

# MONTANA STATE AUDITOR

JOHN MORRISON  
STATE AUDITOR



COMMISSIONER OF INSURANCE  
COMMISSIONER OF SECURITIES

SENATE FINANCE AND CLAIMS

REPORT NO. 3

DATE 3-10-05

FILE NO. SB 239

## Memorandum of Support for SB 239

**To:** Members of the Senate Finance and Claims Committee  
**From:** Montana State Auditor John Morrison  
**Date:** March 10, 2005  
**Re:** Support of SB 239 –Securities Investor Education Fund

The Montana State Auditor's office supports SB 239, carried by Senator Mike Wheat.

SB 239 creates an investor education fund managed by the Securities Department. The fund, which is funded by a portion of the fees paid to the department, would be available to provide for investor education on fraud prevention, finding a legitimate and licensed investment advisor or salesperson, and other securities issues.

### Assisting Securities Clients

A senior advocate contacted us on behalf of a retired nurse. The nurse had invested her entire retirement with a securities salesperson. The salesperson convinced her to move her money from safe, insured investments into promissory notes he was personally issuing. Ultimately, the salesperson illegally converted her more than \$150,000 in retirement savings to his personal use. When he failed to repay the money as promised, the retired nurse was forced to take out both a second and third mortgage on her home, was unable to take care of her medical needs and literally could not put food on her table. Our office investigated the matter and ultimately gained restitution for the retired nurse. We were able to arrange for his brokerage firm to pay off the second and third mortgages and have an agreement with the salesperson to make monthly payments to the victim.

*John Tarr, former investigator at the Securities Department states "I am the guy who had to tell seniors that they would not get their money back. I would rather spend time telling people don't put your money into something you haven't checked out - investigate before you invest. I would rather spend 10 minutes talking to people about these types of things, than spend years on putting an investigation together."*

Juanita Periman was among 38 people, including 7 widows, who were victims of a deceitful securities salesperson. The salesperson took control of Juanita's IRA, as well as the accounts of the other victims, and began a scheme of unauthorized, excessive trading in risky stocks. This scheme netted the salesperson hundreds of thousands of dollars in commissions. In a six month period, nearly half of Juanita's retirement account was lost. When Juanita discovered the wrongdoing, she did not know who to contact. Her sister, who works at a local credit union, thankfully told her to contact our office. After an investigation, we suspended and ultimately revoked the salesperson's license, got restitution for the 38 victims in the amount of \$1.5 million and took action against the firm.

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As wonderful as these stories turned out, there are thousands of Montanans, many who are elderly, that don't know what to look for or where to turn when a fraudulent offer comes to their door. Sadly, by the time people discover they've been scammed, the money and the perpetrator are often long gone. Fraud prevention is the only solution to preventing an action before it occurs.

### Investor Education Needs

With more than 60% of households with at least one investment in securities, criminals have seized the opportunity to defraud investors. Consumers and law enforcement must be given the information needed to spot fraudulent schemes. Some topics that would be covered in the investor education provided by SB 239 include:

- Types of fraudulent schemes (such as pyramid schemes)
- How to spot such fraudulent investments, and who to contact if you are suspicious
- How to check to make sure you have a legitimate broker/financial advisor

Many other states have investor protection funds specific to securities including:

- ♦ Utah
- ♦ Tennessee
- ♦ Illinois
- ♦ Oklahoma
- ♦ North Carolina
- ♦ Delaware
- ♦ Iowa
- ♦ New Mexico
- ♦ Wisconsin
- ♦ Kansas

### Proponents

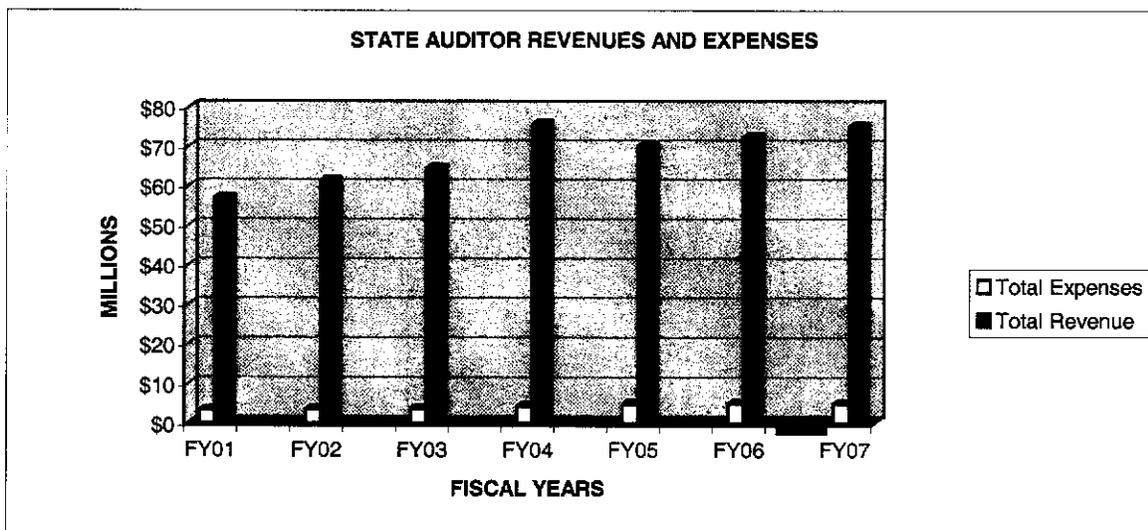
Consumer groups, law enforcement and the securities industry support SB 239.

