



# Special Legislative Report

March 2010

Dear Legislator:

The Alabama Securities Commission (ASC) was proud to serve citizens of Alabama during the past year. The Commission protected citizens through enforcement, registration and by providing wise saving and investor education.

During this time of turmoil in the financial industry, the Alabama Securities Commission is working for the citizens of Alabama to further protect them from financial fraud and to promote a fair opportunity for those who invest their hard-earned dollars in the market and our economy.

The ASC has 47 employees including 6 attorneys, 10 securities analysts and 12 seasoned special agents with more than 270 years combined law enforcement and investigative experience whose job it is to field investor complaints associated with suspicious, unsuitable and/or illegal investment offerings and the sale of fraudulent and unregistered investment products. This past year, ASC had one of its highest conviction rates for securities fraud and saw the courts order millions of dollars in victim restitution from those convicted of defrauding our state's investors. During the past year, enforcement actions led to 23 arrests, 24 convictions and helped secure 213 years of prison time for violators of the Alabama Securities Act. Presently, 26 individuals await trial for securities violations. The ASC fully supported efforts in the Alabama Legislature during 2009 to increase the legal penalties for those convicted of financial fraud. As of Aug. 1, 2009, all fraudulent acts related to the offering and/or sale of securities in Alabama was upgraded from a Class C Felony to a Class B Felony, allowing a more aggressive means with which to combat and prosecute financial criminals.



Joseph P. Borg, Director

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## ASC Statistical Summary for FY 2009

- ▶ ASC total staff – **47** (includes 6 attorneys, 12 special agents, and 10 securities analysts)
- ▶ Registrations and exemptions issued – **136,464**
- ▶ Complaints and corporate inquiries received – **458**
- ▶ Industrial Revenue Bonds issued – **\$428,260,393**
- ▶ Administrative Orders issued – **51**
- ▶ Administrative Order respondents – **150**
- ▶ Rescissions ordered – **\$4,520**
- ▶ Restitution ordered to victims – **3,056,216**
- ▶ Public warnings issued – **3**
- ▶ Indictments obtained – **17**
- ▶ Convictions – **24**
- ▶ Arrests made – **23**
- ▶ Years incarceration ordered – **213**
- ▶ Individuals awaiting grand jury action, arrest or trial – **35**
- ▶ Contributed to State General Fund - **\$8,300,660**

# Special Legislative Report

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In 2008, the ASC, together with securities regulators from other states, began to address increasing investor complaints regarding whether several prominent Wall Street financial firms had systematically misled their clients by falsely assuring them that auction-rate securities (ARS) were as safe and as easily accessible as cash. In February 2008, ARS markets began to fail and investor funds held in these securities were frozen triggering investor complaints alleging substantial personal financial damages. Since the beginning of the ARS investigation, the ASC has entered orders with nine investment firms unfreezing almost \$634 million of Alabama retail clients' funds and has secured fines and recovered investigative costs totaling almost \$2.8 million. The ASC continues to negotiate ARS settlements with other investment firms.

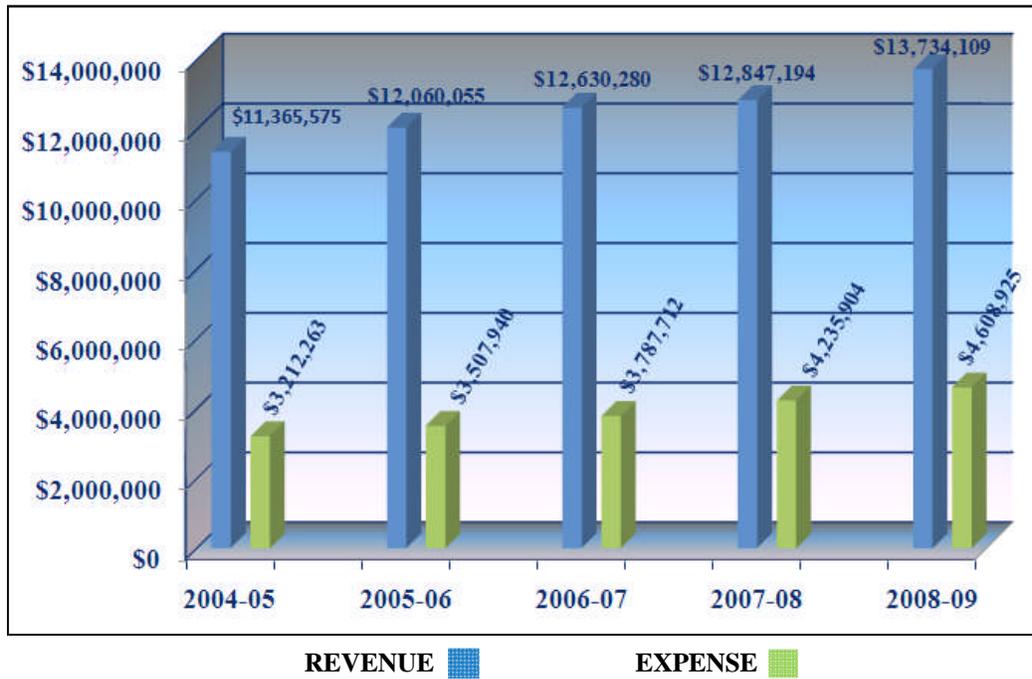
The ASC also has an active investor education and public affairs component that communicates with state and national media about the Commission's efforts to combat financial crimes and is actively engaged in an ongoing effort to educate Alabamians of all ages and economic backgrounds on the many facets of investing and especially on how to avoid financial victimization. Alabama citizens, from high school students to working adults to seniors aged 50 and older, have access to a wealth of ASC investor education materials to help them make informed investment decisions, to prudently use their financial resources, avoid victimization and to achieve the fiscal sophistication required to shield their assets from fraud. Helping make this effort succeed is ASC's collaboration with the Alabama Department of Education, the Alabama Jump\$tart Coalition, the Investor protection Trust, the Alabama Department of Senior Services and the Alabama Cooperative Extension System, among others, to deliver insightful personal financial education and outreach. During the past year, ASC personnel, together with our partners, took part in 70 education and fraud prevention events, reaching more than 5,400 citizens throughout Alabama.

The ASC developed and launched a new financial education and information resource for the benefit of Alabama's active-duty and retired military members and their dependents. On June 16, 2009, "Protect Alabama Troops" (PATs) debuted as an information-based resource accessible on the Commission's website, [www.asc.alabama.gov](http://www.asc.alabama.gov). This excellent resource consists of timely, appropriate and practical news and information for service members to help them stay on the right financial track, make informed investment decisions and avoid becoming victims of financial fraud before, during and after deployment and in the transition to military retired or civilian life.

