

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

IN THE MATTER OF:

Charles H. Howard, III,
Carolyn C. Howard, and
Howard Interests

)
)
) ORDER TO CEASE AND DESIST
)
) I-2011-000000
)

NOTICE OF ORDER

This Order commences an adjudicative proceeding under the provisions of RSA 421-B:26-a.

LEGAL AUTHORITY AND JURISDICTION

Pursuant to RSA 421-B:23, 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-B:24, I, any person who willfully violates a cease and desist order issued pursuant to RSA 421-B:23 shall be guilty of a class B felony.

Pursuant to RSA 421-B:26, the Secretary of State has the authority to impose administrative penalties of up to \$2,500.00 for each violation of New Hampshire securities law and rules.

Pursuant to RSA 421-B:10, I(a) and RSA 421-B:10, I (b)(7), the Secretary of State has the authority to deny, suspend, or revoke any license or application of a broker-dealer or investment adviser if he finds that it is in the public interest and that the broker-dealer or investment adviser has engaged in dishonest or unethical practices in the securities business.

Pursuant to RSA 421-B:26, III-a, every person who directly or indirectly controls a person liable under paragraph I or III, every partner, principal executive officer, or director of such person, every person occupying a similar status or performing a similar function, every employee of such person who materially aids in the act or transaction constituting the violation, and every broker-dealer or agent 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 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.

Pursuant to RSA 421-B:26, V, the Secretary of State may, in addition to any other penalty provided by RSA 421-B, upon notice and hearing, enter an order of rescission, restitution, or disgorgement directed to a person who has violated RSA 421-B.

NOTICE OF RIGHT TO REQUEST A HEARING

The above named Respondents have the right to request a hearing on this order to cease and desist as well as the right to be represented by counsel. 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:23, I, if Respondents fail to request a hearing on this order within 30 calendar days of receipt of this order, Respondents shall be deemed in default, and this order to cease and desist shall, on the thirty-first day, become permanent.

Upon request for a hearing being received by the Bureau of Securities Regulation, in the manner and form indicated above, a hearing shall be held not later than ten days after such request is received by the Bureau, after which hearing, and within 20 days of the date of the hearing, the Secretary of State, or such other person authorized by statute, shall issue a further order vacating or modifying this order, or making it permanent, as the circumstances require.

STATEMENT OF ALLEGATIONS

The allegations contained in the Staff Petition for Relief dated May 22, 2014 (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,

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, in accordance with RSA 421-B:26, VIII pay an administrative fine of \$150,000.
3. Respondents shall pay restitution to the Investors in an amount to be determined by the Hearings Officer.
4. The Respondent shall pay the Bureau's investigation costs of \$50,000.
5. Pursuant to RSA 421-B:10,I, Respondents are permanently barred from any securities licensure in the state of New Hampshire.
6. 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 being imposed upon the defaulting Respondents.

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

Date: 5-22-14



Barry J. Glennon, Director
N.H. Bureau of Securities Regulation

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

STAFF PETITION FOR RELIEF

IN THE MATTER OF:

Charles H. Howard, III
Carolyn C. Howard
Howard Interests

I-2011-000000

STATEMENT OF FACTS

- I. The staff of the State of New Hampshire, Department of State, Bureau of Securities Regulation (hereinafter referred to as the "Bureau") hereby petitions the Director, and makes the following statements of fact:
 1. The relevant time period for the unlawful conduct described below is October 2002 through December 2012 (hereinafter referred to as "the relevant time period.")
 2. Charles H. Howard, III (hereinafter "CHH") and his wife, Carolyn C. Howard (hereinafter "CCH") reside in Jaffrey, New Hampshire. In the early 1990's CHH was convicted in the United States District Court of Massachusetts for Conspiracy to Commit Obstruction of Justice in connection with a United States Securities and Exchange Commission (hereinafter referred to as the "SEC") investigation.
 3. On May 7, 1992, CHH consented to an injunction brought by the SEC in Federal District Court for the District of New Hampshire concerning the same conduct that led to his conviction described in paragraph 2 above. As a result, CHH was permanently enjoined

from violating securities laws and was permanently barred from association with any broker, dealer, municipal securities dealer, investment adviser, or investment company.

