

Approved: 1-30-01
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Sandy Praeger at 9:30 a.m. on January 23, 2001 in Room 234-N of the Capitol.

All members were present except:

Committee staff present: Dr. Bill Wolff, Kansas Legislative Research Department
Ken Wilke, Office of the Revisor of Statutes
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Jerel Wright, Administrator, Kansas Department of Credit Unions
Sue Schmelzer, Kansas Credit Union Association
David Brant, Kansas Securities Commissioner

Others attending: See attached list.

Copies of members of the Kansas Business Health Policy Committee were distributed to the Committee as requested by Senator Allen. ([Attachment 1](#))

Overview of Credit Unions and Securities

Jerel Wright, Administrator, Kansas Department of Credit Unions, gave an overview of the department and responsibilities of overseeing state chartered credit unions. ([Attachment 2](#))

Sue Schmelzer, representing the Kansas Credit Union Association, provided general information to the Committee on credit unions, and the difference between credit unions and commercial banks in Kansas. ([Attachment 3](#))

David Brant, Kansas Securities Commissioner, provided information to the Committee on the agency's past, present and future involvement as the regulator of securities in Kansas, Tips for Online Investors and a letter to Kansas Insurance Agents regarding the sale of viatical settlement contracts and other investment products. ([Attachment 4](#))

Approval of Minutes

Senator Steineger made a motion to approve the Committee minutes of January 16, 17, and 18, seconded by Senator Salmans. The motion carried.

Adjournment

The meeting was adjourned at 10:30 a.m. The next meeting of the Committee is scheduled for January 24, 2001.

SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: 1-23-01

NAME	REPRESENTING
LARRY MAGILL	KAIA
DAVID BRANT	SECURITIES COMMISSIONER
Terel Wright	Ks Dept of Credit Unions
Ane Schmefer	KCUA
John Federico	"
Cathy McNofton	KS Trial Lawyers Assn
Rick Fleming	Securities Commission
Chuck STONES	KBA
Jim Liu	JOB
JOHN C. BOTTENBERG	DELTA DENTAL
Larrie Ann Lower	KAFP
Kathy Olsen	KBA
Kathy Damron	Waddell Reed
Jeremy Anderson	Ks Insurance Dept.
Matt Goddard	HCBA

Kansas Business Health Policy Committee

William (Bill) Riley Chair
116 Umberger
Manhattan, KS 66506

Martha Leonard
Vianello & Leonard, LLC
6701 W. 64th, #315
Overland Park, KS 66202

Cliff Sones
Executive Vice President/WIBA
415 S. Main
Wichita, KS 67202

Lt. Governor Gary Sherrer
Secretary/Kansas Department of Commerce and Housing
222-S State Capitol
Topeka, KS 66612-1504

Senator Sandy Praeger
255-E State Capitol
Topeka, KS 66612-1504

Senator Paul Feleciano
452-E State Capitol
Topeka, KS 66612-1504

Representative Sue Storm
272-W State Capitol
Topeka, KS 66612-1504

VACANT - House Majority Appointment

Janet Schalansky
Secretary/Kansas Department of Social & Rehabilitation Services
915 SW Harrison, Room 603-N
Topeka, Kansas 66612-1570

Alternate: Laura Howard
 Assistant Secretary for Health Care Policy
 915 SW Harrison, Room 603-N
 Topeka, Kansas 66612-1570

Kathleen Sebelius
Insurance Commissioner
Kansas Insurance Department
420 SW 9th
Topeka, Kansas 66612-1678

Alternate: Linda De Coursey
Director of Government Affairs
Kansas Insurance Department
420 SW 9th Street
Topeka, KS 66612-1678

**SENATE FINANCIAL INSTITUTIONS
AND INSURANCE COMMITTEE**

JANUARY 23, 2001

**JEREL WRIGHT
CREDIT UNION ADMINISTRATOR**

Senate Financial Inst. & Insurance
Date: 1-23-01
Attachment No. 2

Kansas Department of Credit Unions

History

The Kansas Department of Credit Unions (KDCU) is the state credit union financial regulatory agency authorized by the 1968 Kansas Legislature to provide for management, control, regulation and general supervision of state-chartered, Kansas's credit unions. Regulation of credit unions was performed under the supervision of the Kansas Bank Commissioner beginning in 1929 when Kansas's law authorized the organization of credit unions and continued until 1968, when the authority to regulate credit unions was transferred to the Kansas Credit Union Administrator.

KDCU is fully funded as a fee fund agency operating solely on the revenue produced through fees collected from state-chartered credit unions examined and regulated by the agency. All fees received by the agency are remitted to the state treasurer with twenty percent credited to the state general fund and the balance credited to the credit union fee fund. Total fees of \$964,878.00 and \$325.00 in fines were collected for the Fiscal Year with \$193,040.00 credited to the state general fund and \$772,163.00 to the credit union fee fund.

Kansas Department of Credit Unions

Today the department has 12 employees consisting of a full-time Administrator, a Chief Financial Examiner, three Financial Examiner Vs, two Financial Examiner IVs, two Financial Examiner IIIs, one Financial Examiner I, a Secretary III and an Office Specialist. KDCU supervises and examines 108 natural person credit unions with assets totaling \$1.895 billion and two corporate credit unions with assets in excess of \$23 billion. Kansas also has 28 federal-chartered credit unions with assets totaling \$335 million.

State-chartered credit unions have share deposits federally insured through the National Credit Union Share Insurance Fund, an arm of the National Credit Union Administration (NCUA).

Agency Function

KDCU is charged by law to examine every Kansas state-chartered credit union at least once every 18 months to ensure financial stability and compliance with state and federal laws and regulations. The National Association of State Credit Union Supervisors accredits the agency, recognizing the department's examination standards as equivalent to the standards established by the NCUA, the regulator for federal-chartered credit unions. The department grants new charters and mergers, provides for liquidation procedures when necessary and handles consumer complaints.

Kansas Department of Credit Unions

The department experienced an increase in the examination cycle for the top rated Kansas credit unions. In Year 2000, the department examined most 1 and 2 rated credit unions on an 18 month cycle with four examinations rolling to a 19 month examination cycle in October and November of 2000. Credit unions with 3 or 4 ratings and scheduled for an examination, received the examination within 12 months from their last exam.

