STATE OF NEW HAMPSHIRE DEPARTMENT OF STATE BUREAU OF SECURITIES REGULATION

IN THE MATTER OF:)
) ORDER TO CEASE AND DESIST
Roland Matatics)
CRD # 4402097) I-211-000012
)
Respondent	,)
	j

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.

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 and order to show cause, 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 respondent, 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 fails to request a hearing on this order within 30 calendar days of receipt of this order, respondent shall be deemed in default, and this order to cease and desist and order of restitution 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 <u>Staff Petition for Relief</u> dated October 17, 2011 (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:

- The Respondent is hereby ordered to immediately cease and desist from the above indicated acts and from in any other way violating RSA 421-B;
- 2. The Respondent shall, in accordance with RSA 421-B:10 and RSA 421-B:26, III pay an administrative fine of \$5000.
- 3. Pursuant to RSA 421-B:10,I, the Respondent is barred from obtaining any securities license and registration privileges in this state, and barred from being affiliated with any licensee, for life. Matatics is further barred for life from owning, either directly or indirectly, any interest in any securities-licensed entity in the State of New Hampshire, or participating in any securities offering in the State of New Hampshire.
- 4. The Respondent shall pay the Bureau's investigation costs, the amount of which shall be determined at the conclusion of this matter.
- 5. 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:

Joseph C. Long, Director N.H. 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:

Roland Matatics, CRD # 4402097

I-2011-000012

STATEMENTS OF FACT

- I. The staff of the Bureau of Securities Regulation, Department of State, State of New Hampshire (hereinafter referred to as the "Bureau") hereby petitions the Director, and makes the following statements of fact:
 - 1. Roland Matatics (hereinafter referred to as "Matatics") was a licensed registered representative with Metlife Securities Inc. since July 27, 2001 and was a licensed insurance producer with Metropolitan Life Insurance Company since September 21, 2001 (hereinafter Metlife Securities Inc. and Metlife Metropolitan Life Insurance Company will be collectively referred to as "Metlife"). Matatics maintained an office at 222 West Street, Keene, NH 03431. Matatics' supervisor at the Keene Metlife office was Duane Morgan. Matatics was terminated on September 29, 2011.
 - 2. Matatics' alleged victim is an eighty-six year old gentleman from Keene, New Hampshire (hereinafter referred to as the "Alleged Victim"). The Alleged Victim has resided in his family home in Keene, New Hampshire for over sixty years with his two sisters (hereinafter collectively referred to as the "Sisters"). The Alleged Victim and his Sisters were clients of Matatics since 2004. The Sisters have since passed away, the first in August of 2007 and the second in September of 2009. The Alleged Victim suffered a fall in early January of 2010 and was hospitalized. He was released from a rehabilitation center in April of 2010 but wound up back in the hospital a short time later. He was subsequently released a second time from a rehabilitation center in June of 2010 and has required 24-hour nursing care ever since.
 - 3. Records from the Dartmouth-Hitchcock Clinic in Keene, New Hampshire establish that the Alleged Victim was experiencing symptoms of dementia as early as January 2010, and that his dementia was being treated with the psychotropic drug Exelon as early as February 2, 2010. The Dartmouth-Hitchcock records further establish that, on August 13, 2010, a board-certified geriatrician examined the Alleged Victim and confirmed that he was suffering from cognitive impairment and dementia. The geriatrician noted that

- the Alleged Victim "lacks sufficient mental capacity to make decisions regarding his healthcare due to declining cognitive function."
- 4. On August 23, 2010, a report was filed against Matatics by the State of New Hampshire, Department of Health and Human Services, Division of Community Based Care, Bureau of Elderly and Adult Services (hereinafter referred to as "Bureau of Elderly and Adult Services" or "BEAS") for alleged misconduct related to an incident involving Matatics writing a ten thousand dollar (\$10,000) check from the Alleged Victim's account for Matatics' daughter's college tuition.
- 5. On August 24, 2010, the BEAS made a referral of this incident to the Keene Police Department (hereinafter referred to as the "KPD"). Shortly thereafter, the KPD's Incident Report states that a detective interviewed Matatics at his Metlife office. The detective states that Matatics characterized his daughter's ten thousand dollar (\$10,000) college tuition check from the Alleged Victim as a "gift" from the Alleged Victim to Matatics for all the help Matatics had provided him. Matatics explained to the KPD detective that he advised the Alleged Victim that he could not take a cash gift from him for the help he was providing because Matatics was his Metlife client, but Matatics further explained that the Alleged Victim could write a check to his daughter's college for tuition. On June 30, 2011, Matatics subsequently wrote out a ten thousand dollar (\$10,000) check from the Alleged Victim's checking account made payable to the University of New Hampshire for the benefit of Matatics' daughter's tuition. While being questioned by the KPD detective, Matatics acknowledged that he wrote the check out and had the Alleged Victim sign it. The check was cashed by the University of New Hampshire and credited to Matatics' daughter's tuition account. Upon pressure from the Alleged Victim's financial power of attorney, Matatics returned the funds to the Alleged Victim.
- 6. On December 21, 2010, after interviewing at least eighteen witnesses, the BEAS concluded that Matatics exploited the Alleged Victim, as defined in RSA 161-F:43, IV. RSA 161-F:43, IV defines exploitation as "the illegal use of an incapacitated adult's person or property for another person's profit or advantage, or a breach of a fiduciary relationship through the use of a person's or a person's property for any purpose not in the proper and lawful execution of a trust, including, but not limited to, situations where a person obtains money, property, or services from an incapacitated adult through the use of undue influence, harassment, duress, deception, or fraud." The BEAS determined that Matatics exploited the Alleged Victim by writing the tuition check from the Alleged Victim's account, having the Alleged Victim sign the check knowing that he had a separate power of attorney for finances and healthcare, was taking dementia medication. as well as cleaning out the Alleged Victim's house with no accounting for the items and cash removed. In May of 2010, before the Alleged Victim was released from the rehabilitation center, Matatics contracted with a cleaning company to clean the Alleged Victim's home. This cleaning was done entirely under the direction of Matatics and the BEAS investigation later revealed that there was missing money and valuable antique furniture after the cleaning.

