

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF STATE  
BUREAU OF SECURITIES REGULATION**

**IN THE MATTER OF:**

**Marilyn Genery, a/k/a Marilyn Rios and  
Genery Wealth Management, LLC**

**Respondents**

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**ORDER TO CEASE AND DESIST**

**INV2017-0004**

**NOTICE OF ORDER**

This Order commences an adjudicative proceeding under the provisions of  
RSA 421-B:6-613.

**LEGAL AUTHORITY AND JURISDICTION**

Pursuant to RSA 421-B:6-604(a), the Secretary of State has the authority to issue and  
cause to be served an order requiring any person appearing to him to be engaged or about to  
be engaged in any act or practice constituting a violation of RSA 421-B or any rule or order  
thereunder, to cease and desist from violations of RSA 421-B.

Pursuant to RSA 421-B6-604(a), if the secretary of state determines that a person has,  
is, or is about to materially aid in an act, practice, or course of business constituting a violation  
of this chapter, the secretary of state my issue an order directing the person to cease and  
desist from engaging in an act, practice, or course of business or to take other action  
necessary or appropriate to comply with said statute.

Pursuant to RSA 421-B:5-508, any person who willfully violates a cease and desist order issued pursuant to RSA 421-B:6-603 or RSA 421-B:6-604, or who violates RSA 421-B:5-505 knowing that the statement was false or misleading in any material respect, shall be guilty of a class B felony.

Pursuant to RSA 421-B:6-604(d), the Secretary of State has the authority to impose administrative penalties of up to \$2,500 for a single violation.

Pursuant to RSA 421-B:6-604(g), the Secretary of State may charge the actual cost of an investigation or proceeding for a violation of this chapter or an order issued under this chapter.

### **NOTICE OF RIGHT TO REQUEST A HEARING**

Under the provisions of RSA 421-B:6-604, the above named respondents have the right to request a hearing on this order to cease and desist.

Any such request for a hearing shall be in writing, shall be signed by the respondents, or by the duly authorized agent of the above named respondents, and shall be delivered either by hand or certified mail, return receipt requested, to the Bureau of Securities Regulation, Department of State, 25 Capitol Street, Concord, New Hampshire 03301.

Under the provisions of RSA 421-B: 6-604(b), within 15 days after receipt of a request in a record from the respondent, the matter will be scheduled for a hearing. If the respondents subject to the order do not request a hearing and none is ordered by the secretary of state within 30 days after the date of service of the order, the order becomes final as to those

respondents. If a hearing is requested or ordered, the secretary of state, after notice of and opportunity for hearing to the respondents subject to the order, may modify or vacate the order or extend it until final determination. If the respondents to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, such respondents shall be deemed in default, and the proceeding may be determined against him or her upon consideration of the cease and desist order, the allegations of which may be deemed to be true.

### **STATEMENT OF ALLEGATIONS**

The allegations contained in the Staff Petition for Relief dated December 10, 2018, (a copy of which is attached hereto) are incorporated by reference hereto.

### **ORDER**

**WHEREAS**, finding it necessary and appropriate and in the public interest, and for the protection of investors and consistent with the intent and purposes of the New Hampshire securities laws, and

**WHEREAS**, finding that the allegations contained in the Staff Petition, if proved true and correct, form the legal basis of the relief requested, therefore:

It is hereby **ORDERED**, that:

1. Respondents are hereby ordered to immediately cease and desist from the above indicated acts and from in any other way violating RSA 421-B.
2. Respondents shall jointly and severally pay an administrative fine of \$30,000.

3. Respondents shall pay the Bureau's investigation costs of \$40,000.
4. Respondents are barred from the grant of any securities license and registration privileges in the State of New Hampshire.

Failure to request a hearing within 30 days of the date of receipt of this Order shall result in a default judgment being rendered and administrative penalties and other relief described herein being imposed upon the defaulting respondents .