4. In 1993, CHH was sentenced to five years in prison on one count of bank fraud in the United States District Court for the District of New Hampshire. He was further sentenced to two years suspended and five years probation on a second count of conspiracy to commit insider trading, bank bribery, and bank fraud.
5. On April 3, 1998, CCH registered the trade name Howard Interests (hereinafter referred to as "HI") with the State of New Hampshire's Corporation Division. The trade name HI was forfeited in 2003 for failure to renew the trade name. On December 4, 2006, both CHH and CCH jointly applied for the trade name HI. The description of their business listed on the trade name application indicated that HI was in the business of "financial investments/venture capital." As of today, according to the State of New Hampshire, Corporation Division's records, HI is inactive. Upon information and belief, CCH was the bookkeeper and control person of HI.
6. Video Display Corporation (hereinafter referred to as "VDC") is a publically traded company located in Tucker, Georgia. VDC designs, engineers, manufactures, markets, distributes, and installs display products, systems, and components for government, military, aerospace, medical, and commercial organizations worldwide. VDC stock is publically traded on the NASDAQ exchange and is registered with the SEC.
7. Since 2001, CCH has been an Director of VDC and has received approximately one thousand dollars (\$1,000) per month as a director fee, in addition to stock options. The Bureau estimates that CCH has received a total of approximately one hundred and sixty thousand dollars (\$160,000) from VDC in director fees alone. According to several VDC public filings with the SEC over the past thirteen years, CCH holds herself out as having been "employed since the late 1980s by Howard Interests, a venture capital firm, of which she is the co-founder and co-manager." CCH continues to serve on the VDC Board of Directors to this day.

8. CHH was also receiving money from VDC for nearly ten years. According to VDC, from November of 2002 through April 2012, CHH has been compensated by VDC in the amount of twenty-five hundred dollars (\$2,500) per month to cover CHH's out-of-pocket expenses while providing various services for VDC. According to VDC, these services include sale of VDC real estate, introduction and analysis of potential corporate acquisitions, investor relation services, surplus inventory dispositions, researching potential purchasers of corporate subsidiary spin-offs or disposals and a variety of other adviser services. The Bureau requested the consulting contract from VDC and learned that no written contract existed. According to a document production received from VDC, from November of 2002 through April 2012 CHH has received at least two hundred and eighty-six thousand, five hundred dollars (\$286,500) from VDC. CHH continued to receive these payments after April 2012 for some time, at least until the end of 2012, but the Bureau has recently learned that these payments have ceased. As CHH continued to receive payments after April 2012 and at least until the end of 2012, the Bureau estimates that CHH has received approximately three hundred thousand dollars (\$300,000) from VDC for this undocumented consulting contract.

9. MDU Communications International, Inc. (hereinafter referred to as "MDU"), together with its subsidiaries, engages in the provision of digital satellite television, high-speed Internet, voice over Internet protocol, and other information and communication services to residents living in the United States multi-dwelling unit market. It provides two types of satellite television services, including direct to home service that offers DIRECTV programming packages and private cable programming service, where analog or digital satellite television programming is received through normal cable-ready televisions. MDU is not listed on any U.S. stock exchanges and is traded on the OTC markets.

10. Since July 2005, CCH has been a Director of MDU and has received approximately one thousand, five hundred dollars (\$1,500) per month as a director fee, in addition to stock options. The Bureau estimates that CCH has received a total of approximately one hundred and fifty-seven thousand, five hundred dollars (\$157,500) from MDU in director fees alone.

According to several MDU filings with the SEC over the past nine years, CCH holds herself out as having been “employed by Howard Interests since 1987, a venture capital firm, of which she is the co-founder and co-manager.” CCH continues to serve on the MDU Board of Directors to this day.

11. CHH, through HI, has also been receiving money from MDU for over six years as HI had a consulting agreement with MDU since at least March 2006 and MDU has paid HI between two thousand dollars (\$2,000) and ten thousand dollars (\$10,000) on a monthly basis. This consulting relationship was documented with a Consulting Agreement dated October 15, 2006 and states that HI will provide services relating to business and investor relations strategy but does not provide any further details. From March 2006 through September 2012, HI received approximately three hundred and forty-seven thousand dollars (\$347,000) from MDU under the Consulting Agreement. The Bureau has learned that this consulting arrangement ceased in September 2012.

12. Investor #1 is from Peterborough, New Hampshire and was approached by CHH in 2002 to discuss her investments. After reviewing her portfolio and various investment positions, CHH told Investor #1 that he felt her investments were too spread out and he eventually convinced her to let him manage her brokerage accounts.
 - a. In October of 2002, and at the direction of CHH, Investor #1 moved her brokerage accounts to UBS Paine Webber (now known as UBS Financial Services USA). Account applications for UBS Paine Webber indicate that Investor #1 granted CHH Power of Attorney over her brokerage account, allowing CHH to execute trades on her behalf. Investor #1 agreed to pay CHH one hundred dollars (\$100) per month in exchange for CHH managing these brokerage accounts. Documentation provided to the Bureau shows that Investor #1 instructed UBS Paine Webber to disburse one hundred dollars per month to CHH from her brokerage account. Documentation further shows that six checks for one hundred dollars (\$100) were sent from Investor #1’s brokerage account to CHH from October of 2002 through March of 2003.

