



Prepared By:

**Law Office Of Simon Kogan**

Simon S. Kogan ESQ



## “ The Rules of Engagement : Moderating Gamification Applications “

by: Simon S. Kogan Esq.

I would like to begin by stating that in no way is this written to vilify business services or cyber technologies which are welcome and appreciated throughout many vectors. While “gamification” has entered into the securities marketplace, the need for oversight of investor applications released under financial brokerage firms has become urgent. These applications are visually disarmingly appealing in appearance and are created to be engaging. As such an attractive design comprised for an investor product/service can easily overshadow the perils of over usage. The adjoining attention grabbing investor advertisements (brands) targeted to investors, targeted products and services (subscription, investor tips or insurance, and robo-advisors) featured by third parties in real time, creates triangulization for the investors. The tech term “attention economy”, is exemplified in gamification and eludes to the fundamental motivation of ongoing interaction of app usage. Many services and offers vying for the time of a user are created to increase product engagement and service profits. The apps themselves are designed to keep the user entertained with content, opportunities, ego validation, encouragement and

notifications. A precarious situation for an investor who may be engaged in the app for longer periods of time. The continuous use of behavioral tracing using a pattern of rewards and validation draws in investors and thus may cause investors to lose track of time and money. The building of apps void of addiction risk in the use of mockups and app designing needs to be defined and risky design components curtailed. Seductive elements are built into the framework of new beguiling features that are inherent in seducing the senses. The hook to adults and younger persons only intensifies the game experience and provides a robust trace of data through adjacent predatorial tracking. The risk to investors far outweighs the innovation. These new investor apps should be built for a less “seductive casino” type feel in order to prevent recklessness or dependancy. Modern “gamification designed” investor mobile and desktop applications provide a more personalized game like approach to investing but it fails to respect the wellness of the investor and the privacy of the investor by both first and third party. Investing can be a very dangerous undertaking for those that are taken out of their usual traditional B&D elemental comfort zone and brought into a virtual unknown carefree landscape. The architectural design and framework of these gamified applications should be looked upon with scrutiny. Risk factors that could place the investor in detriment and enable unhealthy dependancy are imminent. Designs that lure and capture attention are also known to use deliberate addictive techniques to incline the user to become captivantly

fixated and crave the product. These alluring gamification techniques favor the brokerages, third party advertisers, developers, and data compilation through a surveillance model that studies behavior. The time for inspection and moderation of secure, private and dignified investor applications has arrived in a crowded marketplace. The fledgling growth of investor applications is quickly rising and becoming commonplace. The sensationalism in both design, invention, innovation and popularity of casino style games offering every need in one app only serves to heighten emotions in a gamified virtual environment. With the emergence of these new technological advancements, the “risk” factors for abuse and addiction increase to such a degree that eventually will place investors in potentially uncharted and precarious waters. The unfair advantage to the investor in digital engagement practices (DEP) through target advertising, behavioral prompts, robo advising, wealth management platforms, brokerage firms, financial technologies and robust data compilation is just the beginning. The types of data that would be collected and distributed in relation to real time bidding, (“RTB”) also needs to be taken into consideration to avoid weaponization of data at inopportune vulnerable moments for the target. Exploitation could be hard to prove in these instances and creators can cite paranoia on behalf of the user. The continuously evolving and changing ambiguities of investor app building, designing, collective methods and processes that operate quietly in the background of the apps need to be thoroughly defined. The apps should

not be allowed the freedom to roam on the device. Sand boxing the app may be another potential that could contain the spread of malware or intrusion into the device user's other non authorized areas in their device where data is stored. Preventing apps from gathering or modifying information stored by other apps. Sand boxing can also provide another layer of protection, especially in the zero day malware and stealth attacks. Also, all other apps should be sand boxed on a device. SIM card attacks and other risk factors associated to data breaches and bad actors just place investors in a place to be harmed.

## I.

### **Digital Engagement Practices**

The landscape surrounding investor and “gamified” applications is multi-layered and has far reaching consequences past making a trade, receiving rewards points and background casino win music. Gamification in a landscape that requires methodical mental process such as “critical thinking” is a recipe for intrusion. An investor platform that is seductively intriguing could be made quite captivating irresistible. The “micro sessions” that are the composites of an interval of 10-15 minutes built inside the app to make the user feel as if they have accomplished something worthwhile, can be dangerously seductive and validating. Creating competition between users is also a common developing benchmark. The fear of missing out

