards, or t-shirts on window washers as one startup has proposed, even though only a very small percentage of the population will be eligible to invest. And, as is often the case, scam artists are likely to use this legally permissible avenue to their advantage leading, no doubt, to another year of Rule 506 offerings holding the top spot as the most frequent source of state securities enforcement actions.

Real Estate Investment Schemes: The popularity of investments involving distressed real estate continues throughout the boom and bust cycle in the U.S. housing market. Even as housing prices continue to recover in many U.S. markets, investors should be aware that schemes related to new real estate development projects or buying, renovating, flipping or pooling distressed properties are popular with con artists. In the latest NASAA enforcement survey, real estate investments were the second-most common product leading to securities fraud investigations by state securities regulators. While legitimate real estate investments can be an important part of a diversified investment portfolio, there are substantial risks with many types of real estate investments. In particular, state regulators have seen problems with non-traded real estate investment trusts (REITS), properties that are bank-owned, pending short-sale, or in foreclosure, and flimsy promises of investment funds being secured by an interest in real property when the property in question is already highly leveraged and has no remaining equity. As with all investments, careful vetting and due diligence is a must with real estate investments.

High-Yield Investment and Ponzi Schemes: Retail investors chasing yield often find themselves falling prey to high-yield investment and Ponzi schemes promising unbelievably high rates of returns. That trend continues and does not appear to be going away any time soon. As with other alternative investments, high yield means higher risk and these types of alternative investments are favorites of scam artists. Whether a typical Ponzi scheme or a high-yield investment program, many of the characteristics are the same – promise of incredibly high return coupled with low risk; a reasonably plausible explanation of why the investment is so good; a scam artist with credibility often based on claims of holding false credentials or being part of a particular group or organization. Initial investors are paid a return and help spread the word by promoting the investment to others. Ultimately the scam will collapse leaving later investors with nothing to show for their trust in the scheme. One way to protect yourself is to ask questions and when you think you have asked all the questions you have, ask more questions. As Bernie Madoff, the king of Ponzi schemes, once said, he only turned people away when they asked too many questions.

Affinity Fraud: Marketing a fraudulent investment scheme to members of an identifiable group or organization continues to be a highly successful and lucrative practice for Ponzi scheme operators and other fraudsters. Fraudsters know that people tend to trust someone who is perceived to have a common interest, beliefs or background and use that trust to exploit members of specific groups. The most commonly exploited are the elderly or retired, religious and ethnic groups, and the deaf community. Members of the group often find it hard to believe that "one of their own" could be scamming them. Consequently, affinity fraud can go unreported or when a regulator becomes involved, members of the group choose not to cooperate. Investors should keep in mind that investment decisions should be made based on a careful evaluation of the underlying merits of the offer rather than common affiliations with the promoter.

Scam Artists Using Self-Directed IRAs to Mask Fraud: Scam artists are using self-directed individual retirement accounts (IRAs) to increase the appeal of their fraudulent schemes. State securities regulators have investigated numerous cases where a self-directed IRA was used in an attempt to lend credibility to a bogus venture. While self-directed IRAs can be a safe way to invest retirement funds, investors should be mindful of potential fraudulent schemes when considering a self-directed IRA. Custodians and trustees of self-directed IRAs may have limited duties to investors, and generally will not evaluate the quality, value or legitimacy of an investment or its promoters. Fraud promoters pushing a Ponzi scheme or other investment fraud can misrepresent the responsibilities of self-directed IRA custodians in order to deceive investors into believing that their investments are legitimate or protected against losses. While a scam artist may suggest that self-directed IRA custodians analyze and validate investments, those custodians only hold the assets in a self-directed IRA and generally do not evaluate the quality, value or legitimacy of any investment. In some cases, fraud promoters convince investors to move assets from an existing self-directed or traditional IRA into a fake self-directed IRA held by a supposed custodian created and owned by the scam artist. Fraudsters also exploit the tax-deferred characteristics of self-directed

IRAs, and know that the financial penalty for early withdrawal may cause investors to be more passive or to keep funds in a fraudulent scheme longer than those who invest through other means. Self-directed IRAs also allow investors to hold alternative investments such as real estate, mortgages, tax liens, precious metals, and private placement securities. Financial and other information necessary to make a prudent investment decision may not be as readily available for these alternative investments.

Risky Oil and Gas Drilling Programs: Investors exploring alternatives to traditional securities may be attracted to the lucrative returns often associated with investments in oil and gas drilling programs. Retail investors increasingly are turning to alternative investments including oil and gas drilling investments as opposed to traditional stocks, bonds and mutual funds. These investments appeal to those frustrated with stock market volatility or skeptical of Wall Street. Unfortunately, energy investments generally prove to be a poor substitute for traditional retirement planning. Investments in oil and gas drilling programs typically involve a high degree of risk and are suitable only for investors who can bear the loss of the entirety of their principal. Some promoters will conceal these risks, using high pressure sales tactics and deceptive marketing practices to peddle worthless investments in oil wells to the investing public. There are active investigations into suspect oil and gas investment programs in more than two dozen states and in every region of the U.S. and Canada. Investors should conduct thorough due diligence and assess their own tolerance for considerable risk when considering the purchase of interests in oil and gas programs.