- b. From October of 2002 through March of 2003, Investor #1 indicated to the Bureau that CHH day traded several securities in Investor #1's account. Investor #1's brokerage records show the buying and selling of the same security several times in the same day. While day trading other securities, CHH also began to purchase and hold a large quantity of stock in VDC. CHH also purchased MDU stock. Throughout this time, CHH sent Investor #1 at least three handwritten letters on HI letterhead updating her on the performance of her investments.
- c. In March of 2003, UBS Paine Webber sent Investor #1 a letter indicating that they would not continue servicing Investor #1's accounts unless she revoked CHH as Power of Attorney, reduced her concentration in VDC stock to 20% of her portfolio, and met with her designated UBS Paine Webber financial adviser.
- d. In March of 2003, at the instruction of CHH, instead of complying with UBS Paine Webber's request, Investor #1 moved her accounts to Scottrade. Investor #1 provided CHH with her Scottrade online username and password so CHH could manage her account and execute trades. Investor #1 indicated to the Bureau that CHH continued to day trade several securities, began using margin, and continued to accumulate a large position in VDC. From April of 2003 through August of 2003, Investor #1 continued to pay CHH one hundred dollars (\$100) per month in exchange for his investment advice and handling of her accounts. She usually wrote a check to HI. In some instances, checks were made out to CHH individually.
- e. Also around March of 2003, Investor #1 indicated to the Bureau that CHH brokered the sale of ten thousand shares of Centrix Bank stock between Investor #1 and a friend of CHH. Investor #1 indicated to the Bureau that this sale was at the advice of CHH and the purpose of the sale was to free up more funds to invest in VDC stock. Investor #1 indicated that CCH physically drove her to the buyer's office to effectuate this transaction, which is an indication that CCH knew or with the exercise of reasonable care would have known that CCH and HI were engaged

in the giving of investment advice. Furthermore, Investor #1 believed that CCH was the bookkeeper for HI.

- f. In August of 2003, CHH approached Investor #1 and requested a higher fee for his services, citing the fact that he was doing a good job with her account and that his fee should be based on the value of her account. Investor #1 agreed to pay four hundred and fifty dollars (\$450) on a monthly basis and did so from September of 2003 through September of 2004. In September of 2004, Investor #1 was again approached by CHH for a higher fee and they agreed upon a monthly fee of nine hundred dollars (\$900).
- g. Investor #1 paid CHH nine hundred dollars (\$900) every month from October of 2004 through August of 2005, as CHH continued to manage her Scottrade accounts. Investor #1 indicated to the Bureau that CHH continued to day trade several securities, use margin, and continued to accumulate a large holding in VDC, as well as purchase MDU.
- h. In August of 2005, Investor #1 moved her accounts from Scottrade to Ameritrade and again provided CHH her online username and password so he could continue to manage her accounts and execute trades. Investor #1 indicated to the Bureau that CHH continued to day trade securities, use margin, and accumulate a large position in VDC. Investor #1 continued to pay a monthly fee of nine hundred dollars (\$900) to CHH, usually by check payable to HI, from August of 2005 through September of 2007.
- i. In September of 2007, Investor #1 moved her accounts to Edward Jones and ceased her relationship with CHH and HI. From October of 2002 through September of 2007, the time period that CHH was managing Investor #1's accounts and collecting a fee, Investor #1 paid a total of approximately thirty-nine thousand, three hundred and fifty dollars (\$39,350) in fees to CHH through checks to HI or CHH. Throughout this time period that CHH was managing her

investments, Investor #1 lost approximately one hundred thousand dollars (\$100,000).

- j. At no time did CHH ever disclose to Investor #1 that he was not properly licensed to provide investment advice for a fee, to trade securities for accounts of others for a fee, and at no time did he disclose that he was barred from association with any investment adviser, investment company or broker by the SEC. Furthermore, while recommending the purchase and sale of VDC and MDU stock, CHH failed to disclose he was being compensated by VDC and MDU as described above.
- k. Many of the trades executed by CHH were speculative and not suitable for Investor #1. The sale of Investor #1 Centrix bank stock to obtain proceeds to buy VDC was particularly unsuitable and had no reasonable basis.

13. Investor #2 and Investor #3 are husband and wife from Marion, Massachusetts. They have both known CHH since the 1970's. They have also known CCH for at least ten years. In about May of 2003, CHH and CCH visited Investor #2 and #3 at their home in Marion, Massachusetts. The purpose of this visit was to promote VDC stock in which CHH encouraged Investor #2 and #3 to invest in VDC. After some consideration, Investor #2 and #3 decided to invest in VDC as they were further reassured when they learned that CCH was on the Board of Directors. At CHH's advice, Investor #2 and #3 also purchased MDU stock.