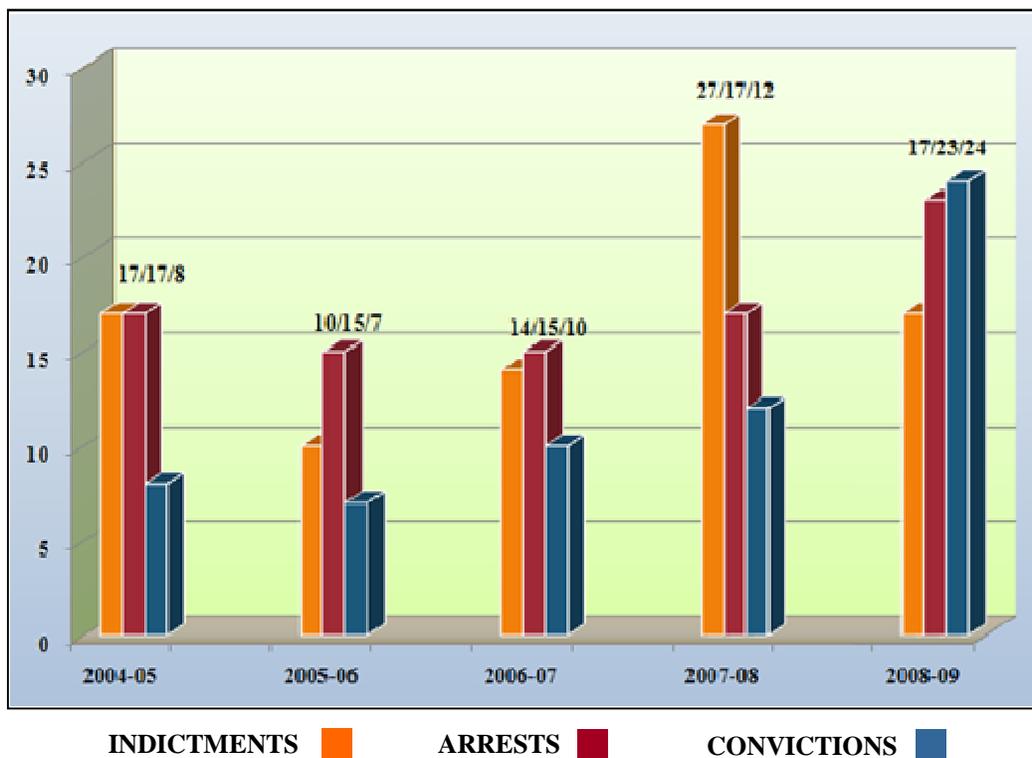
All Alabamians can take advantage of numerous free services offered by the Commission. Highly trained ASC personnel are available to offer guidance on understanding financial risks, types of investment products, licensing/registration requirements and how to verify "specialist" credentials, among many others. Investor education and fraud prevention training is offered to student groups, senior advocacy groups and government, civic and social organizations. Additionally, free education and fraud prevention materials are available upon request and citizens can access other valuable and timely information on the Commission's website.

The ASC always cautions potential investors to thoroughly scrutinize and research any investment opportunity or offer. Citizens can contact the ASC to check-out securities broker-dealers, agents, investment advisers, investment adviser representatives, financial planners, registration status of securities or debt management programs, and to report suspected fraud.

### Combined Revenue and Expenses Fiscal Years 2004/05 - 2008/09

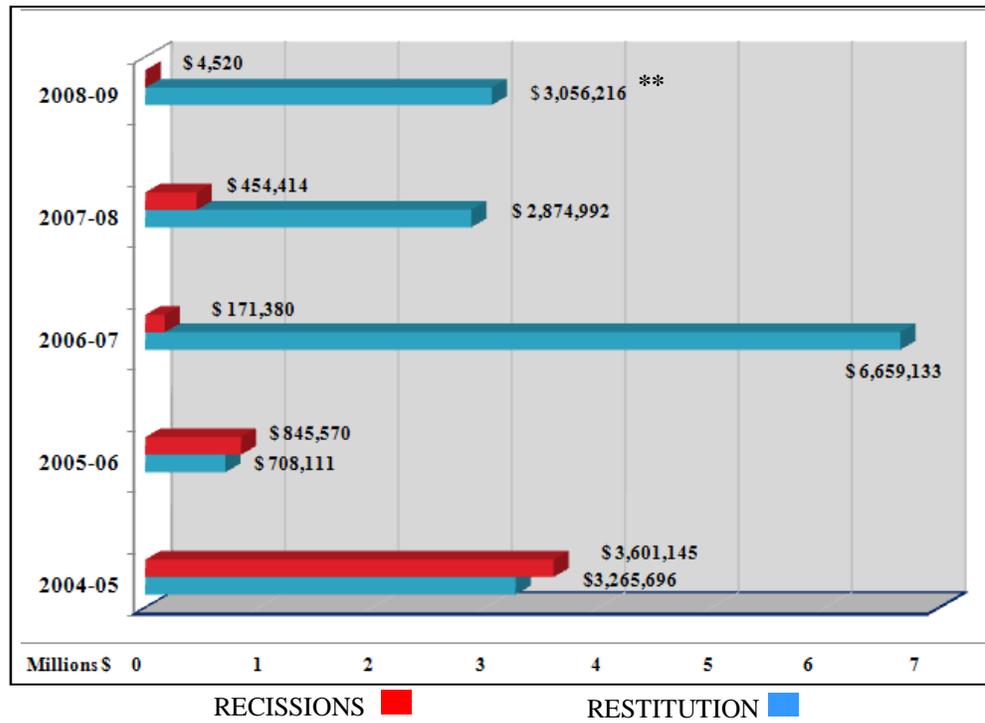


### Indictments, Arrests and Convictions Fiscal Years 2004/05 - 2008/09



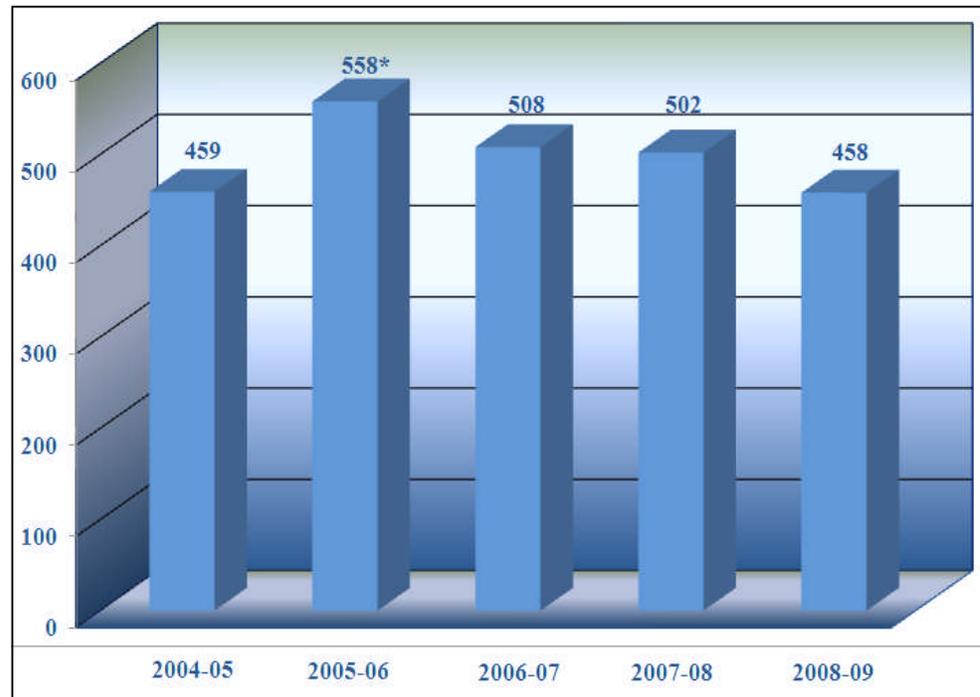
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### Rescissions and Restitution Fiscal Years 2004/05 - 2008/09



\*\*Not included is \$67.3 million in victim restitution from a federal and multi-state case.