SIGNED,  
**WILLIAM M. GARDNER**  
**SECRETARY OF STATE**  
BY HIS DESIGNEE:

Dated: 12.13-18



**BARRY J. GLENNON, DIRECTOR,**  
**BUREAU OF SECURITIES REGULATION**

STATE OF NEW HAMPSHIRE  
BUREAU OF SECURITIES REGULATION  
DEPARTMENT OF STATE  
25 CAPITOL STREET  
CONCORD, NH 03301

**STAFF PETITION FOR RELIEF**  
**IN THE MATTER OF:**

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**Marilyn Genery aka Marilyn Rios** )  
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**and** )  
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**Genery Wealth Management, LLC** )  
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**Respondents** )

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No. INV.2017-0004

**STATEMENT OF FACTS**

- I. The staff of the Bureau of Securities Regulation, Department of State, State of New Hampshire (the “Bureau”) hereby petitions the Director, and makes the following statements of fact:
  1. Marilyn Genery (hereinafter “MG”) was a licensed broker-dealer agent for LPL Financial, LLC (hereinafter “LPL”) starting in March 2015 and terminating in November 2016 for violating LPL’s document signature policy. (Hereinafter “the relevant time period.”) MG’s CRD number is 4414881. Prior to contracting to work for LPL as a broker-dealer agent, branch manager and office of supervisory jurisdiction, and during her contracts with LPL, MG ran her own advisory firm on Middle Street in Portsmouth, New Hampshire called Genery Wealth Management, LLC (“hereinafter “GWM”) starting from July 2014. MG was the managing member and control person of GWM. GWM’s CRD number is 172272. GWM was a New Hampshire state licensed advisory firm offering investment advisory services for compensation and continued to be a New Hampshire licensed advisory

firm run by MG after she contracted with LPL to be a broker-dealer agent. GWM ended in March 2017.

2. GWM's advisory customers needing brokerage and custody services could do so through LPL. MG's role with LPL widened when in September 2015 MG became a branch office manager for LPL. When MG and GWM contracted to provide services through LPL, they became subject to LPL's broker-dealer supervisory system which included compliance with all of their supervisory policies and procedures whenever GWM customers accessed GWM services. One such LPL policy that MG and GWM were required to comply with was the LPL signature policy even if the document signed related to the advisory business of GWM.
3. In March 2015 when MG and GWM began their relationship with LPL, MG signed two key contracts with LPL on behalf of GWM. They are the Registered Investment Advisor Master Services Agreement Terms And Conditions (hereinafter "Master Services Agreement") and the Hybrid Representative Agreement (hereinafter "Hybrid Agreement"). Under the Master Services Agreement clients of GWM could select LPL to serve as the custodian and broker-dealer with respect to the client's investment accounts. Under the Master Services Agreement MG and GWM were required to "review and abide by the compliance procedures of LPL that are set forth in writing from time to time". Under the Hybrid Agreement MG was appointed as a registered broker-dealer representative of LPL and required to conduct her business in accordance with the rules and regulations of the SEC, FINRA and any state agency regulating GWM activities. In September 2015 MG signed an additional agreement with LPL known as the Branch Office Manager Agreement which required MG,

"to establish the Branch Office of LPL and shall use prudence in recommending and supervising representatives and administrative staff operating out of the Branch Office in accordance with the securities laws and state laws applicable to such operations and in accordance with LPL procedures and policies,... and shall conduct the Branch Office in a professional manner".

The Branch Office Manager Agreement goes on to require the Branch Office Manager to,

"conform to the rules and regulations of the SEC, FINRA, NFA, CFTC, MSRB, and the various states, to the applicable federal and state laws, and to the policies and procedures of LPL... In complying with such laws, rules and regulations, the Branch Office Manager shall accept such supervision and control by LPL as is necessary to enforce such laws, regulations, rules, policies and procedures."

