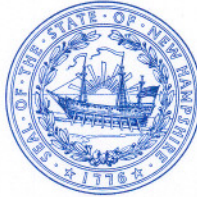


# The State of New Hampshire

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## **AMERICAN EXPRESS FINANCIAL ADVISORS REACH SETTLEMENT WITH NEW HAMPSHIRE BUREAU OF SECURITIES REGULATION**

### **Conflict of Interest and Flawed Investment Plans at Heart of \$7.4 Million Agreement**

**Concord, N.H. (July 12, 2005)** – The New Hampshire Bureau of Securities Regulation announced today its year long investigation of American Express Financial Advisors(AEFA) has culminated in a \$7.4 million settlement with the Minneapolis based investment advisor and securities brokerage firm. N.H. Securities Director Mark Connolly said the agreement represents the largest securities enforcement action in the state's history, surpassing the \$5 million settlement reached with Tyco International in 2002. "We hope this sends a strong signal to brokers and financial advisors operating in New Hampshire that the Bureau is committed to preserving a level playing field for all investors, large and small, and that companies must adhere to the law and strive to treat clients in a fair and open manner," said Connolly.

In addition to paying the state \$5 million in fines and penalties, the agreement requires American Express to pay restitution of up to \$2 million to harmed New Hampshire investors. The company will also be required to reimburse the New Hampshire Bureau of Securities Regulation \$375,000 for costs associated with the lengthy investigation.

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The Bureau's petition alleges that AEFA failed to disclose to New Hampshire clients the conflicts of interest that permeated the company's investment advisor relationship, and that AEFA financial advisors operated in a system in which they were pressured and rewarded for selling American Express and American Express partnered mutual funds. The petition also alleges that AEFA agents in New Hampshire used model portfolios developed by an employee that contained only American Express mutual funds which in many cases underperformed other available products.

Deputy Director in charge of enforcement, Jeff Spill, said financial advisors charging fees for their services have a fiduciary obligation to act in the best interest of their clients. "New Hampshire investors were paying American Express financial advisors to evaluate their unique financial needs and design the best possible portfolios accordingly," said Spill. "What we found instead was a pervasive effort within the company to sell cookie cutter plans heavily laden with American Express mutual funds, without disclosing to clients how this behavior financially benefited the company and its agents."

The Bureau became aware of the company's practices during audits of New Hampshire branch locations. While conducting these examinations, staff attorney and lead counsel for the investigation, Jonas Cutler, spotted a consistent pattern of accounts heavily laden with AEFA mutual funds, and uncovered e-mails pressuring agents to sell AEFA funds. As a result, the bureau initiated a thorough examination of all financial advisory plans sold from January 1999 through March 2003.

In addition to the nearly \$7.4 million in fines, fees, restitution and reimbursement to be paid, American Express Financial Advisors will be required to retain an independent consultant to review practices related to the sale of proprietary mutual funds and the use of model portfolios. The consultant will also examine the company's related training procedures and determine the amount of restitution to be paid to harmed New Hampshire investors.



In addition to the settlement with New Hampshire, AEFA recently settled with the state of New Jersey over allegations that it failed to supervise an advisor who defrauded clients by overcharging for financial plans. The company also faced scrutiny over mutual fund sales practices from the National Association of Securities Dealers (NASD), a national regulatory body charged with overseeing the country's brokerage firms.

**-END-**