- a. After approximately six months of investing in VDC at the advice of CHH, in December of 2003, CHH began asking for a fee for his advice. Investor #2 promised to pay CHH 5% of any profits derived from trading in VDC and Investor #3 agreed to pay CHH on a monthly basis for his advice. Investor #3 began paying six hundred dollars (\$600) on a monthly basis but the fees soon escalated. Advisory fee checks written by Investor #3 made out to HI were endorsed and deposited into the trust account of CCH indicating that CCH knew or with the exercise of reasonable care would have known that CCH and HI were

receiving fees for giving investment advice.

- b. From December of 2003 through September of 2008, while they maintained accounts at both Fidelity and E*Trade, Investor #2 and #3 were receiving investment advice for a fee from CHH. Investor #2 would periodically send money to CHH when VDC was turning a profit. Investor #3 would send regular monthly fee payments to CHH through checks payable to HI. Investor #2 and #3 met with CHH several times a year in both New Hampshire and Massachusetts to discuss their investments.
- c. CHH never had access to Investor #2 or #3's accounts and did not actually execute trades, as was the case with Investor #1. For Investor #2 and #3, CHH would advise them on what to buy and sell. Investor #2 or #3 would then execute the transaction and later forward a fee to CHH.
- d. From December of 2003 through September of 2008, Investor #2 and #3 indicated to the Bureau that they paid a combined total of approximately one hundred and forty-four thousand dollars (\$140,000) in fees to CHH through checks payable to HI. Over this time period, CHH advised Investor #2 and #3 to be heavily invested in VDC stock, with much of it on margin. In fact, at one point Investor #2 and #3 had approximately seven hundred and sixty thousand dollars (\$760,000) worth of VDC stock. This represented approximately 95% of their entire portfolio at the time. When VDC stock crashed in 2009, so did the account values of Investor #2 and #3. As a result of CHH's advice, Investor #2 and #3 lost several hundred thousand dollars.
- e. At no time did CHH ever disclose to Investor #2 or #3 that he was not properly licensed to provide investment advice for a fee, and at no time did he disclose that he was barred from association with any investment adviser or investment company by the SEC. Furthermore, while recommending the purchase and sale of VDC and MDU stock, CHH failed to disclose he was being compensated by

VDC and MDU.

- f. Investor #2 and #3 met with CHH and CCH on or about March 23, 2010 to discuss their losses in VDC as a result of CHH's investment advice and the meeting did not end well. Following this meeting, on March 24, 2010, CCH wrote an email to Investor #2 and #3 apologizing for her behavior the prior evening and also said: "I live with his [CHH's] distress over hurt friendships and the loss of incomes, daily. Everyone has lost financially in this and it weighs deeply on his [CHH's] shoulders." On April 29, 2010, CCH wrote a check to Investor #2 and #3 for two thousand dollars (\$2,000) to compensate them for some of their losses.

14. Investor #4 was a former boyfriend of Investor #1 and, during the relevant time period, was a New Hampshire resident. In 2003, Investor #4 opened an online brokerage account at E*Trade and provided CHH access by supplying him with the username and password. At first, CHH agreed to manage the account without a fee. After about nine months, CHH approached Investor #4 and requested a fee. They agreed on a monthly fee of approximately three hundred and fifty dollars (\$350). Checks for this fee were sent by Investor #4 to HI. After a short period of time, Investor #4 terminated this relationship with CHH. Total fees paid during the time CHH managed the account totaled approximately fifteen hundred dollars (\$1,500). CHH's main recommendation was to accumulate VDC stock.

- a. According to Investor #4, CHH did disclose to Investor #4 that he had "been to prison and could not work as a stock broker because of it." However, at one point while CHH was managing Investor #4's account, Investor #4 inquired as to whether what CHH was doing with his E*Trade account was legal. CHH maintained that his managing of Investor #4's account was entirely lawful. At no time did CHH ever disclose to Investor #4 that he was not properly licensed to provide investment advice for a fee, or to trade securities in the accounts of others for a fee. Furthermore, while recommending the purchase and sale of VDC stock,

CHH failed to disclose he was being compensated by VDC.

15. Investor #5 is from Salem, New Hampshire. Investor #5 met CHH in the late 1990's through Investor #5's employer. In the early 2000's, Investor #5 maintains that CHH would provide him a stock tip on occasion, that Investor #5 would occasionally act upon these tips, and he was usually successful.

