

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

**CONSENT ORDER**  
**IN THE MATTER OF:**

**James W. Ignatowich, CRD # 2490731**

**I-2014000009**

- I. For purposes of settling the above-captioned matter, and in lieu of further administrative proceedings, James W. Ignatowich (“JWI”) has submitted an offer of settlement, which the State of New Hampshire, Department of State, Bureau of Securities Regulation (the “Bureau”) has determined to accept. Accordingly, without admitting or denying the facts or allegations contained herein, JWI does hereby consent to the entry of this Consent Order and the following undertakings and sanctions:

**THE FACTS**

1. The complainant in this matter is a Manchester, New Hampshire attorney who received an unwanted telephone solicitation from an Investors Capital Corporation (“ICC”, CRD # 30613) agent. During the call, the complainant told the agent that he did not want to receive any further calls from ICC. The complainant received several subsequent calls from ICC.
2. JWI was employed by ICC from December 5, 2008 to March 27, 2014. Prior to working for ICC, JWI worked for First Republic Group, LLC (“First Republic”, CRD # 39781) from October 2, 2000 to December 5, 2008.
3. During JWI’s tenure at First Republic, the Bureau initiated an investigation of the firm based on a complaint the Bureau received from a New Hampshire attorney claiming he had received a violative telemarketing call from an agent of First Republic. During its investigation, the Bureau determined that agents of First Republic, including JWI, engaged in telemarketing practices in violation of firm policies and NASD Rule 2212 (currently FINRA Rule 3230). The Bureau ultimately filed a Staff Petition in the First Republic matter but resolved the matter through a Consent Order prior to hearing. Subsequently, the Bureau determined that First Republic did not comply with the terms

of the Consent Order issued in the matter and moved to revoke First Republic's license to operate as a broker-dealer in the State of New Hampshire. The motion was ultimately granted and First Republic ceased operating soon thereafter. JWI and several other agents of First Republic then moved to ICC. The complainant in the First Republic matter and the complainant in this matter are the same individual.

4. During the course of the Bureau's investigation in this matter, the Bureau was provided with call records from ICC's Greenwich, Connecticut branch office where JWI was most recently employed. In reviewing the call records provided by ICC, the Bureau was able to determine that not only did ICC's Greenwich, Connecticut branch office initiate numerous telemarketing calls to New Hampshire residents on the National Do Not Call Registry during the relevant time period, but several of these calls to the complainant's office were initiated from JWI's office phone.
5. The telemarketing strategy employed by JWI and other agents at ICC's Greenwich, Connecticut office resembled closely those employed by First Republic, which were ultimately the subject of an enforcement action by the Bureau.
6. During the course of its investigation, the Bureau also found that certain information provided by JWI in response to requests from the Bureau was inaccurate and misleading.

#### **THE LAW**

1. ICC is a "person" within the meaning of N.H. RSA 421-B:2, XVI and a "broker-dealer" within the meaning of N.H. RSA 421-B:2, III.
2. JWI is a "person" within the meaning of N.H. RSA 421-B:2, XVI and was, during the relevant time period, an "agent" of ICC within the meaning of N.H. RSA 421-B:2, II.
3. FINRA Rule 3230(a)(2) and (3) state that "no member or person associated with a member shall initiate any outbound telephone call to . . . [a]ny person that previously has stated that he or she does not wish to receive an outbound telephone call made by or on behalf of the member; or . . . [a]ny person who has registered his or her telephone number on the Federal Trade Commission's national do-not-call registry." FINRA Rule 3230(m)(17) defines the term "person" as "any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity."
4. FINRA Rule 3230(a)(3) explains that "no member or person associated with a member shall initiate any outbound telephone call to . . . [a]ny person who has registered his or her telephone number on the Federal Trade Commission's national do-not-call registry."