- 7. On July 15, 2011, Matatics sent a letter to the BEAS requesting reconsideration of the finding of exploitation and requesting a telephone conversation on the matter to be had in the company of his manager, Duane Morgan. The BEAS's Adult Protective Services Administrator called Matatics and Duane Morgan that same day on July 15, 2011. During this conversation, the Adult Protective Services Administrator states that Duane Morgan explained to her that the Alleged Victim would often call Matatics for advice, that the hospital was often calling Matatics at his Metlife office on behalf of the Alleged Victim, and that Matatics essentially became the Alleged Victim's "babysitter."
- 8. On August 30, 2011, the Adult Protective Services Administrator wrote to Matatics explaining that, after reconsideration of the finding of exploitation, the determination stands final. Matatics has since appealed this decision with the New Hampshire Department of Health and Human Services, Administrative Appeals Unit and his appeal is pending.
- 9. At no time did Matatics ever have a financial power of attorney, a healthcare power of attorney or any other legal authority or guardianship over the Alleged Victim.

STATEMENTS OF LAW

- II. 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:
 - 1. Matatics is a 'person' within the meaning of RSA 421-B:2, XVI.
 - 2. Pursuant to RSA 421-B:8, X, persons licensed under this chapter to conduct securities business shall abide by the rules of the Securities and Exchange Commission, National Association of Securities Dealers, national and regional stock exchanges, and other selfregulating organizations which have jurisdiction over the licensee, which set forth standards of conduct in the securities industry. Metlife is a member of FINRA and Matatics was associated with Metlife. As such, Matatics is required to abide by the rules of the Financial Industry Regulatory Authority, Inc. (hereinafter referred to as "FINRA"). FINRA rule 3220(a) states: No member or person associated with a member shall, directly or indirectly, give or permit to be given anything of value, including gratuities, in excess of one hundred dollars per individual per year to any person. principal, proprietor, employee, agent or representative of another person where such payment or gratuity is in relation to the business of the employer of the recipient of the payment or gratuity. A gift of any kind is considered a gratuity. Matatics is in violation of this FINRA rule and corresponding New Hampshire law for receiving, either directly or indirectly, what he characterized as a "gift" of ten thousand dollars (\$10,000) from the Alleged Victim. Accepting such a gift from a client was also in violation of Metlife's employee policy and procedures.
 - 3. Pursuant to RSA 421-B:10, I(a) and (b)(2), the secretary of state may by order bar any person from licensure if he or she finds that the order is in the public interest and that the

person has willfully violated or failed to comply with any provision of this title. Matatics is subject to this provision and he should be barred from licensure for violating RSA 421-b:8, X, noted above.

- 4. Pursuant to RSA 421-B:10, I(a) and (b)(7), the secretary of state may by order bar any person from licensure if he or she finds that the order is in the public interest and that the person has engaged in dishonest or unethical practices in the conduct of business in the state of New Hampshire or elsewhere. Matatics is subject to this provision and he should be barred from licensure for the unethical business practices exhibited by Matatics writing out the ten thousand dollar (\$10,000) check for his daughter's tuition from his clients account and for cleaning out the Alleged Victim's house with no accounting for the items or cash removed.
- 5. Pursuant to RSA 421-B:10, VI, 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. Matatics is subject to this provision.
- 6. 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 or order under this chapter, the secretary of state 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. Matatics is subject to this provision and should be ordered to cease and desist from further violations of RSA 421-B.
- 7. Pursuant to 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. Matatics is 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 Matatics to cease and desist from further violations of RSA 421-B.

- 4. Order Matatics barred from securities licensure in the state of New Hampshire for a period of five years, in accordance with RSA 421-B:10, I.
- 5. Order Matatics to pay an administrative fine of five thousand dollars (\$5,000) for violations of RSA 421-B:8, and RSA 421-B:10, in accordance with RSA 421-B:10, VI, and 421-B:26,VIII.
- 6. Order Matatics to pay the Bureau's costs of investigation at an amount to be determined by the hearing officer.
- 7. Take such other actions as necessary for the protection of New Hampshire investors and enforcement of RSA-421-B.

RIGHT TO AMEND

The Bureau's Staff reserves the right to amend this 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 this NH RSA 421-B or the regulations thereunder.

Respectfully submitted by:

Eric Forcier, Staff Attorney