

# Providing Real Solutions to Real Problems

*For Counterfeits & Misconduct & Fraud re: Investments, Charities, Notaries*



*Elaine F. Marshall, NC Secretary of State*

*From the*

**NC Department  
of the Secretary of State**



Presented by:

**John Maron**, Director, Investor  
Protection

**Ann Elmore**, Agency Legal Specialist

# Securities Fraud

## *Role / Mission*

The NC Department of the Secretary of State Securities Division's mission is to protect North Carolina investors. Consistent with that purpose, the Division seeks to ensure a free and competitive securities market for North Carolina, increase investor confidence, and thereby encourage the formation of capital and the creation of new jobs and economic prosperity in North Carolina.

N.C.G.S. § 78A (NC Securities Act)

N.C.G.S. § 78C (NC Investment Advisers Act)

N.C.G.S. § 78D (NC Commodities Act)

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# Critical Context

## *Different Agencies Provide Expertise & Information*

The NC Department of the Secretary of State protects North Carolina citizens & business in the areas within its scope of authority

- \* Securities
- \* Notary
- \* Charities
- \* Trademarks / Anti-Counterfeit Enforcement

SOS urges reporting suspicious conduct to local law enforcement,  
*too*

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# Securities Fraud

## *Scope of Authority*

- ✓ Register the people who provide advice for a fee
- ✓ Register investment products
- ✓ Conduct periodic audits to ensure compliance with standards
- ✓ Investigate complaints using on-staff subject-matter experts
- ✓ Have fullest spectrum of authority to address problems
  - Administrative
  - Civil
  - Criminal

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# Securities Fraud

## *Process for Handling Complaints*

### Limitations

- We cannot give legal or financial advice, nor can we act as a complainant's attorney;
- We cannot bring a lawsuit in a complainant's name to recover money that was invested (complainant may seek private counsel & bring civil action in court *in addition to any action by SOS*);

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# Securities Fraud

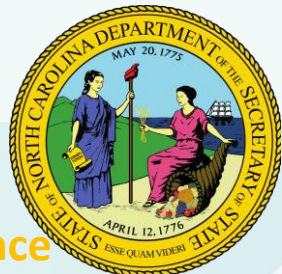
## *Process for Handling Complaints*

### Limitations (Cont'd)

- We cannot void a contract or agreement to which the complainant is a party;
- We cannot order the return of money or securities to a complainant;
- Most information maintained by SOS is public record as a matter of law;
- Submitting a complaint involves representing a willingness to appear in court & testify in the matter if necessary.

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# Securities Fraud

## *Submitting Complaints*

Investor

**HOTLINE**

800.688.4507



Anyone

888-280-6540, X-1



APS

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# Securities Fraud

## *Process for Handling Complaints*

- All complaints submitted to the Securities Division are acknowledged in writing, most often by email;
- All complaints are reviewed;
- Generally, unless a complainant is contacted by an investigator, the Division does not provide case updates; however, complainants are entitled to additional information whenever criminal court proceedings are initiated.

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# Notary Misconduct & Fraud

## Role

### Notaries **Promote, Serve, and Protect Public Interests**

Notaries are public officers of the State of North Carolina charged with protecting the public from fraud and forgery. The primary tools notaries use in fulfilling this statutory obligation are requiring personal appearance, positively identifying signers and recording evidence of the notarization in a journal of notary acts. Notaries have a vital role in protecting the citizens of North Carolina and facilitating commerce for those doing business in the Old North State.

**SOS** protects the public  
against fraud and forgery by

- ✓ commissioning &
- ✓ regulating notaries public.

**N.C.G.S. Chapter 10B**

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# Notary Misconduct & Fraud

## *Scope of Authority*

- ✓ Accepts & screens applications for Notary Commissions
- ✓ Processes renewals of Notary Commissions
- ✓ Promulgates rules regulating the Notary community
- ✓ Provides legislative updates & guidance to the Notary community
- ✓ Receives & investigates complaints involving Notaries
- ✓ Takes administrative action on Notary misconduct
- ✓ Subject matter experts serve as resources for
  - ✓ Investigation &
  - ✓ Criminal prosecution of Notary fraud

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# Notary Misconduct & Fraud

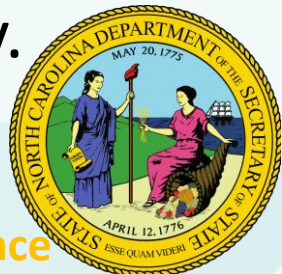
## *Process for Handling Complaints*

### Limitations

- SOS does not become involved in domestic disputes.
- SOS does not act as anyone's personal attorney nor can we recover money or property for complainants. (Questions about complainants legal rights & responsibilities should be discussed with a private attorney.)
- Most information maintained by SOS is public record as a matter of law.
- Except anonymous tips, submitting a complaint involves representing a willingness to appear in court & testify in the matter if necessary.