A major initiative for the department is the implementation of a new federal regulation. The regulation titled Prompt Corrective Action became effective in August 2000 and became applicable to all credit unions on December 31, 2000. The regulation requires all credit union to maintain a net worth of 7%. ^{61x}

Administrator Responsibilities

The administrator is bound with the responsibilities of management, control, regulation and general supervision of credit unions. This includes requiring every credit union to submit to an examination by the department, consistent with the authority of the NCUA.

The Administrator:

- May require an independent audit to be performed under standards established by the agency.

Kansas Department of Credit Unions

- May approve the merger, the sale or purchase of assets or the voluntary and involuntary dissolution of a credit union.
- May issue orders for corrective action for violations of law.
- Shall become the conservator for any credit union deemed insolvent and may appoint a liquidation agent.

- May suspend from office and prohibit from further participation in any manner in the conduct of the affairs of a credit union any director, officer, committee member or employee who has committed any violation of a law, rules and regulations or of a cease and desist order or who has engaged in or participated in any unsafe or unsound practice in connection with a credit union or who has committed or engaged in any act, omission or practice in connection with the credit union which constitutes a breach of that person's fiduciary duty as such director, officer, committee member or employee, when the administrator has determined that such action or actions have resulted or will result in substantial financial loss or other damage that seriously prejudices the interest of the members.
- May recommend the removal of directors, supervisory or credit committees or submit findings of dishonest, reckless or incompetent performance of duties to the board of directors, supervisory or credit committee or to the credit union members at a general meeting of the shareholders.

Kansas Department of Credit Unions

- May suspend the charter, merge, liquidate, or take possession of any credit union which fails to federally insure share deposits, which loses coverage or allows such coverage to lapse.
- May authorize any credit union to engage in any activity in which such credit union could engage were they operating as a federal- chartered credit union.

- May require a credit union to establish special reserve accounts or may decrease the reserve requirements set by law.
- May establish rules and regulations governing the powers of corporate credit unions.
- May establish rules and regulations governing loans to credit union members, directors and members of the supervisory or credit committees.
- May approve the purchase, lease or rental of real estate and improvements by credit unions.
- May disclose or approve the disclosure of any confidential information secured or produced by the administrator in making an investigation or examination of a credit union.
- May approve a credit union's place of business or change in place of business.
- May approve a conversion of a state-chartered credit union to a federal charter.

Kansas Department of Credit Unions

- May authorize a credit union organized in another state or under the federal credit union act to do business in Kansas.
- Has general charge of the work of the Credit Union Council and shall keep a permanent record of all meetings and proceedings of the council at the office of the administrator.
- Has administrative supervision of all agency employees.

Kansas Department of Credit Unions

Examination Process

Each Kansas credit union is examined at least once every 18 months. The needs and condition of a particular credit union determine the length of time between examinations.

Our on-site examination format is based on a system called AIRE (Automated Integrated Regulatory Examination System), which is used by both the state and federal credit union regulators. The system provides for continuity between the state and federal examinations. KDCU financial examiners are recognized as having requisite examination skills qualifying the department for accreditation regarding the use of examination system.

NCUA defers the examination of Kansas's state-chartered credit unions entirely to KDCU because the department staff demonstrates the ability to conduct examinations equal in scope to any examination by the federal insurer. Federal insurance examiners participate together in examinations when KDCU and federal insurance fund representatives determine the need for a joint examination.

The examination format consists of a review of the credit union's core financial condition along with a regulatory compliance audit. KDCU issues a CAMEL rating for every credit union. A CAMEL rating encompasses the

Kansas Department of Credit Unions

review of Capital, Asset Quality, Management, Earnings, and Asset-Liability Management. Each review includes a comparison of the credit union's financial ratios to standards desired by regulators, in addition to peer group statistics.

The examination incorporates an examiner's findings into a Document of Resolution, which identifies the areas to be addressed by the credit union's board of directors. All resolution items are tracked by KDCU for completion with follow-up contacts scheduled to review the credit union's progress.

As part of the regulatory process, KDCU requires every credit union to remit semi-annual or quarterly financial reports (call report) to update the department and the federal insurer.

Kansas Department of Credit Unions

Credit Union Council

The Council serves as an advisor to the administrator on issues and needs of credit unions. The Council reviews proposed legislation and regulations under consideration by the agency.

Each of the seven members of the Council is appointed by the Governor for a term of three years and may serve for two consecutive three-year terms. Five of the seven members shall be officers of state-chartered credit unions and four of these five Council members must be from different congressional districts. Two of the members are appointed as public members of the Council.

No more than four of the Council members may be from the same political party. The Council holds one regular council meeting during each quarter of the year and may hold other meetings, as the Council considers necessary.

**TESTIMONY BEFORE SENATE FINANCIAL INSTITUTIONS AND
INSURANCE COMMITTEE ON KANSAS CREDIT UNIONS
JANUARY 23, 2001**

Madame Chair, Madame Vice Chair and Committee Members, I am Sue Schmelzer and I'm here on behalf of the Kansas Credit Union Association and its member credit unions. Thank you for the opportunity to speak.

Since there are several new committee members, I thought it might be helpful to provide some basic information about credit unions. Credit unions are not-for-profit financial cooperatives. By law, they can only serve those individuals who are members of the credit union. In addition, credit unions are owned and operated by their members. That means the membership elects the board of directors and the directors volunteer their time to set the direction for the credit union.

Earnings made by credit unions, in addition to meeting their regulatory reserve requirements, are returned to the members in the form of lower loan rates, higher savings rates and any additional services the board may deem as good for the membership. I would also point out that if a board decides to make a capital expenditure, such as erecting a new building or adding a branch, a credit union's only source of capital is its retained earnings. Credit unions are precluded from going to the open market for financing.

Credit unions are also not driven by the profit motivation of making money for stockholders. Credit unions' only motivation is to better serve their members. This philosophy and way of doing business along with their cooperative structure are the reasons for credit unions' tax-exempt status.

For a quick overview of credit unions and how they differ from banks, I have included a handout entitled "The Credit Union Difference". The handout delineates the differences in structure, ownership, purpose, sources of income, tax treatment, growth, etc.

As you can see, there are 138 credit unions in Kansas; 111 are state chartered and 27 are federal. These credit unions have assets of \$2.2 billion; are well capitalized with an average capital ratio of 12.7%; and serve their 530,000 members well as demonstrated by their average loan to share ratio of 80%. Credit unions in Kansas on average are small financial institutions, however, they run the gamut from Boeing Wichita Credit Union with over \$250 million in assets to Norwesco Credit Union in St. Francis, Kansas with \$115,000 in assets.

