

PRESS RELEASE

On September 14, 2020 Michael P Kelly, CPA and retired Registered Investment Advisor, filed a Complaint with the Office of Inspector General of the SEC requesting the Inspector investigate the SEC for potential violation of policy and procedures in the investigation of Charles Schwab and Co. (Case 4:18-cv-03942).

The SEC issued their findings in July of 2018. The SEC investigated Schwab for compliance with Exchange Act Section 17(a) and Rule 17a-8, specifically the mandated issuance of Suspicious Activity Reports. The SEC disclosed in the Complaint that in 2012 and 2013 Schwab investigated and terminated 83 Registered Investment Advisers (RIA's) with a combined \$1.62B of Assets Under Management, (AUM). That is an average of \$19.5M of AUM per adviser. By their own admission Schwab opens approximately 230 investigations a year. So simple math means that during the years 2012 and 2013 460 investigations would have been opened, 83 advisers were terminated, leaving 377 investigations not resulting in termination. Did the SEC only review the files of the 83 advisers that Schwab terminated? Did they test the population of advisers, or at least the population of investigated advisers? Did they obtain a Certificate of Completeness as required by the SEC Investigation Manual?

Per SEC Investigation Manual Paragraph 3.2.7.6 the SEC is required to obtain a Certificate of Completeness. The SEC requires that an entity under investigation certify under penalty of perjury that its staff has done a diligent search and that the entity has produced all non-privileged documents responsive to the SEC's requests. The Manual stresses that the responding entity acknowledge that the SEC has relied upon the Certificate of Completeness in reaching any settlement with the entity under investigation.

In California Court Case 56-2013-0043193, Schwab's Vice President of Compliance, Ms. Michelle Thetford, testified of the existence of 10 large AUM RIA's that had compliance issues during the same period under SEC investigation. Additionally, before the investigation was complete, Mr. Kelly revealed the names of 3 large AUM advisers to the SEC, that admitted serious compliance violations. It appears these large AUM advisers were not included in the population of investigated advisers. No large AUM RIA's were mentioned in the SEC findings.

Mr. Kelly has asked the Office of Inspector General to investigate the discrepancy.

Mr. Kelly announces the creation of an outreach program to assist small advisers in evaluating their decision to move their book of business to Charles Schwab and Co. Mr. Kelly believes it is not random that only small advisers are terminated. Mr. Kelly believes they are singled out and discriminately terminated while large advisers are not terminated. It is essential that these advisers know how Schwab terminates contracts when they decide to do so. Mr. Kelly has sample termination letters, contracts and contacts of small advisers terminated. You may contact Mr. Kelly at smalladvisorsunite@mpkcpa.net or by phone at 805-852-7684.