

PACE INVESTOR RIGHTS PROJECT

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April 27, 2007

Mr. Bryan Lantagne
Director
Massachusetts Securities Division
One Ashburton Place, Room 1701
Boston, MA 02108

Re: 950 CMR 12.200, New Regulations on Senior Financial Designations

Dear Mr. Lantagne,

The Pace Investor Rights Project (PIRP) and the Securities Arbitration Clinic (SAC), both operating at Pace University School of Law, welcome the opportunity to comment on Secretary Galvin's proposal to amend 950 C.M.R. 12.200 to require broker-dealer agents and investment adviser representatives to obtain proper accreditation before purporting to be specialists in senior citizen investing.

PIRP's mission is to advocate on behalf of investor justice, particularly with regard to small investors, who are often senior citizens. Pace SAC is a law school curricular program in which J.D. students, for academic credit and under close faculty supervision, represent individual investors – who are unable to obtain representation otherwise – in their arbitrable securities disputes with their brokerage firms. To ensure that the clinic remains faithful to its original purpose of filling the gaps in legal representation for investors rather than competing with other attorneys in the industry, SAC has established strict eligibility requirements.¹ Preference is given to senior citizens.

PIRP and SAC support the rule proposal and commend Secretary Galvin's efforts to protect investors from misleading and deceptive use of senior credentials in connection with the sale or purchase of securities, and the advice given to senior citizens relating to securities. As a New York-based organization, SAC is not as familiar with the senior citizens of Massachusetts as it is with seniors in New York. However, our clinic handles inquiries from senior citizens residing in numerous states, and it is apparent that many seniors fall prey to deceptive and misleading tactics used by broker-dealers and investment advisors in the securities industry. We have seen firsthand in our clinic that the elderly are particularly vulnerable to investment fraud. Senior citizens can be easily impressed by credentials, are particularly susceptible to trust those with fancy labels and

¹ See SAC Eligibility Criteria, http://www.law.pace.edu/jils/securities_arbitration_clinic.htm.

beefed-up qualifications, and are more willing to listen to sales pitches.² Senior clients in the securities industry can be easily victimized and, thus, need additional protection.

This proposed amendment provides just the type of additional protection that we believe is needed. It is a necessary and appropriate measure, designed to defend the public interest and guard against misbehavior on the part of dealers and advisors that is all too common when clients over age sixty are involved. Finally, senior citizens frequently have the most to lose, as many of them rely on fixed income and modest returns from retirement funds to live, and thus, such additional safety precautions are warranted to help ensure the financial security of elderly investors.

Additionally, by requiring that proper accreditation is only obtainable from an accreditation organization recognized by the Secretary of the Commonwealth by rule or order, the amendment ensures that the requirements for such accreditation will be consistent among all broker-dealers and investment advisors throughout the state. Moreover, this provision guarantees that there will be little ability for members of the securities industry to bypass or undercut the prerequisite by obtaining accreditation from a sham organization, not approved by the Commonwealth.

We applaud Secretary Galvin's efforts, and hope that other states will soon follow Massachusetts' lead.

Sincerely yours,

Jill Gross
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² See The Consumer Fraud Research Group, Investor Fraud Study, Final Report (May 12, 2006), http://www.nasdfoundation.org/WISE_Investor_Fraud_Study_Final_Report.pdf.