### Complaints and Corporate Inquiries Fiscal Years 2004/05 - 2008/09

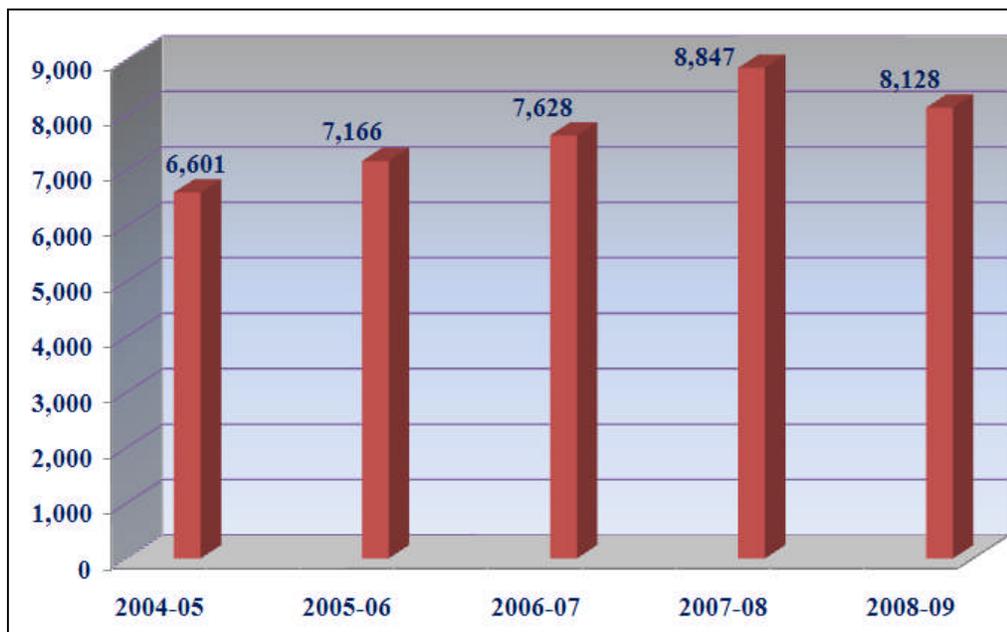


\* Increased service on checking newly-filed incorporations and verifying new business legal requirements.

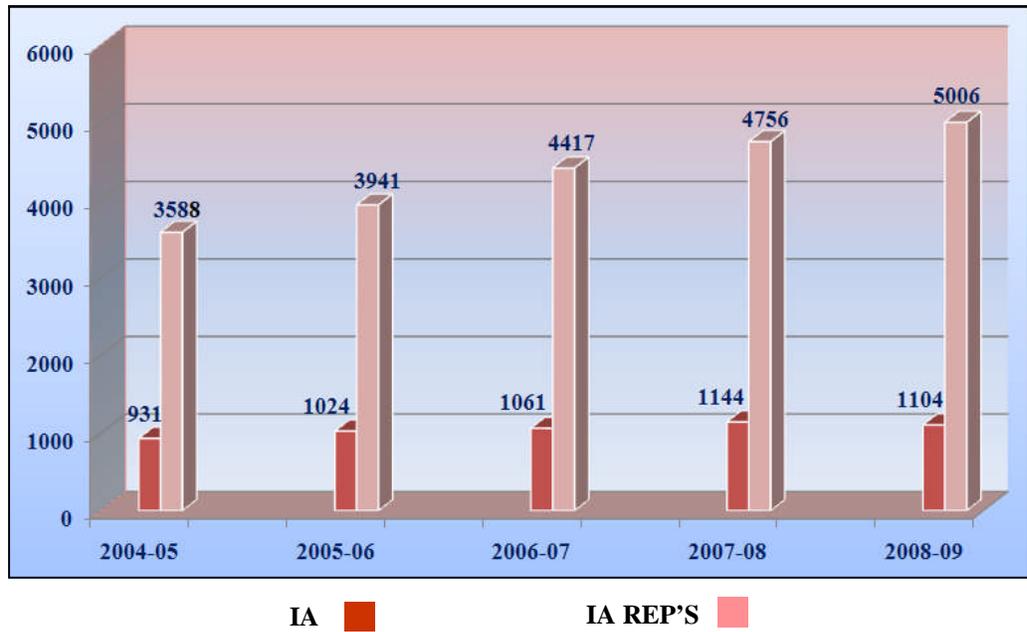
## Broker Dealer Registrations Fiscal Years 2004/05 - 2008/09



## Mutual Fund Registrations and Exemptions Fiscal Years 2004/05 - 2008/09



### Investment Adviser Registrations Fiscal Years 2004/05 - 2008/09





# ALABAMA Securities Commission

Joseph P. Borg, Director

## ENFORCEMENT HEADLINE SUMMARIES FROM FISCAL YEAR 2009 (Alphabetical by County)

To read complete articles and more go to: [www.asc.alabama.gov](http://www.asc.alabama.gov)

### Elmore County

#### **Elmore County Man Pled Guilty to Violations of Alabama Securities Act**

(March 30, 2009) Guerry Lamar Reese, a Millbrook, Alabama resident, pled guilty to violations of the Alabama Securities Act and was ordered to pay an Alabama victim \$60,000 in restitution. A four-count indictment was returned against Reese by an October 2008 session of the Montgomery County Grand Jury. Reese was arrested October 24, 2008, by Elmore County Sheriff's deputies and agents of the ASC's Enforcement Division and transported to Montgomery County Detention Facility. Reese, owner of, and doing business as, Merchants Commerce Solutions (MCS), solicited investments, in the form of shares of his company's stock, from an Alabama investor to fund the manufacture of electronic poker chip counting devices that could be marketed to casinos. Investigation revealed that between July and August 2004, an Alabama victim invested \$60,000 with Reese and was not repaid when the company declared bankruptcy in 2007.

#### **Texas Man Pleads Guilty to Securities Fraud in Connection with Wide-Ranging Investment Scheme**

(May 5, 2009) Arnulfo M. Acosta, 45, a resident of Edinburg, Texas, pled guilty in Elmore County Circuit Court to Securities Fraud and was sentenced to five years imprisonment to run concurrently with a federal sentence. Restitution to be paid to Alabama victims will be combined with amounts due to victims in other states under a Federal Court order. An indictment handed down by an Elmore County Grand Jury in July, 2006 alleged that Acosta, together with other principals of Learn Waterhouse, Inc., a Texas corporation, offered and sold certain securities in the form of investment contracts described as "high-yield, low risk opportunities," to investors in Alabama. Acosta had previously pled guilty in the U.S. District Court, Southern District of California, prior to trial, to federal felony charges brought by the U.S. Securities and Exchange Commission.

### Henry County

#### **Wisconsin Man Pleads Guilty to Violations of Alabama Securities Act**

(April 2, 2009) Michael James Konkel, 50, a Madison, Wisconsin resident, has pled guilty to violations of the Alabama Securities Act, sentenced to eight years in prison and ordered to pay \$175,000 in restitution to victims. Konkel will serve his sentence concurrently with a sentence he is presently serving in federal prison in Ohio. Konkel was accused of making investment offers to citizens of Henry County, Alabama and inducing at least two Alabamians to spend their money in an investment fund known as The Venture Fund and used Alabama investors' money to pay investors in a previous scam he was operating. The ASC investigation of Konkel revealed that he had been previously convicted of illegal securities offers in Texas and was on probation from that state while making similar offers to Alabama citizens and that The Venture Fund was, in fact, nonexistent.

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**ENFORCEMENT HEADLINE SUMMARIES *(continued)***

**Houston County**

**Houston County Man Arrested for Alleged Violations of Alabama Securities Act**

(November 16, 2008) Robert Edmondson, a resident of Dothan, Alabama, arrested by Houston County Sheriff’s Department deputies and transported to Houston County Jail for alleged violations of the Alabama Securities Act. He was later released under \$100,000 bond. The indictment alleges that Edmondson, being the owner of, and doing business as, Digicon Management Corporation, an electrical contracting business headquartered in Dothan, Alabama, solicited and sold investments in the form of shares of his company’s stock to at least two Alabama investors. Approximately \$220,000 of investors’ money was allegedly to be used to develop and market an electric power saving device for consumer use. Edmondson allegedly misled investors by promising to return their money should the venture fail. It is further alleged that Edmondson used the victims’ money for his personal use as well as to fund the continued operation of his company.

