

BROKER MISCONDUCT: KNOW THE EARLY SIGNS

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Sustaining substantial losses in the stock market can be tremendously damaging, both financially and emotionally. Oftentimes investors are reluctant to sell or close out their accounts from fear of losing their money, while retaining the hope that their investments will bounce back. After such an occurrence, it is a good practice to thoroughly review the paper trails of every transaction. However, there may be times when your realized losses are not entirely the result of dramatic market volatility or fluctuations but are due in part to the misconduct of your broker.

Investments and trading activity are carefully regulated by rules and laws for the protection of public investors by various federal and state regulatory authorities. The violation of these rules, particularly through various deceptive actions and schemes to cheat or take advantage of investors, is known as securities fraud.

Some signs of securities fraud that frequently results in losses are:

- Transactions and trades appear on your statement that you do not recognize or did not authorize.
- Your broker advises you to invest in investments that don't make sense to you.
- "It's too good to be true", yet my broker says "wait and see how great this works out"
- Clear misrepresentation of what kind of investment I'm buying by your broker.
- High pressure sales tactics by your broker, such as: "you need to do this today!"
- Frequent buy/sell recommendations by your broker.
- My account is going down month-to-month in a supposedly safe/conservative account.
- The inability for you to liquidate an investment.
- Surprise margin calls by your broker.
- Unsatisfactory explanations from your broker on his investment recommendations.

Two of the more common broker misconducts are unsuitability and misrepresentation.

Unsuitability

In making an investment recommendation to a client, a broker's recommendations must be consistent with the customer's risk tolerance, needs and investment objectives. A broker has a duty to know his or her client's financial profile and life stage and only recommend investments and trading strategies that are suitable for that client.

If a broker breaches those duties and makes unsuitable recommendations, the broker may be liable to that client.

- An investment may be unsuitable if a customer does not have the financial ability to incur the risk associated with a particular investment.
- If the investment was not in-line with the investor's financial needs or if the customer did not know or understand risks associated with certain investments.

A broker must also have a "reasonable basis for the recommendation." The broker's basis for the recommendation may be the firm's research, in which case the firm must have a reasonable basis for its own recommendation.

Misrepresentation and Omissions

A brokerage firm or broker can be held liable if that firm or broker misrepresents material facts or omits to disclose information to the investor regarding an investment and that client subsequently loses money on that investment. Often the misrepresentations or omissions disguise the risk associated with a particular investment. A broker has a duty to fairly disclose all of the associated risks.

Many investors who have been defrauded do not know what happened to their investment until it is too late. But even after the losses have occurred, the law provides recourse for investors to recover their losses which were caused by the stockbroker's misconduct. If you believe that you have been a victim of securities fraud, you have certain rights which you should be aware of which may provide you an opportunity to recover your losses from your stockbroker or brokerage firm.

One of the best ways to find out if the law may work in your favor is to work with your legal advisor in consultation with an experienced securities fraud attorney.

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