- a. After losing his job in September 2001, Investor #5 maintains that he was in need of a way to make money and communicated this need to CHH. Investor #5 maintains that CHH told him that, if he followed CHH's investment strategies, then Investor #5 would not have to be concerned about money in the future.
- b. From 2001 through 2008, Investor #5 maintains that he received investment advice from CHH. Investor #5 maintains that CHH advised him to accumulate a large position in VDC and MDU stock on margin. As the price of VDC rose in the mid-2000's, Investor #5 maintains that he was approached by CHH and told that he needed to pay a fee for CHH's investment advice for what appeared in the brokerage statements as significant gains in VDC. Investor #5 maintains that he paid ten thousand dollars (\$10,000) in investment advisory fees to CHH on at least three separate occasions for a total of at least thirty thousand dollars (\$30,000) in fees.
- c. At no time did CHH ever disclose to Investor #5 that he was not properly licensed to provide investment advice for a fee and at no time did he disclose that he was barred from association with any investment adviser or investment company by the SEC. Furthermore, while advising that Investor #5 accumulate a significant position in VDC and MDU stock, CHH also failed to disclose that he was being paid by VDC and MDU.
- d. In 2009 the price of VDC stock fell significantly and Investor #5 lost significantly. Investor #5 maintains that his brokerage accounts lost

approximately ninety thousand dollars (\$90,000) as a result of CHH's investment advice.

16. Investor #6 is from Rindge, New Hampshire and has known CHH since childhood. Investor #6 was approached by CHH to purchase VDC in 1999. Investor #6 maintains that CHH said that investing in VDC would be a great opportunity for him. There was no discussion of compensation for this advice at this time. Investor #6 maintains that CCH "kept track of the accounts" for HI.

- a. Investor #6 decided to take CHH's advice and began buying VDC stock. At some point, Investor #6 maintains that he was told by CHH that he should be using margin to increase his buying power and thereby increase his gains. Investor #6 took this advice and began buying VDC on margin. Investor #6 also began buying MDU stock at CHH's advice.
- b. As the price of VDC began to rise over the mid-2000's, Investor #6's portfolio grew substantially. While VDC was growing, Investor #6 maintains that he was approached by CHH and told that he needed to pay a fee for CHH's advice on VDC. Investor #6 maintains that he paid twenty-two thousand dollars (\$22,000) in fees to CHH for his investment advice.
- c. At no time did CHH ever disclose to Investor #6 that he was not properly licensed to provide investment advice for a fee and at no time did he disclose that he was barred from association with any investment adviser or investment company by the SEC. Furthermore, while advising that Investor #6 accumulate a significant position in VDC stock, CHH also failed to disclose Investor #6 that he was being paid by VDC.

17. Investor #7 is from Jaffrey, New Hampshire and has known CHH since childhood. Investor #7 maintains that, sometime in 2011, CHH offered to take care of Investor #7's portfolio free of charge. Investor #7 maintains that she gave her username and password

for her online brokerage accounts to CHH so he could manage her portfolios.

- a. Investor #7 maintained that she was told by CHH not to tell anyone that he was managing her account. Investor #7 maintains that CHH accumulated a large position in VDC stock in her account. After sustaining significant losses, Investor #7 ended the relationship with CHH. Investor #7 estimates her losses to be approximately one hundred thousand dollars (\$100,000). At no time did CHH ever disclose to Investor #7 that he was not properly licensed to provide investment advice for a fee, trade securities in the accounts of others for a fee, and at no time did he disclose that he was barred from association with any investment adviser, investment company or broker by the SEC. Furthermore, while advising that Investor #7 accumulate a significant position in VDC stock, CHH also failed to disclose that he was being paid by VDC.
- b. Many of the trades executed by CCH were not suitable for Investor #7. Trading in speculative stocks like VDC was particularly unsuitable and without reasonable basis.
- c. On May 10, 2011, CCH wrote Investor #7 an email confirming the CCH had transferred two thousand five hundred dollars (\$2,500) from Investor #7's brokerage account to Investor #7's bank account and that the funds would be available later in the day.

18. Investor #8 is from Southington, Connecticut and first met CHH and CCH in the late 1990's in Jaffrey, New Hampshire. Investor #8 maintains that, in March of 1999, at CHH's direction, Investor #8 opened a brokerage account at Raymond James Financial, Inc. and began purchasing VDC stock. Investor #8 maintains that CHH asked him for control of his account but Investor #8 declined. From 1999 through 2007, Investor #8 maintains that CHH would instruct him on what to buy and sell and to open a margin account. Investor #8 maintains that CHH also instructed him to move his accounts to Scottrade and eventually Wachovia Securities because those firms were allowing more

margin. Eventually, at CHH's direction, Investor #8 accumulated a large position in VDC.

