In a message dated 8/6/2012 7:11:23 P.M. Pacific Daylight Time, [JBAKER@STRADLEY.COM](mailto:JBAKER@STRADLEY.COM) writes:

Presumably anyone who did this would come within the definition of an investment adviser, but would be exempt from federal registration because of the absence of assets under management.  You might want to take a look at *SEC v. Yun Soo Oh Park,* 99 F. Supp. 2d 889 (N.D. Ill. 2000, which involved giving advice through an impersonal website, although the facts were different there because the defendant was engaged in scalping.

John Baker

**From:** [securitieslaw-l-bounces@lists.washlaw.edu](mailto:securitieslaw-l-bounces@lists.washlaw.edu) [[mailto:securitieslaw-l-bounces@lists.washlaw.edu]](mailto:[mailto:securitieslaw-l-bounces@lists.washlaw.edu]) **On Behalf Of** alanfoxman  
**Sent:** Monday, August 06, 2012 4:48 PM  
**To:** Securities Law List  
**Subject:** Re: [Securitieslaw-l] investment advice on line

Rule 202 (a)(11) of the Investment Advisor's Act of 1940 defines ‘‘Investment adviser’’ as any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities; but does not include

(A) a bank, or any bank holding company as defined in the Bank Holding Company Act of 1956, which is not an investment company, except that the term ‘‘investment adviser’’ includes any bank or bank holding company to the extent that such bank or bank holding company serves or acts as an investment adviser to a registered investment company, but if, in the case of a bank, such services or actions are performed through a separately identifiable department or division, the department or division, and not the bank itself, shall be deemed to be the investment adviser;

(B) any lawyer, accountant, engineer, or teacher whose performance of such services is solely incidental to the practice of his profession;

(C) any broker or dealer whose performance of such services is solely incidental to the conduct of his business as a broker or dealer and who receives no special compensation therefor;

(D) the publisher of any bona fide newspaper, news magazine or business or financial publication of general and regular circulation;

(E) any person whose advice, analyses, or reports relate to no securities other than securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States, or securities issued or guaranteed by corporations in which the United States has a direct or indirect interest which shall have been designated by the Secretary of the Treasury, pursuant to section 3(a)(12) of the Securities Exchange Act of 1934, as exempted securities for the purposes of that Act;

(F) any nationally recognized statistical rating organization, as that term is defined in section

3(a)(62) of the Securities Exchange Act of 1934, unless such organization engages in issuing recommendations as to purchasing, selling, or holding securities or in managing assets, consisting in whole or in part of securities, on behalf of others;

(G) any family office, as defined by rule, regulation, or order of the Commission, in accordance with the purposes of this title; or

(H) such other persons not within the intent of this paragraph, as the Commission may designate by rules and regulations or order.

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**From:** "[SCHARKIE@aol.com](mailto:SCHARKIE@aol.com)" <[SCHARKIE@aol.com](mailto:SCHARKIE@aol.com)>  
**To:** [securitieslaw-l@lists.washlaw.edu](mailto:securitieslaw-l@lists.washlaw.edu)  
**Sent:** Mon, August 6, 2012 4:05:21 PM  
**Subject:** [Securitieslaw-l] investment advice on line

I am under the impression that anyone can set up a website providing investment advice provided that it does not purport to advise individuals, but the public only, does not contain misleading or deceptive statements regarding the background or track record of the website or the individuals behind it, and discloses any trading done or contemplated in the investments discussed. Is this, generally speaking, the current state of the law? Does anyone know of a recent authority, such as a court opinion, that restates this issue?