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STOCK TRADER CHECKLIST

Dealing With Your Securities Broker When Things Go Wrong
Your Legal Rights and Remedies

AN OUTLINE

Representing Aggrieved Investors Nationwide

If you have any questions or a possible case; do not hesitate in contacting us:

A. FINDING A SECURITIES BROKER

It's your money. Do you have reason to trust him/her and the company he/she works for?

1. What you should learn about a securities broker:

(a) What is his education?

(b) What professional licenses does he have? Is he a licensed "registered representative" whose activities are regulated by the SEC, the National Association of Securities Dealers, Inc. ("NASD") and your state's Blue Sky Commissioner?

(c) What is his experience in the business?

(d) How does he get paid? If it is sales commissions, he doesn't get paid if he doesn't make the sale. (Most brokers are paid by commission. This creates a conflict of interest as the broker gets paid on every transaction that he does for you, whether or not the transaction is in your best interest.)

(e) Financial Consultant, Financial Adviser, and the like have no legal meaning. (Almost everyone is a Vice President.)

(f) What is a Financial Planner, Certified Financial, or Chartered Financial Planner? (Certified Financial Planner and Chartered Financial Planner require additional tests of competency over and above the regular securities exams [Series 7 and maybe a Series 63] required to be a stockbroker.)

2. Who does he work for?

(a) Is his company a licensed securities broker regulated by the SEC, the NASD, and your state's Blue Sky Commission? Is the company a member of a securities exchange such as the New York Stock Exchange? Do you care? (Most investors feel more comfortable buying investments from larger firms.)

3. Establish your investment objectives.

(a) Bear in mind there is a risk in every investment. The higher the potential return, the higher the risk. Things that sound too good to be true generally are.

(b) Do you want income, long term growth, liquidity? (Make sure your broker understands.)

(c) Are you willing to speculate? (Make sure your broker understands.)

4. Lean about the specific securities in which you invest. The key is: Do you understand what you are buying? (If you do not understand it - don't buy it.)

(a) Does the security fit your goals? (Short term trading does not meet the goals of the long term investor.)

(b) What is the relationship between the broker and/or the company he works for and the company that issued the security you are investing in? (This may create a conflict of interest - watch out!)

(c) Is the security a bond, debenture, preferred stock, option, mutual fund or limited partnership? Is it a derivative or hybrid? ("Sophisticated" and "speculative" are dangerous words.)

(d) Is the investment registered with the SEC? Is it legally tradeable? How long after the purchase can you sell it? As a practical matter, will there be a real market for it? What market?

5.Look up your broker's complaint history at the NASD site (www.nasdr.com).

B. Your Broker's Responsibility to You

In most states, when a securities broker "hangs out his shingle" he undertakes a fiduciary duty to his customers. In all states, he represents that he will deal fairly and in accordance with the standards of his profession.

1. A broker has an obligation to "know his customer." He must learn your financial circumstances so that he can properly recommend securities.

2. He must account for your money. He does this through periodic statements and confirmation slips of each transaction. Read them. Get an explanation if you don't understand them. If your broker's explanation is unsatisfactory, talk to his manager.

3. No half-truths. He must not make any untrue statement of a material fact, and must not omit to state a material fact necessary to make the statements made not misleading in light of the circumstances under which they are made.

C. Your Responsibility in the Securities Transaction

1. You must act as a reasonably prudent investor. Don't check your brains at the door. Ask all the questions you want and feel comfortable that you understand what you are doing.

2. Don't misrepresent your financial circumstances and don't allow the broker to fill out anything stating a false financial history. Read and understand what you sign. Don't sign blank forms.

D. Common Scenarios of Stockbroker Misconduct

1. Unsuitable Recommendations. Because stockbrokers serve in a fiduciary capacity, they are obligated to recommend to their customers only those transactions which are "suitable" for the given customer's financial situation and needs. Simply put, the stockbroker must act in the best interests of the customer and not induce them to make trades in a manner that is inconsistent with their investment goals and the risk they want or can afford to take. Be alert for recommendations to make a dramatic change in your investment strategy, such as moving from low risk investments to speculative securities, or concentrating investments exclusively in a single product.

2. Trading to Earn Commissions. The broker must recommend a security on its own merit, not principally on the ground that his employer is the sponsor (makes a market) of the security and he (the broker) will get a higher percentage of the commission by selling you a house-sponsored security.

3. Churning. Churning, a common offense, is when a stockbroker induces his client to enter into excessive or frequent trading so that the stockbroker will receive greater commissions. An excessive number of transactions in your account generates more commissions for your broker, but may provide no better investment opportunities for you. Also, unless there is a legitimate investment purpose for switching your investment in a mutual fund to a different fund with the same or similar investment objectives, a switch recommended by your sales representative may simply be an attempt to generate additional commissions for the broker.

4. Misleading Statements of Material Facts (FRAUD). It is unlawful for a broker to make any untrue statement of a material fact or fail to disclose a material fact which would mislead the client. You should be alert for recommendations from your sales representative that are based on so called "inside" or "confidential information," an "upcoming favorable research report," a "prospective merger or acquisition", or "I have a friend at the company", as well as the announcement of a "dynamic new product". Also beware of representations that your investment will "double" within a short period of time or of any "guarantees" that you will not lose money.

5. Manipulation. This is when the broker uses your money (and the money of others) in transactions intended to influence the price of a security on the public market so that it is not a reflection of the true purchases and sales.

6. Unauthorized and Improperly Executed Transactions. An unauthorized transaction occurs when the stockbroker executes a transaction without obtaining the customer's prior consent. An improperly executed transaction arises when the broker fails to follow the customer's directions. For example, a broker buys when instructed to sell or a trade that was made in the wrong security or at the wrong quantity or price. Sometimes the broker might say that he tried calling you, but this was such a good opportunity, you had to have it in your account. Be suspicious of any excuses from your broker that such problems are simply due to a computer or clerical error.

7. Failure to Supervise. A brokerage house has the obligation to supervise its brokers to make sure they are not violating the rules of professional conduct and make sure that none of the conduct described here has occurred. Failure to closely supervise makes the brokerage house liable to the same extent as the broker.

8. Conversion. Occasionally brokers outright misappropriate funds or securities entrusted to them by their customers (stealing). This is also illegal.

9. Excessive Mark-Ups. When the broker acts as a principal and/or market maker and sells a security to you, he cannot charge you a mark-up which is excessive given a fair market. When he purchases a security from you, he cannot purchase at a discount which is excessive given a fair market

E. Other Things You Should Know

1. Statutes of Limitations. Don't delay. A statute of limitations is the time period in which you must bring a claim, or the claim is forever barred. The statute of limitations depends on the state in which you live as well as your particular circumstances. In short, get help right away to make sure that your claim is not barred.

2. Forum. Most modern account opening agreements with brokerage houses require that customer disputes be arbitrated in arbitration proceedings administered by the NASD or a stock exchange. You still have the right to an attorney. Arbitration awards are enforceable.

3. The Chances of Success. As most disputes are heard in arbitration instead of court proceedings, there are no statistics on success in these types of cases. In arbitration, recent statistics show that most of the

customer cases are settled before hearing with smaller cases settled more frequently. If you don't settle, statistics show that about 60% of the cases end up with some type of recovery to the customer. Even though there can never be a guarantee that you will recover anything, statistically, cases in which the customer retains legal counsel produce better results.