("FOMO") can pressure the user as well as peer pressure and to fit in. The profit margin in "attention economy" through the Gamification of apps is of sole benefit to financial firms, creators and third parties. The increase of app usage will be a directly compounding and competing factor with daily activities, relationships, family, work etc. Healthy involvement that encourages collaboration and contextual feedback loops that can be intrusive. The current contextual feedback model focuses on both face to face involvement and social media. However, attention economy is profitable to the firms trading as well as their marketers, influencers, advertisers, third parties and sponsors. While running the gamified app the investor's PII will be exposed by the device ID , IFA, IFDA, IMEI, MAC address, (or new identifiers), IOT network, bluetooth, and GPS for location based services. There are usually many processes running in the background both first party and third party which are performing tasks that are not always revealed to the user. In addition, the information collected and sold is not always communicated to the user or even accurate. Apps have a tendency to collect personal contact information belonging to the user or contacts inside the users device,, email addresses, phone numbers, photos and in some cases perhaps even unintentionally by happenstance run into rich unencrypted data sources. Hence, the sand box suggestion. The collection of contact information inside of cell phone infrastructure, often times results in unwanted targeted advertising. Many companies will spend their revenue advertising to those contacts

from an associates device, emailing those contacts or soliciting them without prompting from user. Opt out procedures are annoying and sometimes complex and changeable. Within the context of target advertising companies/persons unknown can at an advantageous moment pitch their products (ie, after actual investor app user gets off the phone with a friend and discusses the app with them). Not all data collected comes from online browser searches. Target advertisements are known to follow friends and family who could also be ad targeted and followed all over the internet. The cyclical pattern surrounding the user can encapsulate the entire investment experience and lead to poor decisions that are not based in reality. Decisions based on impulse and suggestions that behaviorally target user based on current mood can take advantage of the users momentary susceptibility. Proceeding with caution in gamification will be required to offset the imminent dangers inherent in the vantage point of behavioral suggestive selling. Profiling investors places the investor in an uneven playing field. The figures for ad blocking usage have sky rocketed in recent years. Algorithms are another phenomenon that can display a set series of patterns that emerge and trigger or evoke emotions in the user that can be predicted on the basis of machine learned behavior and data aggregation and compilation. The increase to publisher's revenue sky rockets with digital advertising cookies which has been known to increase their revenue and often continue snooping, as in the case of the "ever cookie". Lack of data protection is compelling the tactics

that produce steady streams of revenue. Without comprehensive data protection such as CCPA in California or GDPR, we are trailing far behind in the arena of protecting current and would be investors on investing applications built for various devices. The data protection hedges that would enable individuals to seriously consider a more conservative approach to gamified apps is lacking. From the current vantage point it looks like a fun and harmless activity. A new way of doing things that affords a user plenty of downtime as investing can be done virtually anywhere. Not everyone will benefit from this ease of access.

## **II.**

### **Addictive Elements Can Drive Impulse Buying Dangers**

The prevention of addictive behaviors will have to be considered as dangers lurk that have far reaching dire consequences for investors on apps. Heavy addictions and risky business are the result. Game design and eco-structures can be perilous for the investor who can get hooked in a matter days or weeks. The potential for gambling their life savings or investment portfolio for a dopamine rush is imminent. After the modifications and moderations are made in favor of protecting the virtual investment orb, preferably with (a) a non- gamified design (b) no targeting with validating achievement ego boosts (c.) No selling their PII or other identifiers to RTB



exchanges to name a few. Investors need protection from harms and abuses that may come about from consents that they're unaware of and policy changes midway. Predatory lending can lead to buying securities on margin which could result in the dreaded "margin call". The crowd platform of multiple parties on one app broaden the horizon for predatory services or even data breaches and other pecuniary losses. Prudence, cautionary attitudes and addiction prevention will be needed to take command of the increasing need to safeguard investors. Investors may even need to designate a **secondary device reserved specifically for addicting investor apps.** Preferably, a device that is not connected to their main devices or email accounts that the investor utilizes daily. The hidden dangers and players in the landscape have a degree of anonymity which only the internet can provide.

### **III.**

#### **Health And Wellness In App Trading Platforms Is Possible**

Recent reports on how the link between applications and mental health is affecting the minds of growing teens has been reported. This opens the door to the possibility of applications and advertising affecting every one. Subsequently, R. J Reynolds and the tobacco industry created its seductive campaigns featuring models and healthy people smoking. The advertisements were deemed exploitative tobacco

marketing techniques, which in turn traced back to a categorical contempt or enmity for the very people it was trying to exploit and to addict to its product. The idea of trading mental sanity and equilibrium is not wise for the investor. The mental recalibration for investors is crucial. Distancing from the app and device may not be practical, especially when the device is for daily use. A healthy digital landscape for investors should include frequent device quarantines and digital Sabbath for users to decompress. In such a scenario, the investor places themselves in the position of power which enables them to have the control over the device of their own volition. All of this without having to worry about notifications, investor app prompts, distractions or robo advisor meetings. A healthy separation from the app which can be quarantined on a separate device and compartmentalized for temperate usage in a desk drawer for instance. Thus, the investor can both be in ultimate control and aware of over use which can lead to lack of sleep and poor decision making. This will positively enable the investor's mental wellness to thrive during financial decisions unfettered by the manipulations frequently contained in the modern gamification landscape. Behavior modification techniques in the investor landscape have yet to be studied and the manner of seductive marketing and behavioral real time advertisement techniques yet to be regulated. On the onset, the risk of the unknown often exists in the creation of gamified investment applications, their business models, targeted advertising campaigns and review systems.