4. MG and GWM having signed agreements with LPL came under their supervisory system including all policies, rules and requirements. Two signature policies were in effect at the time that MG and GMW became associated with LPL in March 2015. (See Exhibits A and B.) Effective from November 2014 forward GWM had in place a signature policy that was less encompassing than the LPL policy. Under the policy of GWM, “[a] client signature on any document form must be genuine, whether by original signature, photocopy or as otherwise authorized by the client”. On the other hand, LPL prohibited, “[r]e-using a client signature or the signature page of a form to execute multiple transactions or requests” and “[c]utting or pasting previously provided customer’s signature or initials to any documents”, and “[m]odifying any client signature or initials.” LPL’s policy goes to require, “[a]ny and all changes to documents must bear original signatures and client initials.” On the other hand, the GWM policy states, “[c]hanges or modification to any document or form (i.e. addresses, dates of birth, social security numbers), that do not affect contractual rights or responsibilities of any party, other than items related to suitability or risk tolerance, do not require a client signature or initial”. LPL also had a very clear policy prohibiting customer signed blank forms or forms signed by the customer but not fully completed. Given the state of the law in this area at the time from FINRA, SEC and the State of New Hampshire, the LPL policy took precedence and any conduct short of compliance with the LPL policy was prohibited even if the customer authorized it.
  
5. Despite the LPL signature requirements in place during the relevant period, MG and GWM failed to comply with them, and multiple violative acts occurred, many with the knowledge and acquiescence of MG with respect to MG customer forms during the relevant time period. According to MG’s 8/14/2017 statement to the Bureau, she authorized her staff to affix her signature stamp. The Bureau identified violative acts as follows:
  - a. Investor #1 with account number 57361094 had duplicate customer signatures entered on nine different Move Money forms. In MG’s on the record sworn interview with the Bureau on 8/14/2017, she admitted the customer signatures were duplicates. The date appears to be changed on one of the forms with white out. In one instance money was directed to an officer of GWM.
  - b. Investor #2 with account number 38250040 has a transposed signature of the customer on the Account Application. Below the customer signature MG’s signature stamp was used. The form indicates that MG asserts that she reviewed the form for accuracy and completeness.
  - c. Investor #3 with account number 33456987 the Account Transfer form is signed by the customer but is blank in places and is not signed by MG.

- d. Investor #4 with account number 63959840, an Entity Information form has a transposed customer signature on the last page. The signature line appears twice as though the signature was cut and pasted onto the form. MG signs the form and asserts that the information provided on the form is true, correct and complete.
- e. Investor #5 with account number 42899382 has a transposed customer signature on the last page on the Move Money form dated 9/11/2015. The signature line break gives the appearance that the signature was transposed there from another form. MG signature stamp is used. The form indicates that MG asserts that the customer signature is genuine.
- f. Investor #6 with account number 59971306 on the Account Application has a whited out social security number on the first page. In her sworn interview with the Bureau on 8/14/2017, MG agreed that that was whited out. MG signed the form asserting that the form was accurate and complete.
- g. Investor #7 with account number 41013454 on the Account Application has a whited out social security number on the second page. MG signed the form asserting that the form was complete and accurate. In her sworn statement to the Bureau on 8/14/2017, MG agreed that white out was used.
- h. Investor #8 with account number 38661152 on the Account Application has a whited out date next to the customer signature on the last page and MG's signature was by a signature stamp.
- i. Investor #9 account number 56994134 on the Move Money form MG's signature stamp was used. On account number 39627574 the Account Application, white out was used on the social security number on page two. MG signature affixed asserts that she reviewed the document for completeness and accuracy.
- j. Investor #10 account number 72505599 Account Application white out was used at the account number on page one and MG signs the form before the customer. MG signs the form and asserts that she reviewed the form for completeness and accuracy. Account number 72505599 Account Update, MG's signature stamp was used and the customer signature line slants upward indicating a transposed signature. The form is not complete and white out was used.
- k. Investor #11 account number 74934626 Account application white out was used at the social security number on page one and MG signed before the customer. MG signs the form and asserts that she reviewed



the form for completeness. In MG's Bureau interview on 8/14/2017 she acknowledged that white out was used.