New Threats to Investors

Proxy Trading Accounts: Investors should be wary of individuals who claim to have trading expertise and offer to set up or manage a trading account on an investor's behalf. Allowing an unlicensed individual to have access to the username and password for your brokerage account or worse, allowing an unlicensed individual to set up a brokerage account in your name, is a recipe for disaster. Allowing someone without the legally-required safeguards of proper registration and bonding requirements to control your account often leads not only to substantial trading losses, but the loss of investment funds through improper withdrawals from the account including theft. Investors should check with their state securities regulator to confirm that anyone offering to manage your accounts is properly registered and has a clean background. Financial professionals who make the commitment to be properly registered also commit to act ethically and honestly. If they do not uphold that obligation, they will answer to state or federal regulators. Unfortunately, the same cannot be said for the unlicensed individual looking to capitalize on an investor's trusting nature.

Digital Currency: Virtual reality may exist only in science fiction, but consumers now are able to purchase goods and services with virtual money such as Bitcoin, PP Coin and other digital currencies. Unlike traditional coinage, these alternatives typically are not backed by tangible assets, are not issued by a governmental authority and are subject to little or no regulation. The value of Bitcoins and other digital currencies is highly volatile and the concept behind the currency is difficult to understand even for sophisticated financial experts given the complicated mathematical algorithms that determine when new blocks of coins will be released. This environment has provided fertile ground for scam artists to capitalize on the increasing popularity and acceptance of digital currencies. Investors should be aware that investments that incorporate abstract money systems present very real risks, including the possibility of virtual reality leaving an investor virtually broke.

New Threats to Small Businesses

Capital-raising Pitfalls: Recent law changes and newly available capital from investors including "angels" – affluent individuals who provide capital for a business startup – have changed the business funding landscape. The new and enhanced opportunities to raise capital through crowdfunding, public advertising for investors under JOBS Act regulations and angel funding "solutions" also carry risks for unwary entrepreneurs. Securities offerings either must be exempt from registration requirements or properly registered, even under the new laws. Exempt securities remain subject to federal or state anti-fraud provisions meaning entrepreneurs must provide full and accurate disclosures as part of any offering. Remember a security can be a stock, note, agreement, financial instrument or anything else that provides an investor with an expectation of participating in the profits the entrepreneur generates. The inadvertent failure of an entrepreneur to follow securities laws can result in money judgments for investors that can rob the profits of a new or expanding business enterprise. It pays to research your selected method of capitalization before you solicit any investors.

Unregulated Third Party Service Providers: The implementation of the JOBS Act has created opportunities for unregulated third parties to provide ancillary services. Whether a crowdfunding portal or an accredited investor aggregator, it is important to do your due diligence and to understand that use of an unregulated third party to provide such services does not change your obligations under federal and state securities laws. Not only should a small business or other entrepreneur make sure they are dealing with a legitimate service provider, they should also make sure that the service being offered is in full compliance with all federal and state requirements. Since the passage of the JOBS Act, new firms have joined existing firms that offer to sell lists of accredited investors for use in private placement offerings. However, new rules recently adopted by the SEC include more stringent requirements replacing the old failsafe of reliance on an investor-completed questionnaire claiming accredited investor status. If not done carefully and with federal requirements in mind, an entrepreneur will suffer the consequences, which could include the loss of any claimed exemption. Use of crowdfunding portals, while subject to some regulation, also opens the door to scams. Startup businesses, especially small local businesses, should be very careful to verify the legitimacy of a portal before engaging their services. Investors are not alone in their potential to be scammed. Using a fraudulent portal means both the business and the investor stand to lose.

About NASAA

Organized in 1919, the North American Securities Administrators Association (NASAA) is the oldest international organization devoted to investor protection. NASAA is a voluntary association whose membership consists of 67 state, provincial, and territorial securities administrators in the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Canada, and Mexico.

In the United States, NASAA is the voice of state securities agencies responsible for efficient capital formation and grass-roots investor protection. Their fundamental mission is protecting consumers who purchase securities or investment advice, and their jurisdiction extends to a wide variety of issuers and intermediaries who offer and sell securities to the public. NASAA members license firms and their agents, investigate violations of state and provincial law, file enforcement actions when appropriate, and educate the public about investment fraud. Through the association, NASAA members also participate in multi-state enforcement actions and information sharing. NASAA also coordinates and implements training and education seminars annually for state/district/provincial and territorial securities agency staff.

About the Utah Division of Securities

The Division of Securities enhances Utah's business climate by protecting Utah's investors through education, enforcement, and fair regulation of Utah's investment industry while fostering opportunities for capital formation. Investors should do business with licensed securities brokers and advisers and report any suspicion of investment fraud to the Utah Division of Securities by calling (801) 530.6600; toll free at 1.800.721.7233 or logging on to www.securities.utah.gov.

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