However, there are three possible exceptions to this restriction under subsection of (b) of the rule:

A member making telephone solicitations will not be liable for violating paragraph (a)(3) if: 1) The member has an established business relationship with the recipient of the call. A person's request to be placed on the firm-specific do-not-call list terminates the established business relationship exception to that national do-not-call list provision for that member even if the person continues to do business with the member; 2) The member has obtained the person's prior express invitation or permission. Such permission must be evidenced by a signed, written agreement between the person and member which states that the person agrees to be contacted by the member and includes the telephone number to which the calls may be placed; or 3) The associated person making the call has a personal relationship with the recipient of the call.

5. Pursuant to N.H. RSA 421-B:8, X, persons licensed under this chapter to conduct securities business shall abide by the rules of the SEC, National Association of Securities Dealers (NASD, now FINRA), 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. JWI is subject to this provision. According to documents produced by ICC and the Bureau's analysis of the information provided, JWI placed telemarketing or sales calls to New Hampshire residents in violation of FINRA Rule 3230. Each call placed in violation of FINRA Rule 3230 is a violation of N.H. RSA 421-B:8, X.
6. Pursuant to N.H. RSA 421-B:19, it is unlawful for any person to make or cause to be made in any document filed under this chapter or in any proceeding under this chapter any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect or, in connection with such statement, 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. JWI is subject to this provision yet the Bureau found, during its investigation, that JWI provided inaccurate and misleading information to the Bureau.
7. Pursuant to N.H. RSA 421-B:26, any person who, either knowingly or negligently, violates any provisions of N.H. RSA 421-B 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. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal penalties imposed pursuant to N.H. RSA 421-B:24 or civil

liabilities imposed pursuant to N.H. RSA 421-B:25. JWI is subject to this provision and may be subject to a \$2,500 administrative fine for each violation outlined herein.

8. 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. JWI is subject to this provision.
9. 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 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. JWI is subject to this provision.

II. In view of the foregoing, JWI agrees to the following undertakings and sanctions:

1. JWI agrees to cease and desist from violating of N.H. RSA 421-B.
2. JWI agrees that this Order is entered into for purposes of resolving only the matter as described herein. This order shall have no collateral estoppel effect in any other lawsuit, proceeding, or action, not described herein. Likewise, this order shall not be construed to restrict the Bureau's right to initiate an administrative investigation or proceeding relative to conduct by JWI which the Bureau has no knowledge at the time of the date of final entry of this order.
3. JWI agrees not to take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any allegation in this Consent Order or create the impression that the Consent Order is without factual basis. Nothing in this provision affects JWI's testimonial obligations or right to take any legal positions in administrative proceedings or in litigation, in which the State of New Hampshire is not a party.
4. JWI agrees to be barred from securities licensure in the State of New Hampshire for a period of nine (9) months from the date of execution of this Consent Order.
5. JWI agrees to never again initiate telemarketing calls to New Hampshire residents or permit any individual or entity to initiate telemarketing calls on his behalf to New Hampshire residents. This would include, but is not limited to telemarketing calls to any telephone number with an area code of 603.

