

Is your next investment really safe?

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By NAOMI SNYDER * STAFF WRITER

The next fraud might be just around the corner.

Larry Cherry. Barry Stokes. Bob McLean. The list goes on of people accused of stealing millions from investors in the Nashville area during the last few years.

The latest scandal surrounds Brentwood stockbroker Michael J. Park, who lived in a \$1.7 million house, drove around in luxury vehicles, courted the wealthy at The Governors Club in Brentwood, and last week attempted suicide after sending investment clients a letter saying some of their accounts had no current liquid value.

While primary oversight of the securities industry takes place at the federal level, a lack of accountability remains a problem that continues to rob people of millions of dollars, breaking the trust and bank accounts of unknown numbers of people.

It's still unclear what happened in the case of Park's investors, as Park is being evaluated in the Middle Tennessee Mental Health Institute after slitting his wrists and stabbing himself in the stomach, according to his lawyer and police reports. Park could not be reached for this story, and his attorney, John McLemore, said last week: "Michael Park will not be talking to the press."

An attorney for his wife, Jill, said she is just as shocked as everyone else and had no knowledge there was anything irregular about her husband's business dealings.

But what is clear is that Park has a long public record with regulators of prior complaints and disciplinary actions spanning more than a decade - records that some investors say they didn't know existed. Park was fired from Edward D. Jones & Co. in 1998, accused of taking personal loans from clients, a violation of securities laws. He also was fired from Raymond James in 2000 after the firm said he signed a client's signature, a violation of the firm's policy.

Despite his record, he was still employed by a Florida brokerage house called 1st Discount Brokerage and registered to sell securities in the state of Tennessee, until the end of June, when the company began an investigation. A 1st Discount Brokerage compliance officer referred questions to the company's lawyer, who did not return a phone call.

That makes people like Martha Stinson, a 62-year-old widow who fears she lost her deceased husband's life savings of half a million dollars after investing it with Park, want to know why a person with his history is allowed to operate in the state.

Brokers convicted of stealing millions from investors do get barred from the industry. But pre-emptive strikes against brokers with multiple complaints are less common, securities lawyers said.

"It's up to the individuals who are clients to go check it out and see if someone has a good reputation or not," said Tom Sherrard, a securities lawyer and founding partner of Sherrard & Roe in Nashville.

Agency is limited

He said the Tennessee Department of Commerce and Insurance, which has a securities division and registers brokers and investment advisers, is limited in its investigatory powers.

"Their securities division is a fairly small division that polices a whole host of securities law responsibilities," he said.

"It deals with all kinds of (stock) offers made in the state to determine if those are fraudulent or not. It deals with brokers and investment advisers. It has a fair amount of responsibility but is not heavily staffed and they really have to pick and choose what they do. A lot of these things never get looked at carefully."

Only three police state

The securities division has only three investigators to police the entire state.

Ohio, however, has a provision in state law that allows the state to bar brokers who have a bad business reputation from selling securities to Ohio residents.

Ohio denied Park a license to sell securities in 2000, citing that reason.

"Ohio favors denial of licensure at the front end of the process, rather than allowing individuals to cause harm to Ohio investors," said Dennis Ginty, a spokesman for the Ohio Department of Commerce.

Dale Clements, the chief of enforcement for the securities division of the Tennessee Department of Commerce and Insurance, said his department has to have more specific grounds for denying or revoking a license than bad business reputation.

Daphne Smith, the assistant commissioner over the department, said the state couldn't discuss investigations but that it never filed a public complaint to revoke or deny Park's registration.

"You can't draw (from that) that nothing was being done," she said. "We can't comment."

Why did this happen?

But Stinson wonders why the brokerage house continued to employ Park and why regulators didn't stop him.

"Why was he allowed to do this to people?" Stinson asked.

Stinson says she invested more than a half-million dollars with Park, all of her deceased husband's savings from a lifetime of work at a printing company.

Stinson said her husband began investing with Park several years ago, when he was 59. He retired a few years later and died shortly thereafter of brain cancer.

Stinson said she had no idea there was a way to check records of brokers. She wonders of the many players involved - the state, federal regulators and the company that employed Park - who can be held accountable.

"I'm left broke and sick," she said.

"Why do we have these agencies? Why are we paying their salaries if they can't protect us? I don't think he should have been around anyone's money."

Securities lawyers and brokers say there are plenty of industry regulations covering their behavior and a huge amount of easily accessible public information about a broker or firm's background.

The industry's Financial Industry Regulatory Authority, or FINRA, has a complete file available free online for Park and 1st Discount Brokerage.

Park listed a conviction

In fact, Park had to list a 1989 shoplifting conviction from Tower Records on his broker record. He described the episode as a college "fraternity prank" and explained that he was drunk.