Again, I would like to thank you for the opportunity to appear before your committee, and I'd be happy to answer any questions you may have.

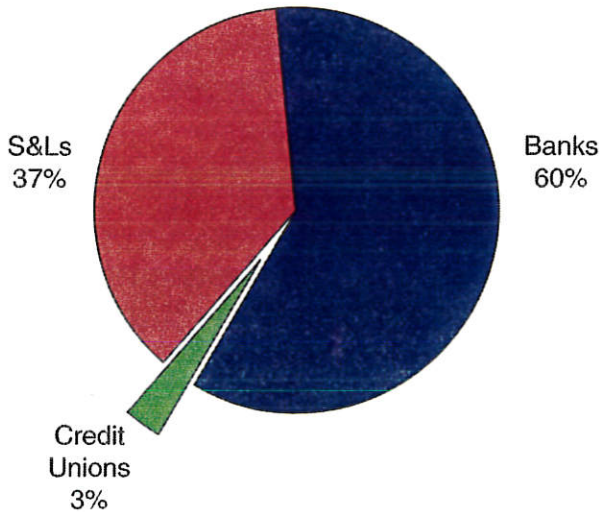
FACTS ABOUT KANSAS CREDIT UNIONS

(As of December 31, 1999)

Number of Kansas Credit Unions.....	138
Number of State Chartered Credit Unions	111
Number of Federal Chartered Credit Unions	27
Number of Credit Union Members	529,935
Total Assets	\$2.2 billion
Average Capital Ratio (with 7% considered "well capitalized").....	12.7%
Average Loans to Shares Ratio	80.1%

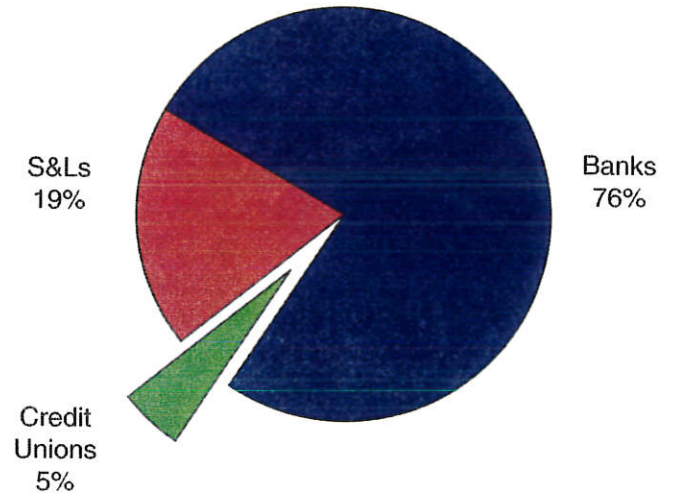
Kansas Market Shares - 1985

Percent of Total Assets
in Financial Institutions



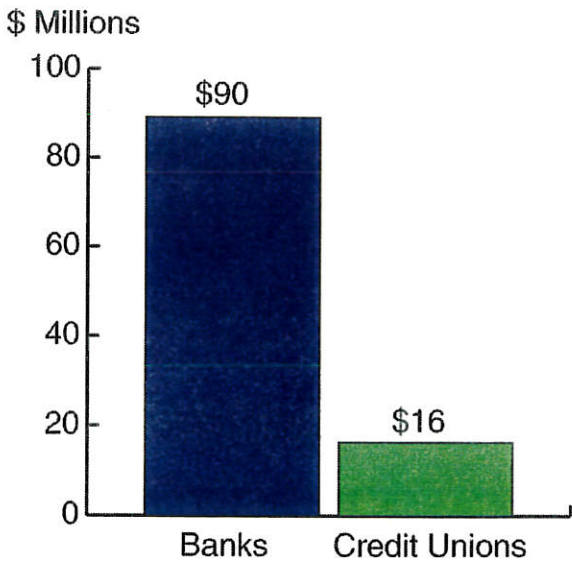
Kansas Market Shares - 12/31/98

Percent of Total Assets
in Financial Institutions

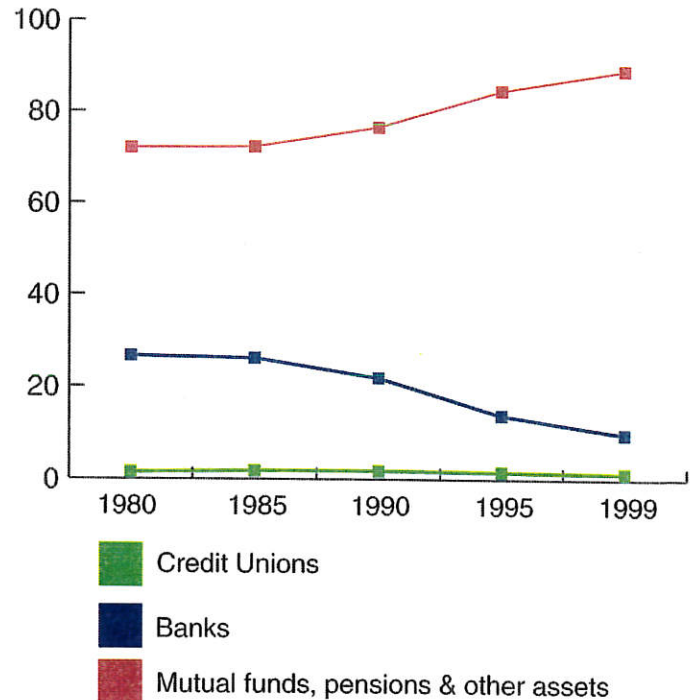


Average Asset Size in Kansas

Data as of 12/31/99



Market Share of U.S. Household Financial Assets



Data as of 12/31/99 unless otherwise indicated

Sources: FDIC, Credit Union National Association, Federal Reserve Bank, Kansas Department of Credit Unions, National Credit Union Administration

