

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

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\_\_\_\_\_)  
**Thomas DeSteph,**\_\_\_\_\_)  
**TDA Advantage Trust**\_\_\_\_\_)  
**and the DeSteph Agency**\_\_\_\_\_)  
\_\_\_\_\_)  
**Respondents**\_\_\_\_\_)  
\_\_\_\_\_)

No. INV.09-0011

**CONSENT ORDER**

- I. For purposes of settling the above-referenced matter and in lieu of further administrative proceedings, Thomas DeSteph, TDA Advantage Trust and the DeSteph Agency (hereinafter referred to as "Respondents"), have submitted an offer of settlement, which the State of New Hampshire, Department of State, Bureau of Securities Regulation (hereinafter referred to as "the Bureau") has determined to accept. Accordingly, the Respondents, without admitting or denying the Bureau's allegations, do hereby consent to the following findings, conclusions, undertakings and sanctions:

**ALLEGATIONS OF FACTS**

1. The DeSteph Agency ("TDA") is a business trade name with a principal office located at, Jaffrey, NH 03452. Thomas DeSteph ("DeSteph") is the sole proprietor. DeSteph and TDA are not and have not been licensed to engage in the securities business in the State of New Hampshire.
2. On or about 2002, Investor #1, of the State of Connecticut, engaged DeSteph and TDA for financial planning advice. As a result of the engagement, DeSteph took Investor #1's 401K monies and placed them in two annuities. Investor #1 also had

one hundred thousand dollars (\$100,000) from an inheritance that Investor #1 wanted to invest and DeSteph touted the TDA Advantage Trust (“AT”), which was touted as a limited partnership designed to make investments and distribute profits to its investors. Following the receipt of this advice, on or about January 2003, Investor #1 gave DeSteph a check for one hundred thousand dollars (\$100,000) made out to AT. In March of 2003, in the State of New Hampshire, DeSteph then issued a promissory note in the amount of one hundred thousand dollars (\$100,000) to Investor #1 memorializing the investment in AT. This promissory note called for periodic monthly payments of interest with the principal to be returned at the end of a five year period. Following the investment, DeSteph used the funds for personnel expenses and other unrelated business expenses. By April 2003, Investor #1’s funds were depleted. DeSteph failed to disclose to Investor #1 that AT was not actually an investment vehicle, but a bank account where DeSteph comingled funds from his insurance business. No monthly payments were made under the promissory note and the principal was not paid back when due.

3. After the note became due in 2008, and no payment was received, Investor #1 filed a complaint with the State of Connecticut. On or about July of 2009, an amended Order to Cease and Desist and for a hearing issued against DeSteph and TDA and a hearing was held on 9/21/2009. On 6/4/2010, the State of Connecticut Banking Commissioner found and ordered that DeSteph and TDA violated Connecticut securities laws, including securities fraud, and ordered them to pay fines and to cease and desist.
4. Investor #1 was induced by DeSteph to invest in TA through statements by DeSteph that the money would be invested. In actuality, the money for the note was placed in a general operating account of DeSteph and TDA and commingled with the funds of TDA and used for general operating and personnel expenses.

5. Following Investor #1's complaint filed in Connecticut, DeSteph filed for Chapter 13 bankruptcy, and on 5/26/2010, Judge Vaughn of the United States Bankruptcy Court District of New Hampshire found that DeSteph committed fraud, and excluded the debt owed to Investor #1 from the bankruptcy as non-dischargeable.

### STATEMENTS OF LAW

1. DeSteph and TDA are "Persons" within the meaning of RSA 421-B:2.
2. The promissory note is a "security" within the meaning of RSA 421-B:2.
3. The distribution of the security listed above constitutes a "sale" within the meaning of RSA 421-B:2.
4. DeSteph acted as an investment adviser with respect to the sale of the promissory note evidencing the investment in AT, pursuant to RSA421-B:2.
5. Pursuant to RSA 421-B:3, it is unlawful 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. DeSteph and TDA violated this section by indicating to Investor #1 that the money for the March 2003 promissory note listed above would be invested and accumulating distributions of interest and principal, and by omitting the actual fact that the money would be deposited in a bank account under the control of DeSteph and TDA, which was used for the general business operations and personal expenses of DeSteph.
6. Pursuant to RSA 421-B:10, the Secretary of State may by order deny or bar any person from licensure if he finds that the order is in the public interest, and that the investment adviser has failed to comply with the securities laws of another state, is subject of an order entered after notice and opportunity for a hearing by

an administrator of another state that reflects that the person has violated the securities laws of another state, or has engaged in dishonest or unethical practices in the conduct of business in this state or elsewhere. DeSteph and TDA are subject to this section.

7. 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. DeSteph and TDA are subject to this section for violations of RSA 421-B:3 and 421-B:10.
8. Pursuant to 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. DeSteph and TDA are subject to a suspension, revocation, or denial, and a fine for a violation of RSA 421-B:3 and 421-B:10.
9. Pursuant to RSA 421-B:26,III-a, every person who directly or indirectly controls a person liable under 421-B:26,III, may upon hearing, and in addition to any other penalty provided for by law, upon hearing, be subject to such suspension, revocation, or denial of any registration or license.

II. In view of the foregoing, the Respondents agree to the following undertaking and sanctions:

1. Respondents agree that that they have voluntarily consented to the entry of this Order and represent and aver that no employee or representative of the Bureau has made any promise, representation or threat to induce their execution.

2. Respondents agree to waive their right to an administrative hearing and any appeal therein under this chapter.
3. Respondents agree to cease and desist from violations under this chapter.
4. Respondents agree to be barred from licensure and from selling securities in New Hampshire.
5. Respondents agree that this Order is entered into for purposes of resolving the matter as described herein. This order shall not be construed to restrict the Bureau's right to initiate an administrative investigation or proceeding relative to conduct by Respondents which the Bureau has no knowledge at the time of the date of final entry of this order.
6. The Respondents may not take any action or make or permit to be made any public statements, (a) denying, directly or indirectly, any allegation in this consent agreement or (b) create the impression that the consent agreement is without factual basis; provided that nothing in this provision affects the Respondent's testimonial rights and obligations or right to take any factual or legal positions in administrative proceedings or in litigation where the Bureau is not a party.

III. Based on the foregoing, the Bureau deems it appropriate and in the public interest to accept and enter into this Order. **THEREFORE, IT IS HEREBY ORDERED THAT:**

1. Respondents cease and desist from further violations of the act.
2. Respondents are barred from securities licensure and from selling securities in New Hampshire.
3. Respondents comply with the above-referenced undertakings.

Executed this 31<sup>st</sup> day of October, 2011.

*DeSteph*

Thomas DeSteph, The DeSteph Agency, TDA Advantage Trust  
Please print name below:

*Thomas DeSteph*

Entered this *1st* day of *Nov.* 2011.

*Joseph R. Long*  
Joseph Long, Director