- i. Investor #12 account number 31688049 Move Money form white out was used by the social security number on page one. In MG's 8/14/2017 Bureau interview, MG acknowledged white out was used.
  - m. Investor #13 account number 56417493 Account Application on page two white out was used at the social security number and date of birth. In MG's Bureau interview on 8/14/2017, MG acknowledged that white out was used. MG's signature indicates that MG reviewed the document for accuracy and completeness.
  - n. Investor #15 account number 62607299 the Move Money form was altered on page one with white-out and the bottom of the page is missing.
  - o. Investor #16 account number 52657906 Account Application, MG's signature stamp was used. The stamp was also used on account 38214886 Account Application. Account number 14373878 Move Money form white out was used on page one in the distribution frequency section. In an on the record sworn interview with the Bureau dated 8/14/2017, MG admitted that white out was used.
  - p. Investor #17 account number 53899990 Move Money form white out was used on page one at account number. The signature appears lifted and pasted. MG validates the customer signature as genuine. Account number 48716197 Adoption Agreement the customer signature appears transposed and the 48716197 account transfer form appears pre-signed by the customer.
  - q. Investor #18 account number 61524094 Move Money form the customer signature is cut off appearing to be a cut and paste. MG validates the signature as genuine.
  - r. Investor #19 account number 79174692 Account Application Customer signature appears transposed. Page six has missing information on the bottom of the page and MG signature stamp was used. MG validates the form for completeness and accuracy.
6. FINRA has set out in its enforcement decisions conduct considered to be a violation of FINRA Rule 4511. FINRA Rule 4511 requires a broker-dealer to take and keep accurate books and records. The rule applies equally to associates of member firms. Violative of this rule are: Affixing a non-genuine signature to a form and submitting it to the member firm and alteration and falsification of documents. A

violation of FINRA Rules is a violation of RSA 421-B. The above described conduct is dishonest and unethical. FINRA Rule 2010 requires a member to maintain high standards of commercial honor and just and equitable principles of trade. Violative of the rule are submitting false and altered information to a member firm and failing to take and keep accurate books and records.

### **STATEMENTS OF LAW**

- II.** The unlawful conduct described in this Staff Petition spans the relevant time period. The staff of the Bureau hereby petitions the Director and makes the following statements of law under the New Hampshire Revised Statutes Annotated, RSA 421-B, and regulations thereunder in effect both before and after the RSA 421-B law change effective 1/1/2016:
1. MG and GWM are “persons” within the meaning of RSA 421-B:2, XVI in effect before the law change and RSA 421-B:1-102(39) in effect after the law change.
  2. LPL is a broker-dealer within the meaning of RSA 421-B:2, III in effect before the law change and RSA 421-B:1-102(6) after the law change.
  3. MG is a broker-dealer agent within the meaning of RSA 421-B:2, II in effect before the law change and RSA 421-B:1-102(3) in effect after the law change.
  4. Pursuant to FINRA Rule 0140, FINRA Rules apply to all members and persons associated with a member and persons associated with a member shall have the same duties and obligations as a member under the Rules. MG during the relevant time period was a broker-dealer agent of LPL, the managing member and control person for GWM, and MG and GWM were subject to compliance with FINRA Rules and LPL’s signature compliance policy.
  5. Pursuant to FINRA Rule 4511, a member shall make and preserve books and records as required under FINRA rules, the Exchange Act of 1934 and the applicable Exchange Act rules. MG and GWM violated this rule when non-genuine signatures were affixed to LPL customer forms and when LPL customer forms were altered, inaccurate and falsified and submitted to the member firm LPL.
  6. Pursuant to FINRA Rule 2010, a member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade. MG and GWM violated this rule by failing to take and keep accurate books and records and by submitting customer forms as authentic and genuine when they were not.