**Jefferson County**

**Jefferson County Man Arrested for Alleged Violations of Alabama Securities Act**

(November 26, 2008) Cornelious Brown III, a resident of Birmingham, Alabama, was arrested November 18, 2008 by Jefferson County Sheriff’s deputies for alleged violations of the Alabama Securities Act and transported to the Jefferson County detention facility where he was later released under \$30,000 bond. The indictment alleges that Brown, doing business as Providential Financial Group, Inc. (PFG), fraudulently solicited multiple investments. The indictment further alleges that Brown used the investment funds for personal and other non-business expenses. Alabama securities law specifies that it is illegal to offer for sale any unregistered security into, within or from Alabama. Brown is not registered by the ASC to conduct securities business in Alabama and there is no record of registration for Providential Financial Group, Inc., or for the investment Brown offered and sold to the investor.

**Former Bessemer Revenue Director Pleads Guilty to Violations of Alabama Securities Act**

(December 9, 2008) Ryan O. Rancher, former Revenue Director for the City of Bessemer, Alabama, pled guilty to one count theft of property and four counts of securities violations before Circuit Judge Mac Parsons on Friday, December 5, 2008. The plea agreement was the culmination of an eighteen-month investigation by the ASC alleging that Rancher, acting in the capacity of an investment adviser representative, solicited more than \$500,000 from Birmingham area residents for investment purposes. Rancher failed to invest some of the solicited money diverting it to personal use. Rancher also used investment funds to pay back bogus returns to investors in what is usually referred to as a Ponzi scheme. Rancher was arrested by the Jefferson County Sheriff’s officials on December 12, 2007 and released under \$40,000 bond. Two days later Rancher’s bond was revoked and he was re-arrested for attempting to solicit another investment after his first arrest.

**Jefferson County Men Arrested for Alleged Violations of Alabama Securities Act**

(April 27, 2009) Cary Alan Burdette, a Trussville, Alabama resident; and, Randall Layne Pardue, a resident of Pinson, Alabama, were arrested for multiple alleged counts of Securities Fraud. Burdette, an attorney, turned himself in to the Jefferson County Sheriff’s

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## ENFORCEMENT HEADLINE SUMMARIES *(continued)*

Department on April 14, 2009. His arrest was the result of an indictment returned by the April 2009 Jefferson County Grand Jury. Burdette was released under \$100,000 bond, ordered to surrender his passport and wear a monitoring device. Pardue, pastor of a local church, was arrested by Jefferson County Sheriff's deputies on April 15, 2009 and placed in the Jefferson County jail. He was charged with seven counts of Fraud in Connection with the Sale of a Security and one count each of Sale of an Unregistered Security, Sale of a Security by an Unregistered Agent and Theft of Property, 1st Degree. Pardue was later released on \$5,000 bond.

### Lee County

#### **Lee County Man Pleads Guilty to Violations of Alabama Securities Act**

(March 2, 2009) Michael James Dixon, an Opelika resident, pled guilty in Lee County Circuit Court to one count each of Securities Fraud and Theft of Property, 1<sup>st</sup> Degree Charges against Dixon were handed down in a September 2008 indictment issued by the Lee County Grand Jury. The court sentenced Dixon to ten years on each count, to be served concurrently and stipulated he pay victim restitution of \$15,950. The indictment against Dixon alleged that he offered an investment opportunity to a Florida resident through his Alabama-based company, HBM, L.L.C. and used the money received from the investor for personal use.

### Madison County

#### **Madison County Man Pleads Guilty to Securities Fraud**

(February 05, 2009) Hunter Brown Daniel, Jr., a resident of Huntsville, Alabama, pled guilty to one count of Securities Fraud Through Omission or Misrepresentation During the Sale of Securities. Charges against Daniel arose after a cooperative investigation conducted by the ASC, ALDOI and the Madison County District Attorney. An indictment was handed down by a May 2008 session of the Madison County Grand Jury alleging that Daniel acted as an agent for National Foundation of America (NFOA), a Tennessee corporation that was not registered to offer or sell securities in Alabama. Charges also alleged that Daniel offered and sold unregistered securities in the form of Installment Plan Contracts valued at more than \$534,000 to thirteen Alabama investors. NFOA allegedly described itself as a non-profit organization and intentionally misled investors by promising unrealistic returns on the contracts in exchange for investors' "donation" of their current legitimate annuities investments. NFOA had not been granted non-profit status by the U.S. Internal Revenue Service.

#### **James L. "Jamie" Butler, Jr. of Madison County Found Guilty on Nine Counts of Alabama Securities Act Violations**

(July 28, 2009) -- James L. "Jamie" Butler, Jr. of Madison County was found guilty Friday on three counts of "Sales of Securities by an Unlicensed Agent" and six counts of "Securities Fraud" after four hours of deliberation by a Madison County Jury in Huntsville, AL. Butler, a disbarred lawyer who has previous theft convictions, faces a sentence of 10 years to life; he is presently confined in the Madison County Jail. Evidence and actions leading to indictments and trial were a culmination of a two year investigation by the Alabama Securities Commission (ASC) and the Madison County District Attorney's office. The scam involved selling stock in 'Jail Busters', a bail bonding company with corporation locations in Cullman, Walker, and Marshall Counties. James Butler, Sr. was the listed

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**ENFORCEMENT HEADLINE SUMMARIES *(continued)***

owner of the company, however, Jamie Butler, Jr. was the 'master mind' on the illegal transactions. James Butler, Sr., father of Jamie Butler, Jr., is presently being held in the Madison County Jail awaiting trial on separate charges of securities fraud and making a terrorist threat.

**James L. "Jamie" Butler, Jr. of Madison County sentenced to 75 years of imprisonment** (September 14, 2009) -- James L. "Jamie" Butler, Jr. was sentenced in Madison County to three separate twenty-five year sentences to be served consecutively, for a total of 75 years in prison for violations of the Alabama Securities Act. The scam involved selling stock in 'Jail Busters', a bail bonding company with corporation locations in Cullman, Walker, and Marshall Counties. James Butler, Sr. was the listed owner of the company however, Jamie Butler, Jr. was the 'master mind' on the illegal transactions. James Butler, Sr., father of Jamie Butler, Jr., is presently being held in the Madison County Jail awaiting trial on separate charges of securities fraud and making a terrorist threat.

**Marshall County**

**Hawaii Man Arrested for Alleged Violations of Alabama Securities Act**

(October 29, 2008) Randle William Villa, 54, a resident of Maui County, Hawaii, was arrested for alleged violations of the Alabama Securities Act. On September 2, 2008, Maui Police Department officers served an arrest warrant, obtained by the ASC in cooperation with the Marshall County, Alabama District Attorney, against Villa for his involvement with Lifeline Imaging Systems, Inc., formerly of Orange County, California, where he was employed as a sales agent. The arrest stemmed from an indictment handed down on March 10, 2008 by the Marshall County Grand Jury. The ASC, with the assistance of the Marshall County Sheriff's Department and Marshall County District Attorney's Office, subsequently extradited Villa on September 16, 2008, and he remains incarcerated under \$200,000 bond.

**California Residents Plead Guilty to Violations of the Alabama Securities Act**

(February 13, 2009) Randy Morton, 51; and, Candice Lynn Lewis, 42, residents of Orange County, California, pled guilty to violations of the Alabama Securities Act associated with their involvement with Lifeline Imaging Systems, Inc., located in Orange, California. On December 18, 2007, ASC Enforcement Agents, with the assistance of the Orange County, California Sheriff's Department Economic Crimes Unit, served arrest warrants obtained by the ASC against several associates of the company stemming from indictments handed down in Marshall County Grand Jury in November 2007. Morton and Lewis were principles in Lifeline Imaging Systems, Inc. that purportedly operated a number of "body imaging centers" in California, Arizona and Texas. Indictments alleged that the two attempted to raise capital to fund the business and, together with Daniel Caterino from California, established a call center employing a number of unregistered sales agents. The unregistered sales agents then allegedly solicited funds from several Alabama residents.

