

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

**CONSENT ORDER**

Michael T. Bates

C-201500002

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

**STATEMENT OF FACTS**

1. Bates currently resides in Salem, New Hampshire. Bates has never been licensed as a securities professional in any capacity in the State of New Hampshire or elsewhere. The Bureau commenced an investigation of Bates in February 2015 after the Bureau received a complaint that generally alleged that Bates was investing money on behalf of others, not adhering to his projections, and not providing information about where funds were being invested. On August 25, 2009 Bates registered Katopher, LLC (hereinafter “Katopher”) with the State of New Hampshire, Department of State, Corporation Division. According to Katopher, LLC’s Certificate of Formation, the primary business purpose of Katopher was “Management, Consulting, Trading and Option Trading, Public Speaking, Coordination.”
2. Investor #1 is from Manchester, New Hampshire. In March 2010 Investor #1 invested twenty-five thousand dollars (\$25,000) with Bates into an investment club run through

Katopher. On May 7, 2010, Investor #1 received a distribution from Bates totaling one thousand, one hundred and seventy-five dollars (\$1,175). By the end of July 2010, Bates represented to Investor #1 that all of his funds were lost. In September 2010 Investor #1 invested an additional fifteen thousand dollars (\$15,000) with Bates. Investor #1's total losses are thirty-eight thousand, eight hundred twenty-five dollars (\$38,825).

3. Investor #2 is from Windham, New Hampshire. In late June 2010, Investor #2 invested ten thousand dollars (\$10,000) with Bates into what Investor #2 believed was the investment club run by Bates through Katopher. Bates lost all of Investor #2's funds within a few weeks of receipt but continued to represent to Investor #2 that his funds were growing. Investor #2 did not receive any distributions or a return of his principal investment.
4. In its investigation, the Bureau determined that Bates made several material misrepresentations and omissions in connection with the sale of a security to Investor #1 and Investor #2, including but not limited to, misrepresenting that the investments would be matched by at least two additional investors, there would be monthly board meetings amongst investment club members, and misrepresentations as to how the investment club would operate. The Bureau also determined that Bates misappropriated investor funds, misled Investor #1 and Investor #2 as to what products were being purchased by the investment club, and made false statements as to the performance of the investment club.

#### STATEMENTS OF LAW

1. Bates is a "person" within the meaning of N.H. RSA 421-B:2, XVI.
2. The investors' participation in the investment club constitutes a "sale" or "offer to sell" within the meaning of N.H. RSA 421-B:2, XIX and the investment product offered is an "investment contract" as defined by N.H. RSA 421-B:2, IX-c.
3. 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, to employ any device, scheme, or artifice to defraud or 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. Bates is in violation of this provision for several material misrepresentations and omissions in connection with the sale of a security to Investor #1 and Investor #2, as described above.

4. 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. Bates is subject to this provision.
5. 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. Bates is subject to this provision.
6. Pursuant to N.H. RSA 421-B:23, I(a), 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. Bates is subject to this provision.
7. 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. Bates is subject to this provision.

8. 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 certain provisions of N.H. RSA 421-B. Bates is subject to this provision.

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

#### UNDERTAKINGS AND SANCTIONS

1. Bates agrees that he voluntarily consented to the entry of this Consent Order and represents and avers that no employee or representative of the Bureau has made any promise, representation, or threat to induce his execution.
2. Bates agrees to waive his right to an administrative hearing and any appeal thereof under N.H. RSA 421-B.
3. Bates agrees that this Consent Order is entered into for the purpose of resolving only the matter as described herein. This Consent Order shall not be construed to restrict the Bureau's right to initiate an administrative investigation or proceeding relative to conduct by Bates which the Bureau has no knowledge of at the time of the date of the final entry of this Consent Order.
4. Bates may not 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 contained in this Consent Order or create the impression that the Consent Order is without factual basis. However, nothing in this provision affects Bates' testimonial obligations or right to take contrary legal or factual positions in litigation or other legal proceedings in which the State of New Hampshire is not a party, but not including the non-dischargeability penalties discussed in undertaking number 8 below.

