

gained under 2% from the price they traded at when they first listed on the stock exchange. “Most of those SPACs began trading on the stock market last year, and the group’s median performance has trailed the S&P 500 by 15 percentage points, according to the Reuters analysis of data from Refinitive and research firm SPAC Research.” See “Analysis: SPAC returns trail S&P 500 as Retail Investors Temper Interest”, www.reuters.com, May 4, 2021. Plaintiffs’ securities lawyers are starting to source opportunities to draw in customers who may be motivated to sue their broker or broker-dealer for losses related to their SPAC investments. See “Unsuitably Risky SPACs, ‘A License to Rip Investors Off,’ Rile SEC and FINRA Regulators,” www.stocklaw.com, March 11, 2021.

Defending brokers and broker-dealers in E&O cases involving the recommendation and sale of shares of SPACs to retail investors will have many similarities to the defense of the sale of other speculative or risky investments.

FINRA Rule 2111 requires that a broker have a “reasonable basis” to believe that a recommended transaction or investment strategy is “suitable for a customer” based on facts obtained through “reasonable diligence.” Rule 2111 requires brokers to use reason-

able diligence to understand the nature, risks and rewards of the recommended security, and have a reasonable basis for believing that the security is suitable for the investor’s age, other investments, tax status, investment experience, objectives, time horizon, risk tolerance and other information specific to the customer’s individual needs. Since SPACs fall into a speculative, high risk category, we will need to demonstrate that the level of risk is appropriate given the investor’s financial attributes.

Additionally, we may be able to assert defenses relating to the SEC’s recent rhetoric regarding allowing retail investors to participate more liberally in the markets without restricting access to certain types of investments to accredited investors. This seems to open the door to allowing financial advisors and broker-dealers to approve unsuitable investments, as long as the investor acknowledges that he/she has been advised of and understands the risks.

In conclusion, the following quote may have said it best: “For now, SPACs are in a very buzzy space, but when the buzz stops, they’re liable to sting.” See “SPACs, the investment term you won’t stop hearing about, explained” by Rani Molla. ■



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Practicing Well: Self-Compassion

Patty Beck | *Minnesota Lawyers Mutual Insurance Company*

Imagine a situation where a friend comes to you and says that after several years of doing the same job, he is distraught over the fact that he made a mistake. He goes on to tell you that he cannot stop thinking about it, that he has lost sleep and felt physically sick over it. When asked if there is anything that can be done to fix the mistake, he

says, “Yes, but I still feel bad because I have never made a mistake before.” Chances are, you are thinking that your friend is being unreasonably hard on himself for being so upset over making a single mistake. Unfortunately, many lawyers feel this way when they make a mistake no matter how long they have been in practice.

Lawyers tend to be high achievers. We are accustomed to hard work and good results. We are passionate about our profession and take pride in our work. We demand the best of ourselves. The challenge is that when we demand perfection, it can create an unhealthy relationship with ourselves and our work. Being a lawyer can feel tied to our

identity, and when we make a mistake at work, it can cause us to feel equally bad about ourselves on a personal level. This mindset can lead to feelings of anxiety, depression, and other health concerns if left unchecked. So, what can we do?

Be kind to yourself. When you stumble, remember that you are not perfect—you are human. Mistakes do not define you or your career, nor are they a reflection on your skills as a professional or qualities as a person.

Well-being experts recommend practicing the art of self-compassion to develop and maintain a healthy relationship with yourself. At its core, this means treating yourself with the same care and attention that you would give to a friend in need. To be clear, I understand this is easier said than done. I have found myself on both sides of the conversation and have learned that my attitude toward myself is vastly different than my attitude towards others when discussing mistakes.

I recently completed a course addressing this concept and the following are a few tips for training yourself to practice self-compassion:

When negative thoughts creep in, pause and consider the perspective you would have if you were talking to a friend who had made a mistake. Would you question their skills and tell them they should feel bad for their error? Probably not. Talk to yourself as if you were talking to a friend. Remind yourself of the value you bring to your role and recognize that making a mistake does not take away from your skill as a professional or past contributions.

Understand that self-compassion is not the same as self-pity. It is

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about allowing yourself the room to learn through a positive lens rather than one of self-judgment and isolation. It is important to stay grounded in the reality of knowing that *everyone* makes mistakes, which is something that connects us rather than separating us. When you make a mistake, remind yourself that mistakes are how we learn, and that it is “okay” to learn how to “not do something.”

Training yourself to focus on the positives over the negatives is something that takes time and practice—trust me, I know! But it is something worth trying as studies have shown that people who practice self-compassion are less likely to experience anxiety, depression and stress, and are more likely to experience motivation, resilience, and overall increased quality of life.

The last year has presented us with incredible challenges and many people have shared the frustration of feeling like they cannot do everything “right.” As we continue to navigate life in a pandemic,

try viewing challenges as opportunities for growth. If you find yourself making a mistake, be kind to yourself and remember that we all have and will continue to make them (especially during a pandemic!). As always, if you are struggling with stress or mental health, please reach out to your state’s confidential lawyers’ assistance program or other trained professional. Be kind and be well! ■



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Patty Beck is a Claim Attorney with *Minnesota Lawyers Mutual Insurance Company*, where she manages

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