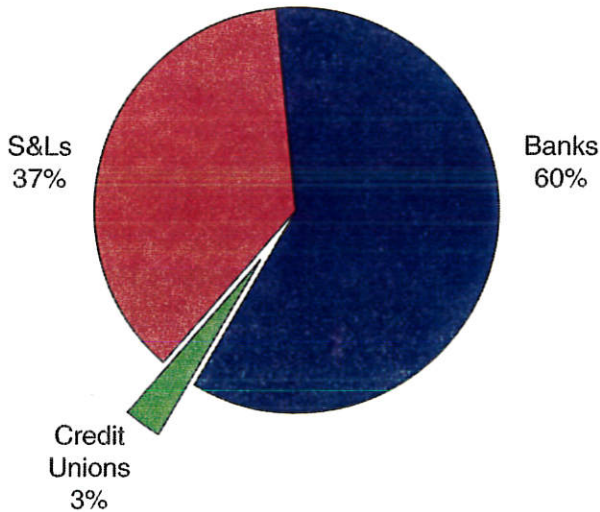
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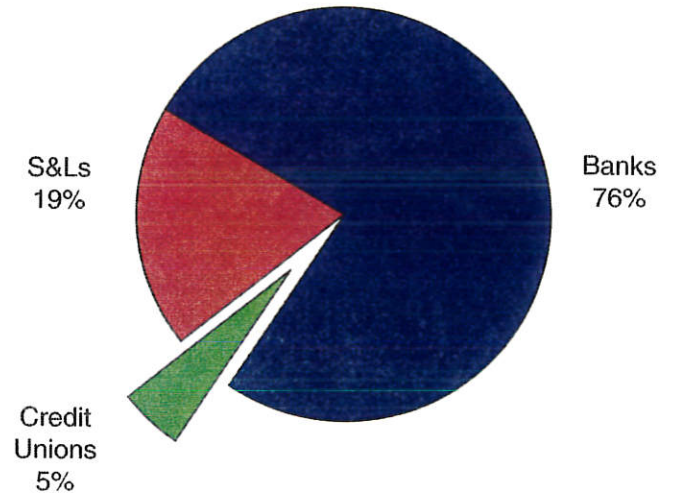
Kansas Market Shares - 1985

Percent of Total Assets
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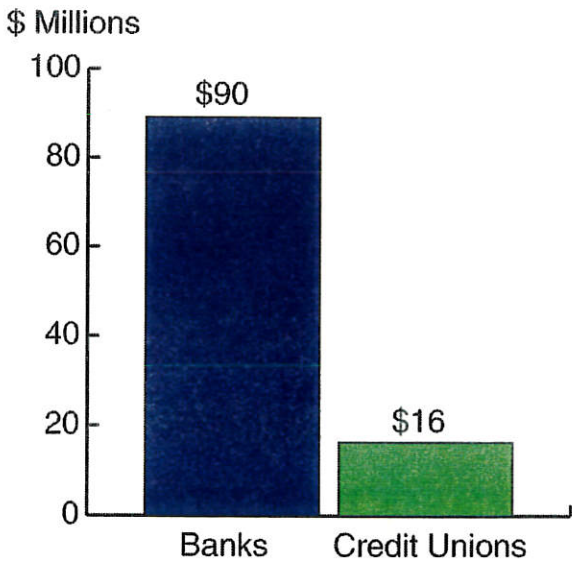
Kansas Market Shares - 12/31/98

Percent of Total Assets
in Financial Institutions

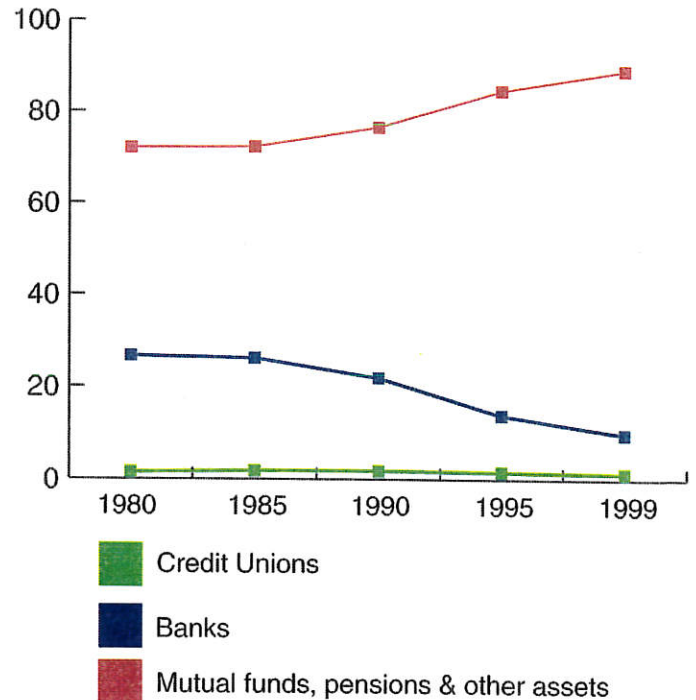


Average Asset Size in Kansas

Data as of 12/31/99



Market Share of U.S. Household Financial Assets



Data as of 12/31/99 unless otherwise indicated

Sources: FDIC, Credit Union National Association, Federal Reserve Bank, Kansas Department of Credit Unions, National Credit Union Administration

The Credit Union Difference

(Data as of 12/31/99)

	Credit Unions	Commercial Banks
Structure:	<ul style="list-style-type: none">• Not-for-profit cooperatives• State or federal charter	<ul style="list-style-type: none">• For-profit corporation• State or federal charter
Owners:	<ul style="list-style-type: none">• Members• One vote per member	<ul style="list-style-type: none">• Stockholders• One vote per share of stock owned
Purpose:	<ul style="list-style-type: none">• Provide economic benefit to members by pooling their savings, thus providing low-cost services	<ul style="list-style-type: none">• Provide a return to stockholders
Primary Source of Income:	<ul style="list-style-type: none">• Member loans• Investments	<ul style="list-style-type: none">• Consumer and commercial loans• Investments• Service fees
Tax Treatment of Income:	<ul style="list-style-type: none">• Credit unions do not pay federal income tax or state privilege tax because of their structure as not-for-profit financial cooperatives• Credit union earnings are passed to members who are taxed on interest received	<ul style="list-style-type: none">• Majority of banks pay federal income tax and state privilege tax, and stockholders are taxed on dividends received• Banks designated as subchapter S only pay state privilege tax and stockholders pay federal income on their share of income
Services Offered:	<ul style="list-style-type: none">• Member savings• Member loans• Member business loans (limited to 1.75 percent of capital up to 12.25 percent of assets)	<ul style="list-style-type: none">• Consumer savings• Consumer loans• Commercial loans• Investment of public funds• Trust services
Growth and Capital:	<ul style="list-style-type: none">• Capital is raised from retained earnings	<ul style="list-style-type: none">• Capital is raised from retained earnings and sale of stock
Number in Kansas:	<ul style="list-style-type: none">• 138	<ul style="list-style-type: none">• 375
Total Assets in Kansas:	<ul style="list-style-type: none">• \$2.2 billion	<ul style="list-style-type: none">• \$34.8 billion
Average Size in Kansas:	<ul style="list-style-type: none">• \$16 million	<ul style="list-style-type: none">• \$90 million



