

**Statement
of
STEVE BUCHWALTER
Before The
U. S. Senate Permanent Subcommittee on Investigations
Hearing On
Day Trading: Everyone Gambles But The House**

February 24, 2000

My name is Steve Buchwalter. I am an attorney whose practice regularly entails representing investors against brokerage firms and brokerage firms against investors. A client of mine, Amy Le, was invited to be here today to tell you a story about her experiences with day trading. Unfortunately, Amy's health prevents here from being here today. I have been invited here to tell you her experiences in her stead.

I recently read a Washington Post article entitled "Daytrading's Showcase Victim" which essentially asked where the day trading victims were. I have read the article and I know and have seen and talked to the victims. Other attorneys in my position also know where the victims are.

Day trading has been around for a while, but it became popular only recently. It takes time for these problems to work their way through the system but we are seeing more and more of them every month. Right now, approximately 10% of our cases contain a daytrading element to them. Make no mistake about it, a problem does exist.

In general, the two biggest problems with day trading seem to be lack of disclosure of the risks and the suitability of the trading strategy to the investor. Quite frankly, most investors do not know, nor are they told the risks that they are facing when they start day trading.

Amy's case, it was outright fraud. At the time she met her "broker," Huan Van Cao, she was working part time for minimum wage. She was a full-time mother with minimal experience when it comes to investments. This was her first brokerage account. Mr. Cao, a smooth-talking, well-dressed man walked into the store in which Amy worked and after a brief conversation, gave her his business card. The card identified him as the Senior Vice President of a brokerage firm. He told her he was also an attorney. When asked why an attorney would want to be a stock broker, he told her how easy it is to make money day trading and suggested that she open an account.

He invited her to visit the brokerage firm, Providential Securities. At first, Amy was very hesitant. After numerous phone calls from Mr. Cao, Amy agreed to meet Mr. Cao at this office. He had a big office right next to the president's; after all, he was the Executive Vice President of the firm. He proceeded to get on his computer showing how easy it was to make money, with just a click of the mouse.

Amy was very impressed, especially after he showed her some of his other client's accounts. He went so far as to show her an account which she was told had a million dollar profit. She proceeded to open an account which allowed Mr. Cao to place trades without her prior authorization. Her initial deposit was \$10,000. When she wrote out the check, her hands were trembling. Mr. Cao told her not to worry and how fortunate she was to have someone like him trading for her. She invested the remainder of her life savings, \$26,000 after she received glowing reports from Mr. Cao as to how much she was making. He lied. She was actually losing money.

At the time, Amy was driving around in an old beat up car. Living in Southern California, she wanted to have a car with air conditioning. She was ecstatic when Mr. Cao asked her "Between a Mercedes, BMW, and a Lexus, what kind of car do you like the best?" Amy asked him if her account was doing that well. He said yes. She was further told that she should go out shopping now, since it takes some time to buy a car. In reality, she was losing money at that time.

Amy's monthly statements appeared to show that the account was losing money, which it was. Mr. Cao told her that because of the turnover in her account, the account was not up to date and that she was in fact making money. The fact that she was making money was continuously relayed to her. Those

statements were outright lies. The truth was, of her \$36,000 that she deposited, she had lost \$22,000 in just three weeks. However, based on Mr. Cao's assertions, she thought that she was making money.

Still believing that she was making money, Amy made her last deposit: \$12,000 borrowed from her mother. This money was her mother's life savings and was to be used to renovate her parent's burial plots at the cemetery in Vietnam. Cao understood the importance of the funds and specifically wrote Amy a letter stating how careful he was going to be. This was another lie.

Every time Amy talked to Mr. Cao, she was falsely told that she was making money. In her eyes, it was strange that her statements appeared to be showing a loss. She became very puzzled and concerned. At this time, she felt that she needed to confirm Mr. Cao's statements with someone else at Providential. She eventually found a person who would talk to her, and in fact, told her the truth, she was losing heavily. She discussed this with Mr. Cao who said that the other employee was wrong. In fact, he said that he would buy her account for the full \$48,000 invested and faxed her a confirmation of the proposed transaction. But when Amy went to Providential to finalize the deal, Cao told her that he would not go through with it. Amy started crying. Mr. Cao seeing no more money to be made from Amy became mad. He told her if she didn't stop crying, he would not only call security and have her thrown out, but he would ruin her credit.

Amy went home and immediately faxed Providential instructions to liquidate her account, which they did. When all was said and done, she had lost in excess of \$35,000 in two months. She also found out that Cao was not licensed as a stock broker, nor was he an attorney. It had all been a lie. Amy realized that Mr. Cao was a predator and she was his prey.

We filed an arbitration with the NASD seeking damages. Providential disavowed any knowledge of Cao's activities. The NASD awarded Amy all of her money back with interest. The Arbitration Award split up the damages between the various defendants, including Providential. She received partial payment of a little more than \$13,000 from Providential then Cao filed for bankruptcy. She has not received the remainder of her award.

Amy feels like she did everything right. She invested with a licensed stockbroker. She visited the brokerage firm. The broker guaranteed to make her whole, when he didn't, we filed an arbitration action and was awarded all of her losses, plus interest. She still hasn't seen all of her money.

Amy, like other investors, had no idea what she was getting into. Amy's \$48,000 deposit bought almost a million dollars in securities in just two months. We've seen cases where an account with only \$100,000 in it bought over \$200 million in securities--in one month. We've seen investor's losses so high that the brokerage firm needs to file bankruptcy just so they don't need to make good on the purchases. Your assistance is needed – this problem will not go away without it.