7. Pursuant to RSA 421-B:8,X, in effect before the law change, persons licensed under RSA 421-B to conduct securities business shall abide by the rules of the Securities and Exchange Commission, National Association of Securities Dealers ("NASD"), national and regional stock exchanges, and other self-regulating organizations which have jurisdiction over the licensee, which set forth standards of conduct in the securities industry. MG and GWM are subject to this section for failing to abide by FINRA Rules 2010 Standards of Commercial Honor and Principles of Trade and Rule 4511 General Requirements.
8. RSA 421-B:10,I(a) and (b)(2), in effect before the law change, allows the secretary of state to deny, suspend, or revoke any license or application if he finds that it is in the public interest and that the applicant or licensee has willfully violated or failed to comply with any provision of RSA 421-B, or the Securities Act of 1933, the Securities Exchange Act of 1934, or any rule under any of such statutes. MG and GWM are subject to this provision for failing to abide by FINRA Rules regarding Standards of Commercial Honor and Principles of Trade and General Requirements and RSA 421-B:10,I(a) and (b)(7).
9. Pursuant to RSA 421-B:10,I(a) and (b)(7), in effect before the law change, the secretary of state may by order deny, suspend, or revoke any license or application if he finds that it is in the public interest and that the applicant or licensee has engaged in dishonest or unethical practice in the securities business. MG and GWM acted dishonestly and unethically by engaging in the conduct listed in paragraphs 5 and 6 of the Statement of Law section above.
10. Pursuant to RSA 421-B:4-412(d)(13), in effect after the law change, a person may be disciplined under subsections (a) and (b) if the person: has engaged in dishonest or unethical practices in the securities business within the previous 10 years. MG and GWM are in violation of this provision by engaging in the conduct listed in paragraphs 5 and 6 of the Statement of Law section above.
11. Pursuant to RSA 421-B:4-406(k) in effect after the law change, persons registered under this article to conduct securities business shall comply with the applicable rules of the Securities and Exchange Commission and FINRA. MG and GWM are subject to this provision for failing to abide by FINRA Rules regarding Standards of Commercial Honor and Principles of Trade and General Requirements and RSA 421-B:10,I(a) and (b)(7).
12. RSA 421-B:10,III in effect before the law change, provides that the Secretary of State may issue an order requiring the person to whom any license has been granted to show cause why the license should not be revoked. MG and GWM are subject to this provision.
13. Pursuant to RSA 421-B:10,VI, in effect prior to the law change, in lieu of, or in addition to, any such order to suspend or revoke any license or application, the secretary of state may, upon hearing, assess an administrative fine of not more than \$2,500 per violation. MG and GWM are subject to this provision.
14. Pursuant to RSA 421-B:23, whenever it appears to the secretary of state that any person has engaged or is about to engage in any act or practice constituting a violation of this

chapter or any rule under this chapter, he shall have the power to issue and cause to be served upon such person an order requiring the person to cease and desist from violations of this chapter. MG and GWM are subject to this section for violations of RSA 421-B:8 and 421-B:10.

15. Pursuant to RSA 421-B:26,III, in effect prior to the law change, any person who, either knowingly or negligently, violates any provisions of this chapter may, upon hearing, and in addition to any other penalty provided for by law, be subject to such suspension, revocation or denial of any registration or license, or an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation. MG and GWM are subject to a suspension or revocation and a fine as to each customer account and each violative customer form.
16. Pursuant to N.H. RSA 421-B:26, III-a, every person who directly or indirectly controls a person liable under paragraph I, II, or III every partner, principal executive officer, or director of such person, every person occupying a similar status or performing a similar function, who materially aids in the acts or transactions constituting the violation, either knowingly or negligently, may, upon hearing, and in addition to any other penalty provided for by law, be subject to such suspension, revocation, or denial of any registration or license, including the forfeiture of any application fee, or an administrative fine not to exceed \$2,500, or both. MG managing member and control person of GWM and GWM are subject to this section for violations of RSA 421-B:8 and 421-B:10.
17. Pursuant to RSA 421-B:6-604(a), in effect after the law change, if the secretary of state determines that a person has, is, or is about to materially aid in an act, practice, or course of business constituting a violation of this chapter, the secretary of state may issue an order directing the person to cease and desist from engaging in an act, practice, or course of business or to take other action necessary or appropriate to comply with this chapter. MG is in violation of this section for each customer account and each customer form identified in the Finding of Facts stated above at paragraph 5. MG and GWM are subject to this section for violations of RSA 421-B:4-412(d)(13) and RSA 421-B:4-406(k).
18. Pursuant to RSA 421-B:6-604(d), in effect after the law change, in a final order, the secretary of state may impose a civil penalty up to a maximum of \$2,500 for a single violation. In addition, every such person, who is subject to such civil penalty, upon hearing, and in addition to any other penalty provided for by law, be subject to such suspension, revocation, or denial of any registration of license, or be barred from registration or licensure. MG and GWM are subject to a suspension or revocation and fine for each customer account and each violative customer form as set out in the Statement of Facts paragraph 5.
19. Pursuant to N.H. RSA 421-B:6-604(g), in effect after the law change, and RSA 421-B:22, before the law change, in any investigation to determine whether any person has violated any rule or order under this title, the secretary of state shall be entitled to recover the costs of the investigation. MG is subject to this provision.