KANSAS

Bill Graves
Governor

OFFICE OF THE SECURITIES COMMISSIONER

David Brant
Commissioner

Annual Update to the Legislature
January 2001

OFFICE OF THE SECURITIES COMMISSIONER

History

Kansas was the first state in the nation to adopt a "blue sky" law in 1911 to regulate securities. The Banking Commissioner at the time, J.N. Dolley, promoted the legislation because the state was a hunting ground of promoters of fraudulent investment schemes. It was said that some of the frauds "became so barefaced that promoters would sell building lots in the blue sky in fee simple." Thus, the term "blue sky" was coined to refer to state securities laws.

Statutory Authority

Securities Act	K.S.A. 17-1252 et seq.
Uniform Land Sales Practices Act	K.S.A. 58-3301 et seq.
Loan Brokers Act	K.S.A. 50-1001 et seq.

Agency Mission

To protect and inform Kansas investors, to promote integrity and full disclosure in financial services, and to foster capital formation.

Agency Staff, Budget, and Revenues

27.8 FTEs: 1 Commissioner, 4 Attorneys, 8 Investigators (certified law enforcement), 2 Certified Public Accountants, 6 Examiners (auditors), 1 Investor Education, 1 Office Administrator and 4.8 Support Staff. Six of the staff work out of the agency's branch office in Wichita.

	<u>FY 1999</u>	<u>FY 2000</u>
Revenues	7,651,891	8,730,903
Expenditures	1,863,909	1,898,514
Transfer to General Fund	5,787,489	6,835,568
Authorized Budget	1,899,959	1,988,672

Advisory Council

Since 1983, the Commissioner has appointed an Advisory Council. Currently, the 20 member council meets once or twice a year to discuss agency operations, industry and regulatory developments, and proposed legislation.

Agency Functions

Registration: Our agency reviews the disclosure and fairness of smaller offerings of stocks, bonds, and limited partnerships and we accept filings for exempt offerings such as mutual funds and non-profit organizations.

	<u>FY 1999</u>	<u>FY 2000</u>
Registration reviews	76	73
Exemption filings	372	595
New mutual fund filings	1,360	1,652
Renewal mutual fund filings	5,341	5,641
Deficient offerings withdrawn	28	22

Compliance and Licensing: Our agency conducts on-site examinations of main and branch offices and we license investment professionals. In addition, we handle investor complaints regarding sales practices, churning, or misleading information.

Broker Dealer Firms	1,593	1,711
(based in Kansas)	37	38
Broker Dealer agents	63,871	69,703
Investment Adviser firms	633	691
(based in Kansas)	168	183
Investment Adviser representatives	1,539	1,904
Broker Dealer exams	33	39
Investment Adviser exams	59	39
License Applications Withdrawn	208	123
License Denials or Revocations	8	5

Enforcement: Our agency has investigators and attorneys that investigate and prosecute fraud, "white collar crime," and unregistered activity. Current enforcement cases include prime bank investments, promissory notes, viatical settlements, internet offerings, telephone solicitations, in addition to the usual variety of pyramid and Ponzi schemes.

Cases investigated	172	173
Administrative Orders	232	67
Criminal Convictions	12	6
Fines	\$42,000	\$34,750
Restitution and Rescission	\$6,284,510	6,257,877

Investor Education: In October 1999, the agency added a full-time Director of Investor Education. The agency continues to place Yellow Page ads in over 2 million telephone directories which encourages investors to "*Investigate Before You Invest*" by calling our 800 number hotline to inquire about the disciplinary background and registration of brokers, investment advisers, and the investment products being promoted. Our staff is available to make presentations at senior fairs, service clubs meetings, and schools.

Telephone directories with Yellow Page Ads	2,164,100	2,152,100
"Investor Hotline" 800 calls	2,133	2,153
Internet Website "visits"	8,000	18,000

The agency continues to provide \$20,000 annually to the Kansas Council on Economic Education ("KCEE") to sponsor *The Stock Market Game*.

Federal and Industry Regulation

The shared system of state and federal regulation of securities began in 1933 when the federal Securities and Exchange Commission (the "SEC") was created by Congress. In addition, the S.E.C. has authorized certain self-regulatory organizations ("SROs") such as the National Association of Securities Dealers (the "NASD").

Proposed 2001 Legislation

The House Financial Institutions Committee is being asked to introduce a bill proposing various amendments to the Securities Act. The proposed House Bill would also amend the definition of "securities" to include variable annuities and would establish an Investor Education Fund.

Investment Adviser Registration Depository (IARD)

An electronic filing and registration database system known as IARD has been developed for investment advisers similar to the Central Registration Depository (CRD) for broker-dealers and agents. Development of the IARD is a joint effort by the SEC and the North American Securities Administrators Association (NASAA). The IARD is being built and will be operated by the National Association of Securities Dealers Regulation, Inc. (NASDR).

Using modern information technology and the Internet, this one-stop electronic filing system will offer investment advisers several advantages: 1) eliminate paper filings; 2) single filing will satisfy SEC and state notice filing requirements; 3) automatic payment of state fees; and 4) easy public access to information.

Kansas -registered investment advisers (those managing \$25 million or less in assets) will be required to begin using IARD by October 1, 2001. The agency will host two continuing education seminars in June for investment advisers to learn about IARD.

Attachments

Various Press Clips
10 tips for Online Investors
Letter to Kansas Insurance Agents

SEP 28 2000

The Faith Metro-David Brace case appeared in 14 Kansas newspapers: in the following cities: Derby, Hays, Lawrence, Parsons, Lyons, Ottawa, Winfield, Independence, Goodland, Wellington, Salina, Abilene, Wichita, and Russell. Reports also appeared on Wichita-area television.

Firm that sold Faith Metro bonds settles lawsuit

■ MMR Investment Bankers of Andover will pay the state \$150,000, to be divided among the church's investors.