- Investment Company Institute
- American Association of Retire Persons
- Montana Senior Citizens Association
- Montana Sheriffs and Peace Officers
- Montana County Attorneys' Association
- Montana Police Protective Association

### Funding

SB 239 would be funded from the fees already collected by the Montana Securities Department, fees that are paid by the securities industry itself for the purpose of protecting investors and ensuring the integrity of the securities markets. There is no increase in fees.

### Department budget in comparison to revenues generated for Montana general fund



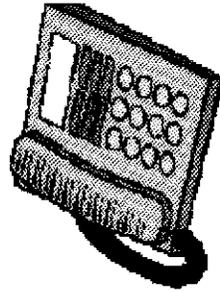
## How to Request a CRD Report

To obtain a CRD report, call the **Montana Securities Department at 1-800-332-6148**. As a matter of practice, *stockbrokers and brokerage firms are not advised of your request.*

You also may contact the National Association of Securities Dealers Regulation (NASDR) at 1-800-289-9999 or visit its Web site at [www.nasdr.com](http://www.nasdr.com). However, the NASDR does not report certain types of information that may be available through the Montana Securities Department.

This information is easy to obtain and Montana securities regulators want you to make informed decisions prior to investing your hard-earned dollars. The vast majority of stockbrokers and brokerage firms are honest and reputable. However, as in many professions, there are individuals and firms who are not. A phone call to the Montana Securities Department may save you from sending your money to a bad broker or disreputable brokerage firm.

In addition, it is important to learn if the salesperson and firm you are thinking of investing with are properly licensed by the Montana Securities Department to sell securities in Montana.



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## How to Check Out Your Stockbroker or Brokerage Firm

Investigate Before You Invest



John Morrison  
♦ Montana State Auditor ♦  
♦ Securities Commissioner ♦

1-800-332-6148  
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## How to Check Out Your Stockbroker or Brokerage Firm

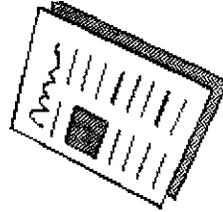
Where do you turn if you want to check on your present or future stockbroker? If you plan to entrust your money with an individual or securities firm, it is worth your while to do a background check. It may save you money and future aggravation.

The CRD contains information regarding your stockbroker's past, including:

- Employment history for the past 10 years;
- Securities examination scores;
- Licensing or registration status; and
- Disciplinary history.

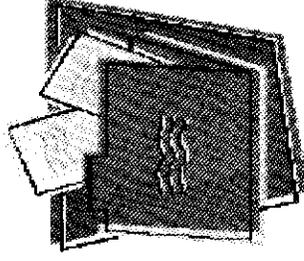
## Central Registration Depository System

The Central Registration Depository system ("CRD") is a source you can turn to for this kind of information. The CRD is a computerized database that holds licensing and registration information on more than 600,000 stockbrokers (also called registered representatives) and more than 6,000 brokerage firms throughout the country. Every state securities regulator can access the CRD database.



In most cases, a stockbroker or any person who sells securities (for example, stocks, bonds, mutual funds, etc.) must be licensed or registered to do so. Therefore, these individuals' records will be maintained on the CRD. You may ask brokers or salespeople for their CRD numbers.

- Criminal convictions or indictments against registered or licensed brokerage firms and associated persons.
- Settlements of \$10,000 or more among parties to arbitrations, civil suits, and customer complaints involving securities or commodities transactions.
- Employment terminations resulting from allegations of unethical securities practices including fraud, theft misrepresentation and excessive trading.



## Information Available

As an investor, you can request a public report of background information on any stockbroker or brokerage firm. **This report can be obtained free from the Montana Securities Department in the State Auditor's Office.** (It will be helpful for you to have the full name of the broker or his or her CRD number.) In addition to employment and examination history, the CRD report will contain the following types of disciplinary history, if applicable:

- Final disciplinary actions (relating to securities or commodities businesses) that have been taken by federal, state and foreign securities regulators, as well as self-regulatory organizations such as the National Association of Securities Dealers Regulation.
- Civil judgments and arbitration decisions in securities and commodities disputes involving consumers.

- Pending disciplinary actions taken by industry regulators that relate to securities or commodities business.
- Pending arbitrations and civil proceedings involving securities or commodities transactions.
- Pending written complaints alleging sales practice violations and compensatory damages of \$5,000 or more.