- a. Investor #8 maintains that, at first, CHH did not charge a fee for his investment advice but in September of 2004 CHH demanded a fee and Investor #8 paid CHH a total of seventy-five thousand dollars (\$75,000) for CHH's investment advice.
- b. After sustaining significant losses in early 2009, Investor #8 ended the relationship with CHH. Investor #8 estimates his out of pocket losses to be approximately eight hundred thousand dollars (\$800,000). At no time did CHH ever disclose to Investor #8 that he was not properly licensed to provide investment advice for a fee and at no time did he disclose that he was barred from association with any investment adviser or investment company by the SEC. Furthermore, while advising that Investor #8 accumulate a significant position in VDC stock, CHH also failed to disclose to Investor #8 that he was being paid by VDC.
- c. Through his attorney, Investor #8 threatened to sue CHH and the parties settled the matter with CHH paying Investor #8 seventy-five thousand dollars (\$75,000) over time. Investor #8 also recovered approximately sixty-five thousand dollars (\$65,000) through a settlement with Wachovia Securities.

19. Investor #9 is from Hamilton, Massachusetts. Investor #9 developed a friendship with CHH in the late 1990's and early 2000's. At CHH's advice, Investor #9 purchased a large position in VDC stock and also purchased MDU stock, both on margin. Eventually, Investor #9 provided CHH with his username and password and gave CHH full discretion to make trades on his account.

- a. Investor #9 maintains that, at first, CHH did not charge a fee for his investment advice but eventually approached Investor #9 and demanded a fee and Investor #9 paid CHH a total of at least sixty thousand dollars (\$60,000) in fees for CHH's

investment advice. A check from Investor #9 for fees made out to HI was deposited into CCH's bank account and endorsed by CCH which indicates that CCH knew or in the exercise of reasonable would have known that CCH and HI were receiving investment advisory fees.

- b. After sustaining significant losses in 2008, Investor #9 ended the relationship with CHH. Investor #9 estimates his out of pocket losses to be between six hundred thousand dollars (\$600,000) and seven hundred thousand dollars (\$700,000). At no time did CHH ever disclose to Investor #9 that he was not properly licensed to provide investment advice for a fee, trades securities for a fee, and at no time did he disclose that he was barred from association with any investment adviser, investment company or broker by the SEC. Furthermore, while advising that Investor #9 accumulate a significant position in VDC and MDU stock, CHH also failed to disclose to Investor #9 that he was being paid by VDC and MDU.
- c. Through his attorney, Investor #9 threatened to sue CHH and the parties settled the matter with CHH paying Investor #9 sixty thousand dollars (\$60,000) over time.

20. According to VDC, there were three shareholder meetings held in Bedford and Manchester, New Hampshire during 2004 – 2008. VDC maintains that the purpose of these meetings were twofold: To relay to New Hampshire shareholders the same information that was presented to other shareholders at VDC's annual meeting and to show appreciation to New Hampshire investors who held large stakes in the company. VDC further maintains that no attendee of these meetings was solicited to purchase additional shares in VDC. Investor #1, #2, and #3 recall attending one or more of these meetings and recall CHH being present, as well as CCH and VDC's CEO, Ronald Ordway.

21. The Bureau interviewed Ronald Ordway on November 2, 2012 by telephone. During this interview, Mr. Ordway stated that CHH was being paid to generate interest and answer

questions about VDC. Mr. Ordway further admitted that CHH was paid by VDC to promote VDC stock.

22. CCH's signature on the signature card from CCH's bank account matches signatures endorsing fee payment checks from HI investors which indicates that CCH knew or in the exercise of reasonable care would know that HI and CHH were engaged in giving investment advice for a fee.

23. In May of 2012, the Bureau sent CHH and HI a subpoena for CHH's testimony under oath related to this matter. On June 8, 2012 CHH, through his attorney, responded to the request by letter and asserted his rights against self-incrimination under the Fifth Amendment of the U.S. Constitution and Article I, Part 15 of New Hampshire State Constitution. On June 15, 2012, CHH appeared before the Bureau pursuant to the subpoena for on the record testimony and again asserted his rights against self-incrimination under the Fifth Amendment of the U.S. Constitution and Article I, Part 15 of New Hampshire State Constitution for nearly every question asked, including the following:

- a. Whether CHH had been subject to an order against him by the SEC dated May 7, 1992 that barred him from associating with any broker, any dealer, any municipal dealer, investment advisor or investment company; and
- b. Whether HI was a securities advisory business or if he or CCH ever worked for HI; and
- c. Whether HI ever recommended the sale of securities to others or ever collected a fee for the advice on the sale of securities; and
- d. Whether CHH or HI had received any fees for giving advice regarding the sale of securities since CHH's criminal conviction in 1992; and

