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THERE'S NO SUCH THING AS A "FREE LUNCH"

The Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA) and state securities regulators (members of the North American Securities Administrators (NASAA)) conducted a year-long examination of "free lunch" investment seminars. The regulators recently released a joint report summarizing the results of their examinations, and the SEC summarized the findings in a press release. The regulators examined 110 securities firms and branch offices that sponsor sales seminars and offer a free lunch to entice attendees. These examinations were conducted between April 2006 and June 2007 in areas of the country that have large populations of retirees.

The report included several key findings. One hundred percent of the examinations revealed that the "seminars" were sales presentations. Although, the seminars were advertised as "educational," "workshops," and claimed that "nothing will be sold," they were designed to persuade the attendees to open new accounts, or purchase investment products. The products were sold either at the seminars themselves, or in follow-up conferences with the attendees. The most commonly discussed products included variable annuities, real estate investment trusts, equity indexed annuities, mutual funds, private placements of speculative securities (such as oil and gas interests) and reverse mortgages. Fifty-nine percent of the examinations reflected weak supervisory practices by firms. Some supervisory practices were found effective, but many examinations found that the firms poorly supervised the sales seminars, including failure to review seminar presentations or materials as required. Half of the examinations revealed that seminars featured exaggerated or misleading advertising claims, including "Immediately add \$100,000 to your net worth," "How to receive a 13.3% return," and "How \$100K can pay \$1 million to your heirs."

Other key findings revealed 23% of these free lunch seminars involved possibly unsuitable recommendations. These unsuitable recommendations

included risky investments for an investor with a conservative investment objective, or an illiquid investment for an investor with a short-term need for cash. Thirteen percent appeared to be fraudulent, and these have been referred to the appropriate regulator for possible enforcement or disciplinary action. These possible fraudulent practices include apparent serious misrepresentations of risk and return, the liquidation of accounts without the customer's knowledge or consent, and the sales of fictitious investments. As a result of the examinations, most firms received deficiency letters or letters of caution that outline apparent rule violations and deficiencies and requested that the firms take corrective action.

During a Seniors Summit coinciding with the release of the joint report, SEC Chairman Christopher Cox said,

These findings are a wake-up call for securities regulators, the financial services industry and especially older investors. Not only were virtually all of the "free lunch" seminars sales jobs in disguise, but half made misleading or exaggerated claims, and more than a third had unsuitable recommendations or outright fraud. The SEC and our fellow regulators intend to put a stop to this. We will step in whenever false claims are being made. We will sanction crooks who try to feast on the life savings of older investors. And we will work with every honest securities firm to help them do more to ensure that their interactions with older investors fully comply with the securities laws. I applaud the securities examiners whose collective work has clearly shown that there's no such thing as a free lunch.

Commenting on the joint report, NASAA President Joseph Borg said,

Our examinations prove the point - there's no such thing as a free lunch. Seniors seeking investor education and advice at a seminar should not be subject to misrepresentations, high-pressure sales tactics and outright fraud. The entire community of state securities regulators will continue our active pursuit of criminals who cheat seniors out of their hard-earned retirement savings.

These free lunch seminars are targeted at senior citizens and are held at upscale hotels, restaurants, retirement communities, and golf courses. The seminars often have names such as "Seniors Financial Survival Seminar" or "Senior Financial Safety Workshop." They feature "free" advice by "experts" on how to attain a secure retirement or offer financial planning or inheritance advice. The advertisements for these seminars often imply that there is an urgency to attend, by stating "limited seating available," or "call now to reserve a seat." The seminar sponsors often use other incentives to encourage attendance, such as door prizes, free books, and vacation deals.

FINRA research has found that 78% of seniors received a free lunch seminar invitation, and 60% received six or more invitations in the past three years. FINRA CEO Mary Schapiro said,

With almost eight out of ten seniors being targeted with these tactics, the findings underscore a true need for increased educational and enforcement efforts. I'm concerned that as the population grows older, these strong-arm tactics will only grow more sophisticated. We need to send a clear message right now that high pressure sales activity is simply unacceptable. No one has the right to prey on susceptible investors.

The joint report recommends that financial services firms review their supervisory practices and take steps to supervise sales seminars more closely, and redouble their efforts to ensure that the investment recommendations they make to seniors are suitable in light of the particular customer's investment objectives. The report also includes a list of supervisory practices that appeared to be effective. The report also recommends that ongoing investor education efforts for seniors should provide education with respect to "free lunch" sales seminars. Specifically, senior investors should understand that these are sales seminars that result in the sales of financial products, and that they may be sponsored by an undisclosed company with a financial interest in product sales.

To view a copy of the SEC press release please visit its website: www.sec.gov/news/press/2007/2007-179.htm

If an individual receives advertising materials for "free lunch" seminars, then Oast & Hook recommends that this individual review these materials with an elder law attorney. Oast & Hook is committed to providing clients with professionally integrated estate, financial, insurance, and long-term care planning services.

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