**Hawaii Man Pleads Guilty to Securities Violations –Hidden Under SEC Exemption**

(April 13, 2009) Randle William Villa, 54, a resident of Maui County, Hawaii, pled guilty to a violation of the Alabama Securities Act. Villa was extradited to Marshall County in September, 2008. He was sentenced to five years in prison, given credit for time served and released on three years' probation by the court. Villa was also ordered to pay \$25,000 in restitution to Alabama investors who were victimized in an illegal scheme to solicit money for

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## ENFORCEMENT HEADLINE SUMMARIES (*continued*)

investments in Lifeline Imaging Systems, Inc., formerly of Orange County, California, where he was employed as a sales agent to make “cold calls” to potential Alabama investors.

### **California Man Pleads Guilty to Violation of the Alabama Securities Act**

(May 9, 2009) Daniel Caterino, an Orange County, California resident, pled guilty to a violation of the Alabama Securities Act. On April 29, 2009, Caterino turned himself in to Marshall County authorities. The charge and plea stem from his role as an unregistered sales agent for Lifeline Imaging Systems, Inc., a California company. The company purportedly operated a number of "body imaging centers" in California, Arizona and Texas. Caterino's plea was the culmination of an indictment handed down by a Marshall County Grand Jury in November 2007 resulting from an ASC investigation alleging that Caterino, together with three co-defendants illegally solicited money from investors across the country, including Alabama. It was alleged that investors' money was used for personal or unrelated business expenses. Neither the company nor Caterino were licensed and registered to conduct securities business in Alabama.

### **California Man Sentenced 15 Years for Violation of the Alabama Securities Act**

(July 28, 2009) Daniel Caterino, an Orange County, California resident, was sentenced to 15 years in a hearing presided over by Judge Burke. Caterino will serve 30 months, with the remaining time served while on probation. Caterino received a \$5,000 fine and was ordered to pay attorney fees and court costs; and \$340,000 in restitution for violations of the Alabama Securities Act. On April 29, 2009, Caterino turned himself in to Marshall County authorities. The charge and plea stem from his role as an unregistered sales agent for Lifeline Imaging Systems, Inc., a California company. The company purportedly operated a number of "body imaging centers" in California, Arizona and Texas. Caterino's plea was the culmination of an indictment handed down by a Marshall County Grand Jury in November 2007 resulting from an ASC investigation alleging that Caterino, together with three co-defendants illegally solicited money from investors across the country, including Alabama.

### **Mobile County**

#### **Mobile County Man Arrested for Alleged Violations of Alabama Securities Act**

(February 25, 2009) Scott A. Harwell, a Mobile County resident, was arrested for alleged violations of the Alabama Securities Act. Harwell was arrested by Mobile County Sheriff's officials on February 12, 2009 after turning himself in to authorities and was released the same day after posting a \$50,400 bond. The indictment alleges that Harwell, doing business as Bull or Bear Trading, Inc., a Mobile, Alabama-based enterprise, offered for sale shares of stock in the company to at least four Alabama investors. Harwell allegedly represented to investors that they would earn a return on their investments in an online system for executing trades in stocks, bonds, mutual funds and other financial instruments. However, the ASC investigation revealed that Harwell failed to inform investors that his company was not prepared to, nor capable of, executing online trades.

#### **New Jersey Man Arrested for Alleged Violations of Alabama Securities Act**

(March 16, 2009) Steven A. Cantor, a resident of Hackensack, New Jersey, was arrested for alleged violations of the Alabama Securities Act. Bergen County, New Jersey law enforcement officials arrested Cantor on March 6, 2009 following an indictment handed down by

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**ENFORCEMENT HEADLINE SUMMARIES (continued )**

the January 2009 session of the Mobile County Grand Jury. The indictment alleged Cantor’s involvement in a scheme related to the solicitation and sale of investment contracts in his company, Life Medical Technologies, Inc., (LMT) headquartered in Hackensack, New Jersey. According to an ASC investigation, Cantor and LMT allegedly made fraudulent misrepresentations of the company’s business activities in order to collect more than \$500,000 from at least two Alabama investors.

**Mobile County Man Pleads Guilty to Multiple Violations of Alabama Securities Act**

(August 7, 2009) Scott Anthony Harwell, a Mobile County resident, pled guilty in Mobile County Circuit Court to violations of the Alabama Securities Act. As part of Harwell’s plea agreement, he will be required by the Court to pay victim restitution in the amount of \$166,702. Harwell, formerly doing business as Bull and Bear Trading, Inc., a Mobile, Alabama-based enterprise, offered for sale shares of stock in the company to several Alabama investors. He also represented to investors that they would earn a return on their investments from an online system for executing trades in stocks, bonds, mutual funds and other financial instruments. An ASC investigation revealed that Harwell failed to inform investors that his company was not prepared to, nor capable of, executing online trades and that he was not registered, nor did he receive exemption from registration, to sell shares of his company’s stock.

**Shelby County**

**Californians Pled Guilty to Illegal Offering of Securities - Hidden Under SEC Exemption**

(January 14, 2009) Stanley H. Johnson and his wife Easter L. Johnson pled guilty to involvement in illegal securities offerings with a company called Advance Body Imaging located in Orange County, California. The offering of Advance Body Imaging securities was based upon a securities registration exemption set forth under Regulation D, Rule 506 of the Securities Act of 1933, exempting from registration certain securities marketed through private offerings. The exemption has been used successfully by scam artists to steal millions of dollars from investors through false and misleading representations. The Johnsons’ guilty plea relates to a particular offer which was revealed in an investigation of a “boiler room” operation in California that marketed numerous such potentially fraudulent offers.

**Shelby County Man Pleads Guilty to Violations of Alabama Securities Act**

(February 6, 2009) Lysle John Fleming, a Shelby County resident, pled guilty in Shelby County Circuit Court to one count of Securities Fraud. Charges against Fleming stemmed from an indictment handed down in a January 2008 session of the Shelby County Grand Jury. Fleming pled guilty on February 2, 2009 and received a one year and a day sentence, which was suspended, and was placed on two years of supervised probation. Fleming was ordered to pay a total of \$25,777 in restitution to two Alabama investors and one Missouri investor. The indictment alleged that Fleming sold unspecified, non-existent overseas investment opportunities that purportedly offered significant returns to the three investors without being registered with the ASC to conduct securities business in Alabama and that he used investors’ money for personal gain and other unrelated expenses.

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## ENFORCEMENT HEADLINE SUMMARIES (*continued* )

### **Shelby County Man, Daughter and Michigan Man Arrested for Alleged Violations of Alabama Securities Act**

(February 18, 2009) Paul Haskell Lane, Jr., a Shelby County resident, was arrested for alleged violations of the Alabama Securities Act. Lane's daughter, Katherine Hope Lane, a Jefferson County resident; and, Michael Pahl, a Jackson, Michigan resident, were arrested by Jefferson County Sheriff's deputies and Michigan law enforcement authorities respectively, for related violations. Charges against the trio stemmed from indictments handed down by a January 2009 session of the Shelby County Grand Jury alleging their involvement in a scheme to solicit investments for the purpose of funding a non-existent lawsuit. Investor funds, along with an additional percentage, were supposedly to be repaid after the fictitious lawsuit was settled. The illicit scheme was alleged to have garnered more than \$500,000 from several out-of-state victims.

### **St. Clair County**

#### **Ohio Man Pleads Guilty to Violation of Alabama Securities Act**

(February 13, 2009) Timothy Heyman, 38, a resident of Findlay, Ohio, pled guilty to Securities Fraud. The plea was a result of an investigation conducted in conjunction with the St. Clair County District Attorney's office and subsequent indictment handed down by a September 2005 session of the St. Clair County Grand Jury. On February 9, 2009, Heyman, identified as President of Heyman International, Inc., an Ohio business entity, pled guilty to operating a "Ponzi" scheme that involved the offer and sale of "depository agreements" to more than 220 investors in 11 states, including at least 63 investors in Alabama. He was accused of fraudulently raising in excess of \$10 million from his victims between September 2001 and July 2008.