BY HURST LAVIANA
The Wichita Eagle

The leader of an Andover company that sold bonds to finance the church led by the Rev. David Brace has agreed to pay \$150,000 to settle a state lawsuit.

A settlement announcement the Kansas securities commissioner's office released Wednesday said the company, MMR

Investment Bankers Inc., had voluntarily withdrawn its Kansas securities license.

Under the agreement, neither MMR nor its chief executive, Gerald Martin, admitted to any securities law violations.

"We're just relieved that it's over," Martin said. "I think all parties are glad that it's over."

Securities Commissioner David Brant said the \$150,000 settlement would be divided among investors who lost money when Faith Metro Church's financing collapsed.

Brant said more than 800 investors bought \$10.8 million in bonds that were used to finance the church.

Authorities arrested Brace in Texas in

1995 and charged him with laundering money for federal undercover agents posing as members of a Colombian drug cartel. Bankruptcy proceedings were later filed against his church.

Bondholders initially faced \$8.3 million in losses but eventually recovered about half the total in court. Brant said those who bought bonds would get back about 40 percent of their investment.

During his trial, Brace insisted he was only trying to raise money for his troubled church, but he was nevertheless convicted and sentenced to 14½ years in prison.

He later pleaded no contest to fraud in Sedgwick County District Court and received a three- to 10-year sentence, to

run concurrently with the federal sentence. He is scheduled to be released in 2011.

After the lawsuit was filed, Martin said MMR moved its headquarters from Andover to Nevada, Mo. He said the company was still doing business in 26 states.

Brant said the settlement ends his agency's involvement in the case.

"It's taken a lot of time and a lot of resources over the last five years," he said.

Wichita State University bought the Faith Metro Church building at 29th North and Oliver in July 1997. The building is now WSU's Hughes Metropolitan Complex.

Reach Hurst Laviana at 268-6499 or hlaviana@wichitaeagle.com.



Brace

Press Clipping Division
Kansas Press Assn., Inc.
5423 SW 7th Street
Topeka, Kansas 66606-2330

KANSAS
Arkansas City Traveler
D. 5,024

The Investment Adviser Competency Exam article appeared in nine Kansas newspapers in the following cities: Abilene, El Dorado, Independence, Johnson, Russell, St. Mary's, Topeka, and WaKeeney.

Press Clipping Division
Kansas Press Assn., Inc.
5423 SW 7th Street
Topeka, Kansas 66606-2330

KANSAS
Johnson Pioneer
W. 940

JAN 06 2000

New Investment Advisers Must Take "Competency Exam"

Starting January 1, new investment adviser representatives applying for a license in Kansas will have to take a new "competency exam" to show that they know what they're talking about. In general, money managers and financial planners that provide investment advice need to obtain a license as an investment adviser.

The new exam consists of 130 questions, which will cover economics, investment products, investment strategies and ethics. This exam replaces Kansas' current requirements, which include the 75-question Series 65 exam, which focused mainly on securities law. Applicants will have 180 minutes to complete the new exam, which will cost \$110.

"The number one goal of the exam is to achieve a higher level of investor protection," said David Brant, Kansas Securities Commissioner. Brant noted that investment advisers are one of the fastest growing seg-

ments of the financial services industry.

Kansas has issued licenses to 1,539 investment adviser representatives and 63,871 stockbrokers from across the country. By contrast, there are an estimated 125,000 investment adviser representatives and more than 500,000 stockbrokers nationwide.

Kansas, and at least forty-one other states, will adopt the new exam, which was developed by the North American Securities Administrators Association (NASAA). Practicing investment advisers with professional certifications such as Certified Financial Planner (CFP) and Chartered Financial Analyst (CFA) will be exempt from the new testing requirement.

For more information about the new exam requirements, prospective investment advisers can call the Kansas Securities Commissioner's Office at 785-296-3307 or visit the NASAA web site at www.nasaa.org.

NOV 09 2000

Regulators charge felon with Internet fraud

WICHITA (AP) — Federal authorities have charged a Wichita man, a convicted murderer and felon with branching out into newer criminal territory — Internet investment fraud.

The U.S. Securities and Exchange Commission filed suit Tuesday in U.S. District Court alleging that Edward Williamson, 53, of Wichita, made false claims to investors about several small companies he controlled — and then diverted investors' money.

Regulators allege Williamson "masterminded" a fraudulent scheme in which he sold \$1.3 million in unregistered stock in tiny companies to more than 1,000 investors.

Authorities also said Williamson was convicted of unpremeditated murder in 1967 and of theft from his

elderly mother in 1992.

Regulators now allege he made false claims about the companies through a Web site to boost their share price.

Williamson told investors that the companies soon would be listed on the NASDAQ or other stock exchanges, said the SEC associate director for the Fort Worth office, Spencer Barasch.

Barasch said Williamson had no reason to make those claims and that the companies were vehicles for fraud.

Williamson refused comment to The Wichita Eagle. His lawyer, Michael Quinn, declined comment Wednesday.

The case was jointly investigated by the SEC and the Kansas Securities Commission.

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Commissioner warns students about dangers, laws of investing

Speakers address HCC, stress knowing fine print

By **WES JOHNSON**
 The Hutchinson News

With the stock market soaring and plummeting almost daily, Kansas Securities Commissioner David Brant offers these words of warning.

"The most dangerous animal on Wall Street isn't the bull or the bear," Brant said. "It's the bum steer. We're here to help you avoid the bum steer."

Brant was in Hutchinson last week speaking to macroeconomics students at Hutchinson Community College.

He said tumultuous times in the investment business make it all the more important for people to ask a lot of questions before turning over their hard-earned money to a broker or investment firm.

The Kansas Securities Commission investigates complaints of fraud or dishonest investment practices. With links to a national database, the commission also offers background information about brokers or investment companies even if they're not in Kansas.

Brant's office typically receives 150

to 200 complaints a year from Kansas investors.

"About 20 or 30 of those are serious enough that it ends up in some kind of official action," Brant said. "We average about 14 criminal convictions a year - half against Kansans and half against others who are out of state."

His office currently is pursuing three high-profile cases in Kansas:

- An Abilene man is being investigated for allegedly bilking investors out of more than \$1 million.

"His clients just trusted him so much that they went along with whatever he told them," Brant said.

- Three weeks ago Brant's office shut down a Wichita businessman who allegedly was posting news alerts on the Internet involving penny stocks he owned.