**RELIEF REQUESTED**

- III. In view of the foregoing, the Bureau staff makes the following requests for relief, as permitted under RSA 421-B, the New Hampshire Uniform Securities Act:
1. Find as fact the allegations contained in Section I above;
  2. Make conclusions of law, based upon Section II above, as applied to the facts stated in Section I above;
  3. Pursuant to RSA 421-B:6-604(a) and RSA 421-B:23 issue an Order to Cease and Desist against Respondents for violations of the Uniform Securities Act;
  4. Pursuant to RSA 421-B:6-604(d), RSA 421-B:26,III and RSA 421-B:26,III-a, issue a registration and licensure suspension, revocation or bar against Respondents for violations of the Uniform Securities Act.
  5. Pursuant to RSA 421-B:6-604(d) RSA 421-B:26, III and RSA 421-B:26,III-a, assess an administrative fine in the amount of \$30,000 against Respondents jointly and severally.
  6. Pursuant to RSA 421-B:6-604(g) and RSA 421-B:22 assess costs of this investigation in the amount of \$40,000 against Respondents jointly and severally.
  7. Provide such relief as deemed just and proper under the New Hampshire Uniform Securities Act.:

**RIGHT TO AMEND**

The Bureau staff reserves the right to amend this Staff Petition for Relief and to request that the Director of the Bureau take additional administrative action. Nothing herein shall preclude the Bureau Staff from bringing additional enforcement action under this N.H. RSA 421-B or the regulations thereunder.

Respectfully submitted by:

  
\_\_\_\_\_  
Jeffrey D. Spill, Deputy Director

12/13/18  
\_\_\_\_\_  
Date



August 15, 2017

Frank Meanor, Esquire  
1 New Hampshire Avenue, Suite 125  
Portsmouth, NH 03801

Dear Attorney Meanor,

Below is the signature policy for Genery Wealth Management, LLC from November 2014 – October 25, 2016.

- A client signature on any document or form must be genuine, whether by an original signature, photocopy or as otherwise authorized by the client.
- Changes in any document or form, involving specifically the suitability or risk tolerance information, will need to be notated by the client by a signature as stated above.
- Changes or modification to any document or form (i.e. addresses, dates of birth, social security numbers), that do not affect contractual rights or responsibilities of any party, other than items related to suitability or risk tolerance, do not require a client signature or initial.
- Signature stamp of Marilyn Genery may be utilized by employees of Genery Wealth Management, LLC but only with permission of Marilyn Genery in her absence.

Sincerely,

Marilyn Genery

## Genery Wealth Management, LLC

### Document Signature Policy

- All documents requiring customer signatures and/or initials must bear original customer signature and initials. The following actions are prohibited, regardless of customer knowledge or consent:
  - Signing a customer's name or initials
  - Witnessing the signing of a customer's name or initials by someone other than the customer (unless that individual signing the customer's name or initials has legal authority to do so, with legal and effective Power of Attorney, or valid Court Order, for example)
  - Re-using a client signature or the signature page of a form to execute multiple transactions or requests
- Cutting or pasting previously provided customer's signature or initials to any documents
- Modifying any client signature or initials, written instructions, dates, or any other client marks after such documents have been signed /initialed.
- Any and all changes to documents must bear original signatures and client initials.
- Having customers sign any blank document, or altering any document (including the use of white out) after a customer has signed the document, including but not limited to application documents, disclosure documents, account documents, letters of instruction, or withdrawal forms, shall also be considered a violation of this policy and is prohibited, regardless of customer knowledge or consent.
- Obtaining or maintaining documents signed by the client but not fully completed.
- Advisors and branch office staff are prohibited from using a signature stamp of any type without prior written approval from LPL Financial.
- All signatures must be the original signature of the advisor, supervisor or associated person required to execute the document, unless signed through the approved LPL eSignature program.