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# Notary Misconduct & Fraud

## *Process for Handling Complaints*

### Forms

- ✓ Use the forms because specific information is needed
- ✓ Use the most-applicable fillable PDF
  - \* Notary Complaint
  - \* Deed Fraud/Notary Complaint
  - \* Mortgage Fraud
- ✓ Submit the Form (including all attachments) by
  - Mail to the address on the form
  - Email them to [notary@sosnc.gov](mailto:notary@sosnc.gov)



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# Notary Misconduct & Fraud

## *Process for Handling Complaints*

- ✓ Complaints are acknowledged, mostly by email.
- ✓ A complaint number is provided via letter once an investigation has started.
- ✓ Status updates are provided, if possible given the state of the investigation, when the complainant calls & asks for an update.
- ✓ Complainants are notified once the complaint is disposed of, including if the matter reported is something we cannot act upon.

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# Trademarks / Counterfeits

## Role

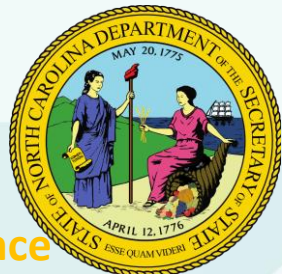
- ✓ Register Trademarks & Service Marks in NC
- ✓ Provide a public-access database accessible to all for marks registered in NC (past & present)
- ✓ Provide forms & guidance

## Protect

- ✓ Consumers &
- ✓ Businesses
- by
  - ✓ Investigating counterfeit goods
  - ✓ Seizing fakes & equipment producing them
  - ✓ Prosecuting violators of criminal counterfeit trademark laws

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# Counterfeits

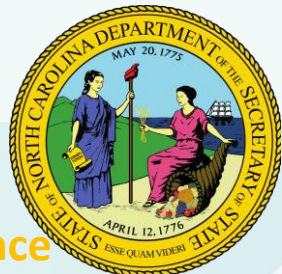
## *Process for Handling Complaints*

Limitations – What we do **not** do

- Initiate civil enforcement actions
- File Infringement cases
- Intervene in internal business disputes over control or ownership of TMs

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# Counterfeits

## *Process for Handling Complaints*

✓ Use forms provided

\* Law enforcement

\* Citizen

\* Registered Mark Owner/Business



✓ Keep a copy for your records.

✓ Generally, unless a complainant is contacted by an investigator, the Division does not provide case updates; however, complainants may be entitled to additional information whenever criminal court proceedings are initiated.

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# Charities / Nonprofits

## Role

To help protect

- North Carolinians in their charitable giving &
  - Law-abiding North Carolina charities & nonprofits,
- the SOS Charitable Solicitation Licensing (CSL) Division:
- ✓ Licenses organizations to solicit charitable contributions within the state.
  - ✓ Licenses professionals who fund raise on behalf of organizations.
  - ✓ Maintains a public registry of organizations licensed.
  - ✓ Generates an annual report detailing funds raised & percentage going to the charitable organization, as well as enforcement action.
  - ✓ Enforces violations of charitable solicitation laws.

**N.C.G.S. Chapter 131F**

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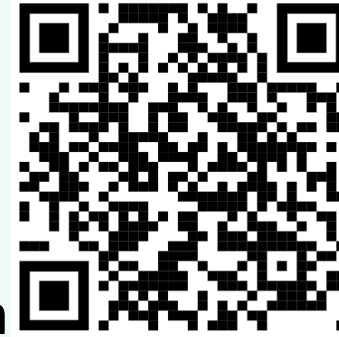
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# Charities

## *Process for Handling Complaints*

- ✓ Report complaints to
  1. NCSOS at <https://www.sosnc.gov/divisions/charities/Enforcement> or use the QR code.
  2. The NC Attorney General's Office, with which SOS shares enforcement authority under Chapter 131F.
- ✓ Acknowledgement of receipt of a complaint.
- ✓ Provide reference/complaint number to complainant that is not anonymous (Anticipated soon).
- ✓ Investigate Complaint for solicitation activities.
- ✓ Determine jurisdiction.
- ✓ Provide status updates.
- ✓ Close.



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# Why Reporting Is So Important

## *Expertise Applied to Suspicious Circumstances Makes a Difference*

SOS has the subject matter experts, so our staff is ideally positioned to

- ✓ Evaluate & investigate the conduct
- ✓ Determine what avenue the evidence supports
  - ☐ No action
  - ☐ Administrative action
  - ☐ Civil
  - ☐ Criminal prosecution

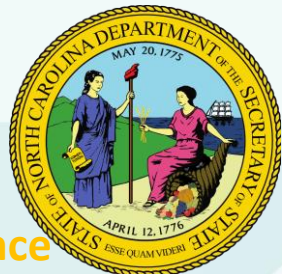
However,

- NC SOS can only act on what it knows about.
- Harm and loss only increase the longer a problem is unreported.
- Patterns can be detected when misconduct is reported.
- Evidence from one case may help in another.

***SOS appreciates referrals & carefully examines reports made.***

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# Questions?

*We're Here to Help*

**To Schedule a Speaking Engagement (Virtual or In-Person)**

Contact:

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Director, Investor  
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