6. JWI agrees, upon execution of this Consent Order, to pay an administrative fine and costs of investigation and enforcement in the amount of Eighty-Seven Thousand Five Hundred Dollars (\$87,500). JWI agrees to pay Ten Thousand Dollars (\$10,000) within seven (7) days of execution of this Order and Two Thousand Five Hundred Eighty-Three Dollars and Thirty-Three Cents (\$2,583.33) received by the Bureau on or before the first of each month thereafter, beginning February 1, 2016, until the remaining balance of the Eighty-Seven Thousand Five Hundred Dollars (\$87,500) is paid in full. Each payment shall be made to the State of New Hampshire, which will be applied to settlement of the above-captioned matter. Payment must be made by 1) business check, certified check, or postal money order; 2) made payable to the State of New Hampshire; and 3) mailed to the Bureau of Securities Regulation, Department of State, State House, Room 204, Concord, New Hampshire, 03301.
7. JWI agrees, at his own expense, to have a lien placed on his real property located in Palm Beach County, Florida, contemporaneous with the execution of this Consent Order, in the amount of Seventy-Seven Thousand Five Hundred Dollars (\$77,500). JWI further agrees that this lien will remain in place until all financial obligations outlined herein are satisfied and represents that the property described herein has equity equal to or greater than Seventy-Seven Thousand Five Hundred Dollars (\$77,500). Additionally, JWI hereby represents that he and his wife, the co-owner of the above-described property, assent to the placement of this lien and agree to execute and file any documentation necessary to effectuate the lien and will, upon filing, provide copies of all such documentation to the Bureau. JWI agrees that the above-described lien will only be discharged upon complete satisfaction of all undertakings contained herein.
8. However, any collection on the above-referenced lien shall be decreased by the amount of payments made to New Hampshire (the Bureau) and the Bureau shall only seek to collect on the remaining balance. The fine and costs in this Order are JWI's in an individual capacity, and upon his death or incapacity, the Bureau agrees to extinguish the lien and agrees the lien shall be in no further force or effect. The remaining balance of the fine and costs (the \$87,500) shall not be an obligation of his estate, and the estate shall have the ability to file the paperwork necessary with the cooperation of the Bureau to claim satisfaction of the lien and to remove the lien from the property.
9. JWI agrees that if timely payment is not made pursuant to this Consent Order, the entire unpaid balance shall become due and payable immediately, at the election of the Bureau. Upon default of any obligations set forth under this Consent Order, JWI authorizes and empowers the Bureau to enter judgment by confession against JWI, in favor of the Bureau, for the amount due plus all costs of collection, including without limitation court costs and reasonable attorney's fees. JWI expressly waives any notice or other process, consents to immediate execution of the judgment, and expressly waives any right to a hearing or appeal.

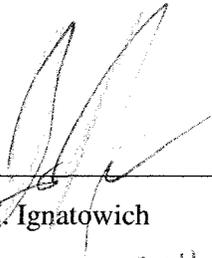
thereunder. JWI also acknowledges that, should he default on any obligations set forth in this Consent Order, he may be subject to a separate enforcement action and additional fines and penalties for violations of the Consent Order.

10. JWI agrees that the fine and costs outlined herein, stem from violations of New Hampshire securities law and, therefore, are non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(19)(A)(i) and (B)(i). JWI agrees not to seek discharge of the fine or costs outlined herein in any future bankruptcy proceeding. The Bureau reserves the right to reopen this matter if payment in full is not received by the Bureau according to the terms of this Consent Order. JWI agrees that the entry of this Order is a judgment, order, consent order, settlement agreement, within the meaning of 11 U.S.C. § 523(a)(19)(B), and that the Bureau has all necessary power and jurisdiction to enter this Order, including a determination of non-dischargeability of all obligations pursuant hereto.
11. JWI agrees that if he does not meet all conditions set forth in this Consent Order, this Order shall be voidable by the Bureau without a hearing and the Bureau may proceed with its enforcement action.

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. JWI shall cease and desist from violating the New Hampshire Securities Act pursuant to RSA 421-B:23.
2. JWI shall pay an administrative fine and the Bureau's costs of investigation in the amount of Eighty-Seven Thousand Five Hundred Dollars (\$87,500) pursuant to the schedule and other terms outlined herein.
3. The fine and costs outlined herein are non-dischargeable in bankruptcy pursuant to § 523(a)(19)(A)(i) and (B)(i).
4. JWI shall be permanently barred from initiating telemarketing calls to any New Hampshire resident, including but not limited to telemarketing calls to any telephone number with an area code of 603.
5. JWI shall be barred from securities licensure, in any capacity, in the State of New Hampshire for a period of nine (9) months from the date of execution of this Consent Order.
6. JWI shall comply with all other undertakings and sanctions outlined herein.

Executed this \_\_\_\_ day of \_\_\_\_\_, 2016.



James W. Ignatowich

Entered this <sup>27<sup>th</sup></sup> 13 day of JAN, 2016.



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