### **Talladega County**

#### **Sylacauga Man Arrested for Alleged Violations of Alabama Securities Act**

(October 27, 2008) Gary Allen Mitchell, a Sylacauga resident, was arrested by deputies of the Talladega County Sheriff's Department on October 16, 2008 after turning himself in to authorities for alleged violations of the Alabama Securities Act. Mitchell was released under a \$10,000 bond. The indictment alleges that Mitchell, doing business as The Meta Company, and also representing The Financial Center, LLC, both located in Sylacauga, Alabama, offered and sold promissory notes valued at approximately \$95,000, between September and October, 2004, to an Alabama investor. The indictment further alleges that Mitchell misled the investor by misrepresenting the terms of the promissory notes and failing to disclose excessive commissions and other maintenance fees associated with the sale of the notes. Mitchell is not registered by the ASC to conduct securities business in Alabama.

#### **Arizona Man Arrested for Alleged Violations of Alabama Securities Act**

(May 11, 2009) Gene Grobstein, a Scottsdale, Arizona resident, was arrested for alleged violations of the Alabama Securities Act. Grobstein was arrested by deputies of the Talladega County Sheriff's Department after turning himself in to ASC Enforcement agents and the Talladega County Sheriff on May 6, 2009. The indictment alleges that Grobstein, doing business as GG Consulting International, described as a financial consulting firm registered in Arizona, offered and sold promissory notes valued at \$45,000, between September and October 2004, to an Alabama investor. The notes were allegedly issued into Alabama from Arizona through The Meta

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**ENFORCEMENT HEADLINE SUMMARIES (continued)**

Company, a Sylacauga, Alabama company. The president of The Meta Company, Gary Allen Mitchell, a Sylacauga resident, allegedly aided in locating Alabama investors on behalf of Grobstein.

**Sylacauga Man Pleads Guilty to Violations of the Alabama Securities Act**

(May 20, 2009) Gary Allen Mitchell, a Sylacauga resident, pled guilty to three counts of Fraud in Connection with the Sale of Securities in Talladega County Circuit Court on May 18, 2009. Mitchell was indicted by a Talladega County Grand Jury in October 2008, alleging that, doing business as the Meta Company, and also representing The Financial Center, LLC, both located in Sylacauga, Alabama, Mitchell offered and sold promissory notes valued at approximately \$95,000 to an Alabama investor. The indictment alleged that Mitchell misled the investor by concealing and/or misrepresenting the terms and performance of the notes and further failed to disclose excessive commissions and other maintenance fees associated with the offer and sale of the notes. Subsequently, additional warrants obtained by the ASC charged Mitchell with securities fraud in connection with his role as an investment adviser with Performance Management Group (PMG), a Delaware Corporation formerly domiciled in Sylacauga.

**Sylacauga Man Sentenced for Securities Violations**

(August 13, 2009) Gary Allen Mitchell, a resident of Sylacauga, was sentenced in Talladega County Circuit Court to seven years in prison on each of three counts of Securities Fraud from his position as an Investment Adviser. Mitchell’s seven-year sentence on each count will run concurrently and he was ordered to pay \$880,386 restitution to Alabama victims. Doing business as the Meta Company, and representing the Financial Center, LLC, both located in Sylacauga, Alabama, Mitchell offered and sold promissory notes valued at approximately \$95,000 to an Alabama investor. The indictment alleged that Mitchell misled the investor by concealing and/or misrepresenting the terms and performance of the notes and further failed to disclose excessive commissions and other maintenance fees associated with the offer and sale of the notes. Subsequently, additional warrants obtained by the ASC charged Mitchell with securities fraud in connection with his role as an investment adviser with Performance Management Group (PMG), a Delaware Corporation formerly domiciled in Sylacauga. Mitchell was charged with raising capital on behalf of PMG from at least four Alabama investors and misleading all investors as to the exact nature and performance of their investment in the company.

**Tuscaloosa County**

**Tuscaloosa County Man Pleads Guilty to Violations of Alabama Securities Act**

(February 9, 2009) Howard Jackson Cleveland, Jr., also known as “Tiny” Cleveland, a Tuscaloosa resident, pled guilty in Circuit Court to Securities Fraud and Sale of Unregistered Securities. Charges against Cleveland were handed down in a March 2008 indictment issued by a Tuscaloosa County Grand Jury. Cleveland pled guilty on January 28, 2009 and received a 10-year sentence for each count, to be served concurrently. The court suspended the sentence in lieu of five years of court-ordered probation and the repayment of restitution to victims. As part of Cleveland’s sentence, he will pay \$31, 750 in restitution to his victims.

## ENFORCEMENT HEADLINE SUMMARIES (*continued*)

### **South Carolina Man Extradited From Europe to Alabama for Alleged Violations of Alabama Securities Act**

(April 1, 2009) Michael Kevin Mullen, 58, an Aiken, South Carolina resident and a subject wanted in Tuscaloosa and Walker Counties, has been returned to Alabama from Austria to stand trial for three counts of securities fraud. Mullen was arrested by Austrian authorities in July 2008 and has resisted extradition to the United States. Austrian authorities released Mullen to the custody of U.S. Marshals who transported him back to Tuscaloosa, Alabama for incarceration. Mullen's extradition and arrest stem from indictments issued in March 2007 and May 2008 sessions of the Tuscaloosa and Walker County Grand Juries respectively and charging Mullen with illegally soliciting approximately \$215,000 from at least three Alabama investors through his company, Riggabella Professional Services, Inc., a for-profit real estate holding company headquartered in South Carolina, which was dissolved in 2005. Michael Kevin Mullen, together with his spouse, Deborah Ann Godwin Mullen of Aiken, South Carolina; and, his daughter, Jinnifer Aman of Ozark, Alabama allegedly misappropriated investor funds through Handleton Management Services Trust, described as a Bahamian Pure Foreign Trust, with a business address in South Carolina but actually doing business as Riggabella. It is alleged that Michael Kevin Mullen solicited investor funds to purchase preferred stock in his company.

### **Tuscaloosa County Man Indicted for Alleged Violations of Alabama Securities Act**

(March 31, 2009) Gene Thomas LeGrone, Jr., also known as "Tommy," a resident of Northport, Alabama, was arrested for alleged violations of the Alabama Securities Act. Tuscaloosa County law enforcement officials served LeGrone with an indictment handed down by the March 2009 session of the Tuscaloosa County Grand Jury. Allegedly, LeGrone was the owner and operator of Bama Remodeling and Repair, LLC, headquartered in Northport, Alabama and was involved with entering into an investment contract with two area victims. Further, LeGrone allegedly suggested to the victims that money would be invested with him for home renovation projects. A promissory note was issued in July 2006 to the victims in the amount of \$50,500 with a promised return of "interest and profit."

### **National**

### **Alabama Securities Commission Issues Order to Show Cause to Morgan Keegan and Company, Inc.**

(July 21, 2009) – The Alabama Securities Commission (ASC) today issued a "Order to Show Cause" to Morgan Keegan and Company, Inc., headquartered in Memphis, Tennessee. Morgan Keegan is the brokerage subsidiary of Regions Financial Corporation, with principal offices in Birmingham, Alabama. The U.S. Securities and Exchange Commission (SEC) simultaneously issued a complaint in federal court in conjunction with these ongoing investigations. Morgan Keegan and Company, Inc. allegedly underwrote, marketed and sold Auction Rate Securities (ARS) as safe, highly liquid investments that were supposedly equivalent to cash or money market funds at a time when ARS product risks were increasing. As a result, many Morgan Keegan customers, requiring short-term liquidity, placed money in these investments underwritten and marketed by Morgan Keegan. Morgan Keegan failed to advise its customers that money invested in ARS, upon failure of the auction, could become illiquid.