5. Bates agrees to permanently cease and desist from further violations of N.H. RSA 421-B, pursuant to N.H. RSA 421-B:23.
6. Bates agrees to a permanent bar from any securities licensure in any capacity in the State of New Hampshire.
7. Bates agrees to pay a fine of ten thousand dollars (\$10,000) and costs of investigation of five thousand dollars (\$5,000). Bates also agrees to pay restitution to Investor #1 totaling twenty-six thousand, two hundred and fifty dollars (\$26,250) and restitution to Investor #2 totaling eight thousand, seven hundred and fifty dollars (\$8,750). Bates agrees to make periodic payments every month until the entire balance of restitution, fine, and costs is paid. Payment shall be made by United States postal money order, certified check, bank cashier's check, or bank money order. The funds shall be made payable to the State of New Hampshire and be hand delivered or mailed to the Bureau of Securities Regulation, Department of State, State House Room 204, Concord, NH 03301. Until all outstanding restitution, fine, and cost recovery are paid in full, Bates shall inform the Bureau of any change of address within thirty (30) days of moving. Bates agrees to pay five thousand dollars (\$5,000) by February 1, 2016, ten thousand dollars (\$10,000) on March 1, 2016, and five thousand dollars (\$5,000) per month thereafter until all the fines, costs, and restitution contained herein are paid in full. Payment shall be received by the Bureau by the first of each month.
8. Bates acknowledges that the fine, costs, and restitution payments as outlined herein are non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(19)(A)(i) and (B)(i). Bates agrees not to seek discharge of the restitution, fine, or cost payments 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. The Bureau agrees, however, to make a reasonable and good-faith attempt to resolve any untimely payment prior to reopening this matter. Specifically, the Bureau agrees to send

Bates a notice of any delinquent payment, via first class mail with return receipt requested, at least five business days prior to reopening the matter. The Bureau shall not reopen the matter if it receives the delinquent payment within that five-day period. Bates 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.

9. Bates agrees that if any periodic payment under this Consent Order is not paid when due, the entire unpaid balance shall become due and payable immediately, at the election of the Bureau. The Bureau agrees, however, to make a reasonable and good-faith attempt to resolve any untimely payment (i.e. through the notice procedure noted above in Undertaking #8) prior to accelerating the due date for the balance then owed. Failure to resolve any untimely payment, after a reasonable and good faith attempt to resolve the untimely payment by the Bureau, shall be considered a default of this Consent Order. The Bureau shall provide Bates with timely notice of the default and the commencement of any default proceeding(s) initiated by the Bureau via first class mail, return receipt requested, to the last known address provided by Bates to the Bureau. Upon such default, and the provision of notice required above, Bates authorizes and empowers the Bureau to enter judgment by confession in the administrative forum against Bates, in favor of the Bureau, for the amount due under this Consent Order (less all amounts paid to the Bureau at the time of the default) plus all reasonable costs of collection, including without limitation reasonable investigative costs and costs of enforcement. Notwithstanding any consent to judgment, Bates reserves the right to contest the Bureau's allegations, as to both damages and liability, to the extent the Bureau reopens this matter and seeks damages above and beyond the settlement amount.
10. If Bates does not meet any obligation or condition set forth under this Consent Order, this Order shall be voidable by the Bureau and the Bureau may proceed with its enforcement action. Bates 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. If the Bureau is victorious in any enforcement

action brought under this paragraph, the amount of the resulting award shall be reduced by the amount that Bates has already paid to the Bureau at the time of the award.

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

1. Bates permanently cease and desist from further violations of N.H RSA 421-B, pursuant to N.H. RSA 421-B:23;
2. Bates be permanently barred from any securities licensure in any capacity in the State of New Hampshire as presently codified in N.H. RSA 421-B;
3. Bates pay restitution to Investor #1 totaling twenty-six thousand, two hundred and fifty dollars (\$26,250) and restitution to Investor #2 totaling eight thousand, seven hundred and fifty dollars (\$8,750), as outlined in Undertaking #7 above;
4. Bates pay a fine of ten thousand dollars (\$10,000) and costs of investigation of five thousand dollars (\$5,000), as outlined in Undertaking #7 above;
5. The restitution and fines ordered are non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(19)(A)(i) and (B)(i); and
6. Bates comply with all other Undertakings outlined above.

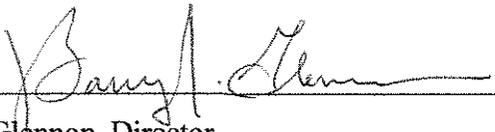
**SO ORDERED.**

Executed this 23 day of JANUARY, 2016



Michael T. Bates

Executed this 11<sup>th</sup> day of February, 2016

  
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Barry Glennon, Director