- e. Whether CHH ever solicited investors for VDC or MDU; and
- f. Whether CHH ever received fees, commissions, or remunerations from VDC or MDU; and
- g. Whether CHH ever had access or control over the brokerage account of another since his conviction in 1992; and
- h. Whether CHH ever held the power of attorney for another since his conviction in 1992; and
- i. Whether CHH ever received remuneration for investment advice given to another following CHH's conviction in 1992; and
- j. Whether CHH informed anybody of his bar by the SEC or his criminal conviction.

24. On November 7, 2013, CCH appeared before the Bureau pursuant to a subpoena for on the record testimony and asserted her rights against self-incrimination under the Fifth Amendment of the U.S. Constitution and Article I, Part 15 of New Hampshire State Constitution for nearly every question asked, including the following:

- a. Whether CCH ever managed another person's brokerage account; and
- b. Whether CCH ever managed another person's brokerage account for a fee; and
- c. Whether CHH manages CCH's brokerage accounts; and
- d. Whether CCH was a co-manager of HI; and
- e. Whether HI is operating as an investment adviser and receiving a fee for

investment advice; and

- f. Whether CHH was paid by VDC to promote the purchase of VDC stock; and
- g. Whether CCH knew that CHH was managing Investor #1's brokerage account for a fee; and
- h. Whether CCH went to Investor #2 and #3's home in Massachusetts to discuss VDC; and
- i. Whether CCH knew that CHH was providing investment advice for a fee to Investor #2 and #3; and
- j. Whether CCH knew that CHH was managing Investor #7's brokerage account.

STATEMENTS OF LAW AND ALLEGED VIOLATIONS

II. The staff of the Bureau incorporates the above Statement of Facts, and hereby petitions the Director, and makes the following statements of law and allegations under the New Hampshire Revised Statutes Annotated, N.H. RSA 421-B, and regulations thereunder:

- 1. CHH, CCH and HI are "persons" within the meaning of N.H. RSA 421-B:2, XVI.
- 2. HI is an "investment adviser" within the meaning of N.H. RSA 421-B:2, IX and CHH is an "Investment adviser representative" within the meaning of N.H. RSA 421-B:2, IX-a.
- 3. HI and CHH is a broker-dealer and broker-dealer agent within the meaning of N.H. RSA 421-B:2, II and III.
- 4. The Bureau alleges that all violations listed below occurred during the relevant time period.

5. Pursuant to N.H. RSA 421-B:3, it is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly: (a) To employ any device, scheme, or artifice to defraud; (b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or (c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person. CHH, and HI are in violation of this provision for failing to disclose to Investor #1, #2, #3, #4, #5, #6, #7, #8, and #9 (hereinafter collectively referred to as the “Investors”) that CHH was not licensed to provide investment adviser services for a fee, for failing to disclose to the Investors that CHH was barred from association with any investment adviser or investment company by the SEC, and for recommending the purchase of VDC and/or MDU stock while failing to disclose that CHH was being paid by VDC and MDU.

6. Pursuant to N.H. RSA 421-B:4,V, [a] person who is an investment adviser or investment adviser agent is a fiduciary and has a duty to act primarily for the benefit of the person’s clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment adviser and the clients and the circumstances of each case, an investment adviser or investment adviser agent shall not engage in unethical business practices which constitute violations of paragraph I, including the following:
 - (a) Recommending to a client to whom investment supervisory, management, or consulting services are provided the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client’s investment objectives, financial situation and needs, and any other information known by the investment adviser or investment adviser agent;
 - (h) Misrepresenting to any advisory client or prospective client, the qualifications of the investment adviser, investment adviser agent, or any employee of the investment adviser, or misrepresenting the nature of the advisory services being offered or fees to be charged for such services, or omitting to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading;

(k)Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment adviser, investment adviser agent, or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including: (1) Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients or such services.

CHH and HI are in violation of these sections for failing to disclose to advisory clients that they were not properly licensed to give investment advice for a fee and that they had a material conflict of interest in the receipt of fees from the companies VDC and MDU they were recommending to purchase stock in. CHH and HI are in violation of these sections for making unsuitable stock recommendations to Investors #1 and #7 who were conservative investors and not appropriate for the purchase of thinly traded stocks.