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- [09/28/2009](#) - Alabama Securities Commission Promotes Investor Education and Fraud Prevention Outreach for Alabama Citizens.
- [08/18/2009](#) - Alabama Securities Commission Announces Top 10 Investor Traps
- [08/07/2009](#) - International Investor Protection Organization Re-Elect Joseph P. Borg to Board of Directors.
- [07/31/2009](#) - New Law Strengthens Role of Alabama Securities Commission to Protect Investors.
- [07/08/2009](#) - **INVESTOR ALERT:** European-based Financial Website May be Investor Trap
- [06/16/2009](#) - Alabama Securities Commission Launches Statewide Military Outreach Program
- [06/04/2009](#) - Risky Business: U.S. Needs Council of State, Federal Regulators to Rein in Risk
- [05/13/2009](#) - **INVESTOR ALERT:** ASC Identifies Popular Scams for 2009
- [05/11/2009](#) - **CONSUMER ALERT:** Beware of Questionable Debt management Programs
- [05/06/2009](#) - Investigate Before you Invest
- [05/04/2009](#) - Alabama Securities Commission Voices Strong support for "Senior Investment Protection Act of 2009"
- [03/27/2009](#) - Alabama Joins In National Investor Education Initiative
- [03/06/2009](#) - **INVESTOR ALERT:** Alleged Certificate of Deposit Investment Scheme.
- [12/30/2008](#) - Alabama Securities Commission Announces Key Appointments and Administrative Changes
- [12/12/2008](#) - Joseph Borg Appointed to Represent International Securities Organization as Ombudsman and Chair of International Committee.
- [12/11/2008](#) - NASAA's Financial Services Regulatory Reform Roundtable press conference and webcast in Washington D.C.
- [11/24/2008](#) - Regulatory Reform: A Multi-layered Approach
- [11/24/2008](#) - Feeling the Squeeze: Alabama Securities Commission Offers Sandwich Generation Relief
- [11/10/2008](#) - Securities Director Reminds Auction Rate Securities Investors to Contact Firms About Buyback Offers
- [11/03/2008](#) - State Official Invited to Present at Corporate Governance Conference in Taiwan
- [10/31/2008](#) - Alabama Securities Commission Announces IARD System Fee Waiver
- [10/14/2008](#) - The Alabama Securities Commission and AARP Team to Offer "Free Lunch Seminar Monitor" Program Older Americans Increasingly Targeted By Financial Scammers.

## **Investor Education and Fraud Prevention for Seniors**

One of the Commission's most successful continuing partnerships for senior education and outreach is with the Alabama Department of Senior Services (ADSS) and its network of Area Agencies on Aging in many counties of Alabama's regional planning and development districts. ASC's partnership with ADSS provides staunch advocacy for the overall social, medical and financial health of Alabama's senior citizens. This year's events reached more than 3,000 seniors across the state. The following list of events highlights senior outreach efforts during the year:

- State Medicare Patrol (SMP) Fraud Summit— "Guarding Against Scams and Fraud." These popular events were held in conjunction with local Better Business Bureaus and other professional organizations to reach seniors, their families and caregivers, to teach the knowledge necessary to avoid becoming victims of crime, methods to use in order to protect against waste, fraud and abuse and where to get help for seniors who may have been victimized.

- Caregiver and Elder Abuse Workshops—Highly qualified ASC staff joined ADSS personnel to make informative presentations to nursing, nursing home/assisted living, home health, social services, legal and other senior care providers on how to recognize and address specific problems that their senior clients may face, such as elder abuse, financial fraud and exploitation, identification theft, estate planning and other legal issues.

- Elder Abuse Awareness Rally — ASC joined forces with ADSS and the Alabama Civil Justice Foundation at the Alabama State Capitol to bring attention to the specialized legal, social, health and medical needs of Alabama seniors and to send a powerful message that state and federal agencies stand ready, willing and able to use every resource available to protect Alabama's seniors from circumstances that might adversely affect their long-term safety, happiness and financial well-being.

- "Let's Talk Turkey" About Medicare Tour — ASC partnered with ADSS to teach seniors throughout Alabama the most current and critical information concerning Medicare coverage and how to shield themselves from financial fraud often hidden behind too-good-to-be-true healthcare "options" being touted to seniors.

- For the fifth consecutive year, ASC staff participated in the 2009 Senior Expo at the Von Braun Civic Center in Huntsville. This annual event brings together thousands of senior citizens from across northern Alabama to see the many products and services available to them from dozens of professional service providers. ASC staff members were on hand to answer individuals' questions and concerns and to distribute a wealth of personal finance, investor education and fraud prevention materials to hundreds of seniors during the day-long event.

- ASC staff, partnering with AARP, participated in the Jackson County Senior Expo in Scottsboro. This free event hosted several hundred seniors from Jackson, DeKalb, Madison and Marshall Counties in north Alabama and was designed to give those 50 years and older information about various resources available to them that could help safeguard their health, safety and financial independence. ASC also partnered with AARP specialists to host several financial workshops in central and south Alabama to discuss important financial and fraud prevention topics and to answer questions from seniors about saving, borrowing, investing, reverse mortgages, investment fraud, retirement and pension issues.

*Investor Education and Fraud Prevention Outreach Program*

**ASC Military Outreach Program and Special Website Area**

Director Borg said, “We believe in our military and have supported recent deployments of key ASC employees, who are members of the Guard/Reserves, in support of Middle-East defense initiatives. Our Education and Public Affairs manager has over 25 years of active, guard, enlisted and commissioned service and is the primary contact for an international military outreach program and working as a non-profit partner with the Department of Defense, Financial Readiness Campaign. If we get inquiries from any military personnel, in any status, or their dependents, you can be assured this Commission will put our best foot forward to help provide information or investigate complaints and concerns as necessary.”

Military personnel and their dependants who may be considering investment opportunities can contact the ASC, toll-free, 1-800-222-1253, with inquiries about the registration status of financial products, licensing requirements for those individuals or companies offering or selling financial products or services to military families in Alabama, to lodge a complaint, to report suspected fraud or to receive consumer information.

**Investor Education for Visually Impaired Alabamians**

The Alabama Securities Commission’s Office of Education and Public Affairs, in September 2009, partnered with the Alabama Department of Rehabilitation Services’ OASIS Program at Snead State Community College in Boaz, Alabama. The Older Alabamians System of Information and Services (OASIS) is a statewide program of 20 vision loss support groups working collectively to enhance the quality of life for Alabama citizens, 55 years and older, who have either partial or total vision loss. The OASIS program helps equip vision impaired Alabamians to participate in all life activities, even those thought to be exclusively for people with normal vision. OASIS support group meetings are devoted not only to topics related to vision loss, but to a variety of other life concerns, with the goal to encourage and equip people with vision limitations to return to former interests and to live a full life.



To help ensure that these vision impaired individuals in the Marshall County, Alabama area have the necessary tools to advance their financial literacy, maintain control of their personal finances during challenging financial times and have the most current and accurate information available to help safeguard them from financial fraud, highly qualified ASC staff presented “What Seniors Should Know to Make Informed Investment Decisions.” The presentation focused on the various elements of financial fraud, a discussion of how to identify fraudulent practices and the steps to take if fraud is suspected or perpetrated against group members or their families. ASC staff answered individual inquiries and distributed to participants a wealth of personal finance, investor education and fraud prevention materials. Some of the training materials were customized and printed in very large text for this presentation.