"He was issuing these press releases over the Internet to entice people to invest in his stocks," Brant said. "We shut him down and seized his assets, including his home. We think people lost between \$500,000 and \$1 million."

- His office also is dealing with a case in the Kansas City area involving a "viatical" insurance investment plan. A company targeted AIDS patients, offering to give them cash

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- Kansas Securities Commissioner David Brant

up front to pay for their costly medicines if the patients agreed to sign over their life insurance policies to the company when they died.

The company sought investors, marketing it as a low-risk, high-yield opportunity, Brant said. One investor was a Kansas City woman who invested her entire \$225,000 in retirement savings.

"The good news for the AIDS patients is that the new cocktails are keeping them alive a lot longer than expected," he said. "But that's bad news for the investors because they're not getting the returns they thought they would, and may even lose it all."

Angela Cichoski, director of investor education at the Kansas Securities Commission, told the HCC students that Kansas was the first state in the country to enact laws governing the sale of securities.

"In the early 1900s investors in the United States were losing \$100 million a year through fraud," Cichoski said.

"These came to be known as 'blue-sky laws' because these wildcat investment promoters were selling nothing but blue sky. The name stuck and you still hear them called that today."

Kansas regulations took effect in 1911, followed by the Federal Securities Acts of 1933 and 1934 in response to the stock market crash of 1929.

Kansas required brokers and investment firms to apply for a revocable state license.

"That first year 550 applied for a license, but the state only approved 44," Cichoski said.

When investment fraud occurs, Cichoski said it may be possible for investors to recover some or all of their losses. She said broker misconduct generally falls into four categories, all of which can give an investor an avenue to reclaim lost funds.

Brokers must follow the "know your customer rule," Cichoski said. If a client wants to stay with low-risk

investments, a broker can't sell him on high-risk ventures.

Reputable brokers use an investor profile document that details what the investor's goals are and his willingness to take financial risks. The document can help protect both broker and client.

Brokers can't do unauthorized trading, Cichoski said. Unless a client gives power of attorney to his broker, the broker has a legal obligation to get a stock trade order from his client before he acts.

"Without the order the broker has no business doing business," Cichoski said.

Brokers cannot misrepresent stocks by exaggerating their potential for return, failing to reveal a stock's risks or failing to provide adequate details about the stock.

Cichoski said brokers also are barred from excessive trading in a client's portfolio to produce high commissions from each stock trade. The strategy is called "churning," she said.

"There is an inherent conflict of interest because brokers make money by charging commissions on broker-

age deals," Cichoski said. "That process can be abused."

Despite the words of warning, one HCC student said he was looking forward to becoming a stock market investor.

Paul Erickson, 19, of Buhler, said his class was playing an investment game, using \$100,000 in fake money to invest over a 10-week period. Each student had \$10,000 to work with.

"It's not going very well," Erickson admitted. "I've invested \$7,000 of my \$10,000 in five technology stocks, but I've lost \$800 over the last seven weeks. But the way I see it, I'm gaining a lot from this experience so I'll do better when I start investing for real."

Investment educator warns Kansans of scams

By Mike Surbrugg
Globe Staff Writer

COLUMBUS, Kan. — A lot of time has passed since P.T. Barnum was credited with saying "a sucker is born every minute."

"The birth rate of suckers is (perennial) and there is no birth control," Angela C. Cichocki said during a gathering recently in Columbus. "Scams are not new; they are just faster and look more professional."

The director of investor education

for the Office of the Kansas Securities Commissioner visited the area recently to speak with seniors and others interested in learning about the potential pitfalls of investing.

None of the 26 members of her office gives advice on what to invest in. They do, however, help people steer clear of scams and fraud.

In 1911, Kansas became the first state to develop regulations governing the sale of securities, she said. Federal regulation began in 1933.

A security is any profit-sharing agreement and often involves the

buyer wanting to earn money from work done by others, she said.

Most individuals selling securities and other investments comply with laws and provide investors information needed to make investment decisions, she said.

"Any time somebody tries to sell you a security, ask to see their Central Registration Depository (CRD) federal regulation number," she said.

An individual needs to know his or her financial skills, goals, needs, risk tolerance and how much money he or she can afford to invest.

Investors should keep written records, stay informed and invest only in something suited to their needs, Cichocki said.

"You cannot afford to bet the whole farm on one investment," she said.

The broker or dealer is not to blame if the purchased securities or stock price goes lower with market trends.

However, fraud and abuse occur if investors are not given accurate information for transactions made without prior written authority from

the investor, not telling the truth about an offered securities, or for churning.

Churning means a broker making a lot of transactions for fees at the expense of the investor.

Each state has background information on brokers and dealers.

Investors with any problems should first write the broker, Cichocki said.

If it is not resolved, a letter should be sent to the broker's branch manager, then to the compliance department of the firm and then to the state

securities office.

"Pump and dump" is a scheme where promoters buy quantities of cheap stock they then promote to get the value to increase. They sell their own stock before the market collapses at the expense of later-arriving investors.

Internet trading has brought new worlds of opportunity for the scam artist, she said.

"We need to teach investment education in high school," she said.

Information about the Kansas securities program: (800) 232-9580.

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Securities Commissioner offers tips to online investors

Some 200 securities firms offer on-line brokerage services and there are an estimated 10 million-plus on-line accounts. On-line firms are spending hundreds of millions of dollars on advertising to attract new customers, many who are new to investing and the stock market.

Kansas Securities Commissioner David Brant says that this represents a radical change in the relationship between brokerages and their customers. "It is critical that investors understand what to expect as they invest online," said Brant. "As technology changes, educating investors is the key to empowering them to understand their choices and avoid mistakes."

David Brant, Kansas Securities Commissioner

As technology changes, educating investors is the key to empowering them to understand their choices and avoid mistakes.

Recent studies of on-line investing by the New York State Attorney General and the U. S. Securities and Exchange Commission highlight a number of complaints lodged by on-line investors, from delayed execution of orders to slow response times, inadequate customer support and possibly misleading advertising claims.

Brant, along with other members of the North American Securities Administrators Association (NASAA), which represents state and provincial securities regulators in the U.S., Canada and Mexico, offer the following tips to help on-line investors to think carefully about making an investment on-line.