John Russell, a Brentwood broker for Securities Service Network, who shared a floor in the same office building as Park, said it's easier for investors to find past misdeeds about brokers than for patients looking for complaints against doctors.

"There is so much oversight in this industry," he said. "Our e-mails are monitored. Our brokerages get audited. We have an incredible amount of oversight."

Russell said the problem is that investors fail to do research on brokers.

"The reality is, most people don't check," he said. "You cannot legislate people that are immoral. There are unethical people that are going to find a way to do things."

Securities lawyers said more of the responsibility for broker oversight falls on the federal level than the state level, primarily on the Securities and Exchange Commission and FINRA, the industry's self-regulatory arm.

FINRA was created last year with the merger of the National Association of Securities Dealers and the regulatory arm of the New York Stock Exchange.

Brokerages carry weight

Those agencies, in turn, put weight on brokerages to monitor their brokers.

In fact, the NASD fined 1st Discount Brokerage \$12,500 back in 2004 for failing to monitor the outside business activities of a broker named Charles Parsons, who was sending out misleading and exaggerated claims about Pink Sheet stocks to clients, according to the agency.

Park began working for 1st Discount Brokerage in 2002, according to his record.

Investors have duty

Sharon Kolb, a securities lawyer for Baker, Donelson, Bearman, Caldwell & Berkowitz in Nashville, said federal regulators put much of the responsibility on the brokerage houses to monitor their own.

She couldn't discuss the particulars of Park's case but said investors also carry a lot of the responsibility of checking out their own brokers.

"They need to do their due diligence," Kolb said. "Any time you're writing a check for investments, you need to understand where it's going and how it's regulated."

Such advice is small comfort to Stinson. She said she got a letter from 1st Discount Brokerage recently telling her she had a little more than \$40,000 in her account. She says her account was supposed to have more than \$500,000.

"It's gone," she said. "I don't know where to turn or what to do."

Contact Naomi Snyder at 259-8284 or nsnyder@tennessean.com.

Closer Look

LARRY CHERRY

Sentenced to probation in 2004 after he pleaded no contest to a felony charge of failing to register as a securities broker. Cherry took investors' money and put it in a failed bar. "It was never found that Cherry got any of it," said his defense attorney, Sam Wallace.

BOB McLEAN

Committed suicide last fall after he was accused of taking close to \$50 million from investors. He was not registered as a broker and was taking loans from clients, saying he was investing their money in stock options and foreign currencies.

MICHAEL PARK

Took millions to invest in the stock market. Last week, it was still unclear where the money went. Park told clients that some accounts have "no current liquid value." Park is in a mental health facility after a suicide attempt last week.

BARRY STOKES

In jail awaiting trial on multiple felony counts, including theft and wire fraud after being accused of stealing millions from clients' retirement accounts. The trial has been delayed multiple times and is scheduled for September.

AVOID THE NEXT INVESTMENT SCAM

How do I research my broker's record?

FINRA has an easy-to-use broker check on its Web site at finra.org. You also can call the Tennessee Department of Commerce and Insurance's securities division and request the broker's full record from the CRD, or central registration depository, which is operated by FINRA. You can call the state at 741-2947.

What if I have an investment adviser?

Your investment adviser must be registered with the state or the Securities and Exchange Commission. Do a search for your adviser's name and the firm's name on the SEC's Web site at sec.gov. If the adviser isn't listed, try calling the state at 741-2947.

How do I know if my broker is doing something wrong?

Red flags include your broker asking for a loan or selling products that aren't listed on your regular account statements. Check out your broker or investment adviser's registration and history of complaints with the state, the SEC and FINRA.

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PARK'S PAST

The public record for Michael J. Park listed multiple complaints and two firings, according to the industry's Financial Industry Regulatory Authority.

1989: guilty plea after shoplifting at Tower Records. Fined: \$45. Park's summary: "It was a fraternity (college) prank. I was young and at the time did not realize the seriousness of the matter. It was New Year's Eve and we were inebriated. I apologized and rectified the matter with the security guard and the manager."

1998: two complaints while working at Edward D. Jones & Co. for excessive commissions and margin interest on unsuitable trades. Settled with clients for \$52,135 and \$45,000. The company fired him, saying he received personal loans from two customers without getting the required approval from the firm.

1999: Virginia Division of Securities fines Park \$1,500 for obtaining a loan from a customer in violation of the State Corporation Commission's securities law while working at Edward D. Jones.

2000: Signed a client's signature on documents while working at Raymond James Financial and was fired. Ohio Division of Securities denied Park a license to sell securities, saying he was not "of good business repute."

2007: Customer files a lawsuit in U.S. District Court in Middle Tennessee for unauthorized trades, unsuitable transactions and excessive commissions. Park's summary: "Client's complaints are without ground, broker chose to settle as legal costs of defending would be higher than the amount of the settlement." Compensation to client: \$32,000.

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