7. Pursuant to N.H. RSA 421-B:6, I, it is unlawful for any person to transact business in this state as an investment adviser or investment adviser agent unless such person is licensed under N.H. RSA 421-B or exempt from licensing. CHH and HI are in violation of this provision for providing investment adviser services to the Investors without being properly licensed.
8. Pursuant to N.H. RSA 421-B:6,I, it is unlawful for any person to transact business in this state as a broker-dealer or broker-dealer agent unless such person is licensed under N.H. RSA 421-B or exempt from licensing. CHH and HI are in violation of this provision for trading the accounts of Investors #1, #5, #7 and #9 for a fee without being properly licensed.
9. Pursuant to N.H. RSA 421-B:10, I(a) and (b)(2), the secretary of state may by order bar any license if he or she finds that the order is in the public interest and that the licensee has willfully violated or failed to comply with any provision of this title. CHH and HI are subject to this provision.
10. Pursuant to N.H. RSA 421-B:10, I(a) and (b)(7), the secretary of state may by order bar any license if he or she finds that the order is in the public interest and that the licensee has

engaged in dishonest or unethical practices in the conduct of business in the state of New Hampshire or elsewhere. CHH and HI are subject to this provision.

11. Pursuant to N.H. RSA 421-B:22, IV, in any investigation to determine whether any person has violated or is about to violate this title or any rule or order under this title, upon the secretary of state's prevailing at hearing, or the person charged with the violation being found in default, or pursuant to a consent order issued by the secretary of state, the secretary of state shall be entitled to recover the costs of the investigation, and any related proceedings, including reasonable attorney's fees, in addition to any other penalty provided for under this chapter. CHH, CCH and HI are subject to this provision.
12. Pursuant to N.H. 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. CHH, CCH and HI are subject to this provision and should be ordered to permanently cease and desist from any further violations of N.H. RSA 421-B.
13. Pursuant to N.H. RSA 421-B:26, III, 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. CHH and HI are subject to a fine for all violations of N.H. RSA 421-B:3, 4, 6 and 10.
14. 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, every employee of such person who materially aids in the act or transaction constituting the violation, and every broker-dealer or agent 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. CCH, who self reports in SEC filings as the co-founder and co-manager of HI, is subject to this provision and should be found to be a control person of HI and in violation of N.H. RSA 421-B:3, 6 and 10. Furthermore, where CCH received direct investment advisory fee payments, acted as the bookkeeper for HI, and participated in some advisory activity, CCH knew or in the exercise of reasonable care would have known that CHH and HI were engaged in the giving of investment advice for a fee.

15. Pursuant to N.H. RSA 421-B:26, V, after notice and hearing, the Secretary of State may enter an order of rescission, restitution, or disgorgement directed to a person who has violated N.H. RSA 421-B. CHH, CCH and HI are subject to this provision.

RELIEF REQUESTED

III. The staff of the Bureau makes the following requests for relief in the above-referenced matter as permitted under the Act:

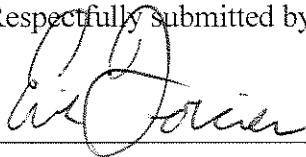
1. Find as fact the allegations contained in section I of the Statement of Allegations of this petition.
2. Make conclusions of law as stated in section II relative to the allegations contained in section I of this petition.
3. Order CHH, CCH and HI to permanently cease and desist from further violations of N.H. RSA 421-B.
4. Order CHH, CCH and HI permanently barred from any securities licensure in the state of New Hampshire, in accordance with N.H. RSA 421-B:10, I.

5. Pursuant to with N.H. RSA 421-B:26, VIII, order CHH, CCH and HI to pay an administrative fine of one hundred and fifty thousand dollars (\$150,000).
6. Pursuant to N.H. RSA 421-B:22, IV, order CHH, CCH, and HI to pay the Bureau's costs of investigation at an amount of fifty thousand dollars (\$50,000).
7. Pursuant to N.H. RSA 421-B: 26, V, order restitution to the Investors in an amount to be determined by the hearing officer.
8. Take such other actions as necessary for the protection of New Hampshire investors and enforcement of N.H. RSA-421-B.

RIGHT TO AMEND

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

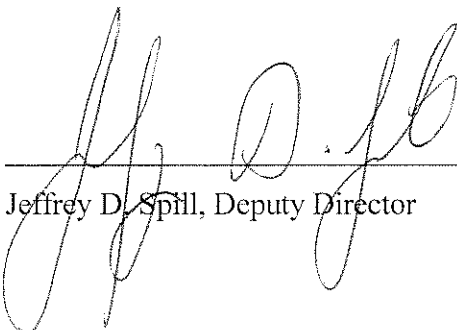
Respectfully submitted by:



Eric A. Forcier, Staff Attorney

5/22/14

Date



Jeffrey D. Spill, Deputy Director

5/22/14

Date