When you invest on-line, be sure to:

1. Receive full disclosure prior to opening your account about the alternatives for buying and selling securities and how to obtain account information if you cannot access the firm's Web site.
2. Understand that most likely you are not linked directly to the market, and that the click of your mouse does not instantly execute the trade.
3. Receive information from the firm to substantiate any advertised claims concerning the ease and speed of on-line trading.
4. Receive information from the firm about significant Web site outages, delays and other interruptions to securities trading and account access.
5. Obtain information before trading about entering and canceling orders (market, limit and stop loss), and the details and risks of margin accounts (borrowing to buy stocks).
6. Determine whether you are receiving delayed or real-time stock quotes and when your account information was last updated.
7. Review the firm's privacy and Web site security policies and whether your name may be used for mailing lists or other promotional activities by the firm or any other party.
8. Receive clear information about sales commissions and fees and conditions that apply to any advertised discount on commissions.
9. Know how to, and if necessary, contact a customer service representative with your concerns and request prompt attention and fair consideration.
10. Contact the Kansas Securities Commissioner to verify the registration/licensing status and disciplinary history of the on-line brokerage firm, or to file a complaint, if appropriate.

For more information on this and other investor education topics? Kansas residents may call the Securities Commissioner at 1-800-232-9580, or visit the web site at www.ink.org/public/ksec.com.

Investor services at Kansas securities commissioner's office: (800) 232-9580; Web site, www.ink.org/public/ksec.com

Investor services at the Missouri Division of Securities, (800) 721-7996; Web site, <http://mosl.sos.state.mo.us/sossec/complnt.html>

Investor information hot line at the Securities and Exchange Commission, (800) 732-0330; Web site, www.sec.gov

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10 Tips for Online Investors

Office of the Kansas Securities Commissioner
Investor Education

Developments in technology now allow investors to manage their own investments online. However, there are differences to consider between investing online and working in person with a broker or an investment adviser. The following tips were developed by the **North American Securities Administrators Association** to educate investors and help them to think carefully about making an investment online. For more information about online investing, visit the **Investing Online Resource Center** at <http://www.investingonline.org>.

Before beginning an online investment program, be sure to:

1. Receive **full disclosure** about the alternatives for buying and selling securities and obtaining account information if you cannot access the firm's website.
2. **Understand** that most likely, you are not linked directly to the market, and that the click of your mouse does not instantly execute trades or cancel orders.
3. Receive information from the firm to **substantiate any advertised claims** concerning the ease and speed of online trading.
4. Receive information from the firm about significant **website outages, delays, and other interruptions**.
5. Obtain information about **entering and canceling orders** (market, limit, and stop loss), and the details and risks of margin accounts (borrowing to buy stocks).
6. Determine whether you are receiving **delayed or real-time** stock quotes and account updates.
7. Review the firm's website **privacy and security policies**. Determine if your name will be used for mailing lists or other promotional activities by the firm or any other party.
8. **Receive clear information** about sales commissions, fees, and conditions that apply to any advertised discount on commissions.
9. Know how to **contact a customer service representative** if problems occur. Request prompt attention and fair consideration. Be sure to keep good records to substantiate any problems that may occur.
10. **Contact the Kansas Securities Commissioner** to verify the registration/licensing status and disciplinary history of the online brokerage firm, or to file a complaint, if appropriate.

Office of the Kansas Securities Commissioner

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<http://www.ink.org/public/ksecom>

Investigate before you invest.

The Office of the Kansas Securities Commissioner registers and monitors securities broker-dealers and investment advisers and investigates complaints of securities fraud and dishonest sales practices. We cannot recommend or endorse individual investment advisers or investment opportunities, nor can we provide individual investment advice. However, if you feel you have become a victim of securities fraud or dishonest sales practices, contact the Securities Commissioner immediately.



KANSAS

Bill Graves
Governor

OFFICE OF THE SECURITIES COMMISSIONER

David R. Brant
Securities Commissioner

November 20, 2000

To Kansas Insurance Agents:

One year ago, the Kansas Insurance Commissioner and the Kansas Securities Commissioner issued a joint letter explaining that the sale of a viatical settlement contract was considered subject to the provisions of the Kansas Securities Act and that agents were urged not to sell viaticals unless both the agent and the product were registered with the Securities Commissioner. Since that time, we have received substantially fewer complaints regarding sales of viatical settlement contracts by Kansas insurance agents.

Unfortunately, we have received numerous complaints about other investment products being offered by insurance agents. These products include customer owned coin operated telephones (COCOT's), automatic teller machines (ATM's), Prime Bank notes and debentures, promissory notes, nine-month notes, commercial paper and various other investment vehicles. All of these products generally meet the definition of a security per K.S.A. 17-1252(j) of the Kansas Securities Act (the "Act") either by being specifically named, as in the case of notes, or by virtue of meeting the test as an investment contract.

We understand that issuers and others frequently approach insurance agents to sell their products. You should not rely on representations that any investment product is not subject to securities regulation made by the issuer or any affiliate or agent of the issuer. Likewise, you should not rely on an opinion of counsel provided to the issuer. While such an opinion may be accurate, many fraudulent investment vehicles investigated by this agency have involved such letters. We encourage you to contact us with any questions regarding investment products you are solicited to sell. You may make an informal inquiry or, for a nominal fee, you may formally request a written interpretive opinion or a "no-action letter".

Please also take note of the additional restrictions placed on agents registered with the Securities Commissioner. The Act prohibits any registered broker-dealer agent from selling any security that is not specifically approved by the broker-dealer. The NASD recommends the appropriate penalty for this practice (commonly referred to as "selling away" may be an Order (generally a Censure) and a fine of \$5,000. Selling away is also grounds for suspension or revocation of the agent's license and will likely result in disciplinary action from the broker-dealer. Additionally, the Act prohibits an agent from

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Letter to Insurance Agents
November 20, 2000
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guaranteeing a customer against loss. Most of the investment opportunities described above, as well as many others, purport to guarantee both the investors' principal and anticipated return. Finally, the Act prohibits the charging of excessive fees. While there is no absolute guideline, agents should be wary of any product offering an agent's commission higher than 5% or where the total expenses of the offering, including commissions, exceed 15%.

This letter is intended to notify you of some of the potential pitfalls that exist which could subject you to civil litigation by investors and action by the Securities Commissioner, including criminal prosecution. We discourage you from selling any products which have not been reviewed and approved by the insurance companies or brokerage firms that you represent. We encourage you to contact us with questions regarding this letter and any investment product you are solicited to sell.

Please, protect your clients and yourself. **Investigate before you ask others to invest.**

Very truly yours,



DAVID BRANT
Securities Commissioner