## *Investor Education and Fraud Prevention Outreach Program*

### Summary of Key Investor Education Activities/Presentations (Fiscal Year 2009, October 1, 2008 - September 30, 2009)

<u>Date</u>	<u>Place</u>	<u>Number</u>	<u>Audience Type</u>
9/29/2009	Montgomery, AL - Joint Leadership Dev. Conf	260	High school students - four seminars
9/25/2009	Cullman, AL - ACES Estate Planning Event	40	Senior citizens from the local community
9/11/2009	Tuskegee, AL - ACES Estate Planning Event	14	Senior citizens from the local community
9/10/2009	Boaz, AL at Snead Comm. College for OASIS	14	Seminar for citizens with vision impairment
9/10/2009	Mobile, AL - ARSEA Annual Conference	120	Seminar conducted for retired state employees
9/9/2009	Mobile, AL - ARSEA Annual Conference	100	Talk with retired state employees at booth
8/28/2009	Autaugaville, AL - ACES Estate Planning Event	60	Senior citizens from the local community
8/21/2009	Carrollton, AL - ACES Estate Planning Event	25	Senior citizens from the local community
8/14/2009	Birmingham, AL at UAB campus	65	Certified Fraud Examiners - Continuing Ed
8/6/2009	Pell City, Jeff State College ACES Estate Planning	24	Senior citizens from St. Clair County area
7/21/2009	RSA Plaza, Montgomery, AL	30	AL IE supporters and Mr. Ketchum from FINRA
7/21/2009	Birmingham BJCC, Teachers Conference	100	High school teachers from across Alabama
7/20/2009	Birmingham, AL -Federal Reserve	20	High school teachers from across Alabama
6/26/2009	Woodstock, AL - ACES Estate Planning Event	7	Senior citizens from Bibb/Tuscaloosa Counties
6/15/2009	Gadsden, AL with Area Council on Aging	100	Senior citizens from Choctaw County area
6/15/2009	Montgomery, AL at the State Capitol with ADSS	82	Senior citizens from Central Alabama
6/12/2009	Tuskegee with AL S. Central AL Dev. Comm.	20	Professional caregivers for senior citizens
6/10/2009	Butler, AL - ACES Estate Planning Event	15	Senior citizens from Choctaw County area
6/8/2009	Montgomery, AL - Trenholm Tech	25	High school students in summer program
6/3/2009	Dothan, AL at the SARCOA Center	82	Senior citizens/residents from 7 SE counties
5/28/2009	Montgomery, AL - Eastdale Assisted Living	43	Senior citizens/residents
5/27/2009	Orange Beach, AL - ADAA (District Attorneys)	65	Victim Services Officer Counselors
5/27/2009	Opelika, AL - Area Agency on Aging	70	Senior citizens from the Auburn/Opelika area
5/21/2009	Florence-Lauderdale, AL - Coliseum with BBB	60	Senior citizens from the local community
5/15/2009	Scottsboro, AL - ACES Estate Planning Event	15	Senior citizens from the Scottsboro area
5/14/2009	Montgomery, AL - Dept of Edu., Career Tech	9	In-service financial training to ASAs
5/9/2009	Greenville, AL - Pilgrims Baptist Church	20	Area church members and leaders
5/7/2009	Birmingham, AL - NAIFA Sales Symposium	300	Financial Advisors and insurance sales
5/6/2009	Hayneville, AL - Lowndes County Senior Center	125	Senior citizens from the Hayneville area
5/5/2009	Huntsville, AL - Senior Expo 09 at Von Braun Center	450	Senior citizens from North Alabama region
5/1/2009	Decatur, AL - Scam Jam event with NARCOG	200	Senior citizens from the Decatur area
4/28/2009	Tuscumbia, AL - ARSEA chapter meeting	45	Retired state employees
4/24/2009	Mobile, AL - ARSEA chapter meeting	80	Retired state employees
4/22/2009	Selma, AL - ADSS Fraud Summit	26	Senior citizens from the local area
4/15/2009	Birmingham, AL - ARSEA chapter meeting	50	Retired state employees
4/8/2009	Montgomery, AL - RSA Plaza, at the Commission	18	Shades Valley HS field trip

*(Continued on next page)*

## *Investor Education and Fraud Prevention Outreach Program*

### Summary of Key Investor Education Activities/Presentations (Fiscal Year 2009, October 1, 2008 - September 30, 2009)

<u>Date</u>	<u>Place</u>	<u>Number</u>	<u>Audience Type</u>
4/8/2009	Chatom, AL - ARSEA chapter meeting	15	Retired state employees - teachers
4/7/2009	Montgomery, AL - ARSEA chapter meeting	125	Retired state employees
4/7/2009	Montgomery, AL - Capitol City Club	45	Montgomery Estate Planning Council
4/1/2009	Tuscaloosa, AL - YMCA	20	Wise Men business group members
3/19/2009	Tuscaloosa, AL - Senior Citizens Center	80	Senior citizens from Tuscaloosa
3/17/2009	Montgomery, AL - Montgomery Country Club	12	Health Underwriters Association
3/16/2009	Wetumpka, AL - Shoney's restaurant	22	Wetumpka area Lions Club
3/13/2009	Evergreen, AL - ACES Estate Planning event	20	Senior citizens from the Evergreen area
3/10/2009	Russellville, AL - ADSS Fraud Summit	225	Senior citizens from the Russellville area
3/5/2009	Prattville, AL - Doster Civic Center	35	Prattville Lions Club members
2/27/2009	Mobile, AL - Area Agency on Aging	350	Senior citizens from the Mobile area
2/20/2009	Montgomery, AL - Shiloh Mission Baptist Church	260	Senior citizens from the Greenville area
2/5/2009	Hoover, AL - Public Library	80	Keynote at NAPFA - adults from local area
2/3/2009	Clanton, AL - 1st United Methodist Church	60	Chilton County Chamber of Commerce
2/3/2009	Florence, AL - Marriott Civic Center	35	Shoals area Civitans
1/31/2009	Greenville, AL - Pilgrim Rest Baptist Church	20	Adult church members and pastors
1/21/2009	Scottsboro, AL - Goose Pond Civic Center	50	Seniors from the local community
1/15/2009	Anniston, AL - Classic in Noble	25	NAIFA - insurance and investment advisors
1/7/2009	Montgomery, AL - Piccadilly Cafeteria	35	Alabama Power retirees
12/9/2008	Wetumpka, AL at Shoney's	20	Rotarian Club members
12/4/2008	Opelika - Saugahatchee Country Club	60	Adult members of Kiwanis Club
12/1/2008	Montgomery, AL - United Methodist Church	35	Adults middle age to Senior from local area
11/20/2008	Birmingham, AL - Botanical Gardens	100	ADSS Medicare Van Tour for seniors
11/19/2008	Tuscaloosa, AL - Senior Center with ADSS	300	ADSS Medicare Van Tour for seniors
11/18/2008	Cullman, AL - Northbrook Baptist Church	60	ADSS Medicare Van Tour for seniors
11/17/2008	Florence, AL - Cross Point Church of Christ	250	ADSS Medicare Van Tour for seniors
11/15/2008	Montgomery, AL - AUM Business School	60	IPT and ACEE event with Girl Scouts
10/22/2008	Millbrook, AL - Oak & Ivy Dreams with AARP	8	Seniors from the local community
10/17/2008	Montgomery, AL - RSA Plaza, at the Commission	33	UAB finance students
10/15/2008	Florence, AL - Shoals Chamber of Commerce	8	AARP and seniors from local area
10/9/2008	Montgomery, AL - Alabama Activities Center	85	Association of Gov. Accountants
10/6/2008	Robertsdale, AL - Mama Lou's restaurant	13	AARP and seniors from local area
10/3/2008	Opelika, AL - area EIK's Club with ACES	41	Members of the EIK's Club and citizens
10/2/2008	Prattville, AL - Doster Civic Center	35	Prattville Lions Club members
<b><u>NUMBER OF EVENTS - TOTAL:</u></b>		<b>70</b>	
<b><u>RECEIVED INVESTOR EDUCATION - TOTAL:</u></b>		<b>5401</b>	





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