

Press Release

SEC Continues Crackdown on Brokers Defrauding Customers

FOR IMMEDIATE RELEASE

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Washington D.C., Dec. 6, 2017 — The Securities and Exchange Commission today continued its crackdown on brokers who defraud customers, charging two New York-based brokers with making unsuitable trades that were costly for customers and lucrative for the brokers. The case follows similar charges of excessive trading by brokers brought in [January](#), [April](#), and [September](#).

The SEC's complaint, filed in federal court in Manhattan, alleges that Zachary S. Berkey of Centerreach, New York, and Daniel T. Fischer of Greenwich, Connecticut, conducted in-and-out trading that was almost certain to lose money for customers while yielding commissions for themselves. According to the complaint, 10 customers of Four Points Capital Partners LLC, where Berkey and Fischer previously worked, lost a total of \$573,867 while Berkey and Fischer received approximately \$106,000 and \$175,000, respectively, in commissions.

"We're intensifying our focus on unscrupulous brokers and their harmful practices," said Sanjay Wadhwa, Senior Associate Director of the SEC's New York Regional Office. "As alleged in our complaint, Berkey and Fischer did grave harm to their customers by providing unsuitable recommendations and siphoning money in the form of high commissions and costs."

According to the SEC's complaint, since the customers incurred significant costs with every transaction and the securities were held briefly, the price of the securities had to rise significantly for customers to realize even a minimal profit. The complaint also alleges that Berkey and Fischer churned customer accounts and concealed material information from their customers, namely that the costs associated with their recommendations, including commissions and fees, would almost certainly exceed any potential gains on the trades. The complaint further alleges that Fischer engaged in unauthorized trading.

Without admitting or denying the SEC's allegations, Fischer consented to a final judgment that permanently enjoins him from similar violations in the future and orders him to return his allegedly ill-gotten gains with interest and pay a \$160,000 penalty. The settlement is subject to court approval. Fischer separately agreed

to an SEC order barring him from the securities industry and penny stock trading. The SEC's litigation against Berkey will proceed in federal district court in Manhattan.

The SEC's investigation was conducted by Hane L. Kim, Karen Lee, David Stoelting, and Gerald A. Gross. The litigation will be led by Mr. Stoelting, Ms. Kim, and Ms. Lee. The case is being supervised by Mr. Wadhwa. The SEC examination that led to the investigation was conducted by Rosanne R. Smith, Terrence P. Bohan, William D. Ostrow, and Doreen Piccirillo. The SEC appreciates the assistance of the Financial Industry Regulatory Authority and the Office of Montana State Auditor, Commissioner of Securities and Insurance.

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SEC Investor Alert: [Excessive Trading at Investors' Expense](#)

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Related Materials

- [SEC Complaint](#)