

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

IN THE MATTER OF:

**Daniel Olivier,
Respondent**

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) **ORDER TO CEASE AND DESIST**
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) **COM2019-0006**
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NOTICE OF ORDER

This Order commences an adjudicative proceeding under the provisions of RSA 421-B:6-613.

LEGAL AUTHORITY AND JURISDICTION

Pursuant to RSA 421-B:6-604(a), 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:5-508, any person who willfully violates a cease and desist order issued pursuant to RSA 421-B:6-603 or RSA 421-B:604, or who violates RSA 421-B:5-505 knowing that the statement was false or misleading in any material respect, shall be guilty of a class B felony.

Pursuant to RSA 421-B:6-604(d), the Secretary of State has the authority to impose administrative penalties of up to \$2,500 for a single violation.

Pursuant to RSA 421-B:6-604(e) the Secretary of State may order rescission, restitution or disgorgement for violations of this chapter.

Pursuant to RSA 421-B:6-604(g), the Secretary of State may charge the actual cost of an investigation or proceeding for a violation of this chapter or an order issued under this chapter.

NOTICE OF RIGHT TO REQUEST A HEARING

The above named respondent has 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 respondent, or by the duly authorized agent of the above named respondent, 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: 6-604(b), within 15 days after receipt of a request in a record from the respondent, the matter will be scheduled for a hearing. If a Respondent subject to the order does not request a hearing and none is ordered by the secretary of state within 30 days after the date of service of the order, the order becomes final as to that Respondent. If a hearing is requested or ordered, the secretary of state, after notice of and opportunity for hearing to the respondent subject to the order, may modify or vacate the order or extend it until final determination. If the respondent to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, such respondent shall be deemed in default, and the proceeding may be determined against him or her upon

consideration of the cease and desist order, the allegations of which may be deemed to be true.

STATEMENT OF ALLEGATIONS

The allegations contained in the Staff Petition for Relief dated December 10, 2019, (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, therefore:

It is hereby **ORDERED**, that:

1. 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. Respondent shall pay restitution to Investor #1 as set forth in the Bureau's Staff Petition for Relief in the amount of \$24,900.
3. Respondent shall pay an administrative fine of \$45,000.
4. Respondent shall pay the Bureau's costs of investigation in the amount of \$10,000.
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 and other relief described herein being imposed upon the defaulting respondent.

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

Dated: 12-13-19

A handwritten signature in black ink, appearing to read "Barry J. Glennon", written over a horizontal line.

BARRY J. GLENNON, DIRECTOR,
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:

Daniel Olivier
COM2019-0006

- 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:

STATEMENTS OF FACT

1. Daniel Olivier (hereinafter "Olivier") resides in Lancaster, New Hampshire. In 2017, Olivier befriended the complainant in this matter, Investor #1, who resides in St. Johnsbury, Vermont. At the time of these events, both Olivier and Investor #1 resided in Lancaster, New Hampshire. Over the course of several months from at least November 2017 to April 2018, Olivier built trust in Investor #1 through the common bond of religious beliefs. Olivier and Investor #1 became friends and socialized together and talked about their common religious beliefs. At times they would pray together and when communicating would thank the Lord for bringing them together as friends. At times Investor #1, knowing that Olivier was a family man with young children would expend his own money to help Olivier. For example, Olivier's family vehicle broke down and Investor #1 helped Olivier fix the vehicle by providing money and the means to fix it. As a return favor, Olivier told Investor #1 in about December 2017 that he was very successful trading in the securities markets and made money every month. In about December 2017, Olivier suggested to Investor #1 that he would pay him back for the vehicle repair by investing his money in options trading.

2. On January 23, 2015, Olivier had opened a trading account at TD Ameritrade. Olivier also used the TD Ameritrade account for check writing, check deposit, wire transfers and debit withdrawals. Over the course of five months from December 2017 to April 2018, Olivier received about twenty-four thousand nine-hundred dollars (\$24,900) from Investor #1 to invest in Olivier's securities trading. See Table 1 below. The investment money was turned over to Olivier over the course of the five months based on the false representations of Olivier that the money would be invested and that Olivier would make money trading securities and that Olivier was making money trading options. In actuality Olivier was not making money and all of Investor #1's money was lost either through the securities trading or through unauthorized debit withdrawals for the purchase of items of a personal nature for Olivier.

Table 1.

Date	Source: First Interstate Bank	Source: Ideal Credit Union	Source: Community National Bank	Type/Amount
12/22/2017			X	Cash/\$500
12/22/2017				Cash/\$900
1/22/2018		X		Cash/\$500
1/22/2018	X			Cash/\$200
1/22/2018	X			Cash/\$300
1/22/2018	X			Cash/\$500
1/22/2018	X			Cash/\$500
1/22/2018		X		Cash/\$500
1/23/2018	X			Cash/\$500
2/13/2018		X		Cash/\$500
2/13/2018	X			Cash/\$500
2/13/2018	X			Cash/\$500
2/27/2018	X			Check/\$8750
2/28/2018	X			Check/\$8750

4/2/2018	X			Check/\$1500
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3. Olivier defrauded Investor #1 out of his investment money by employing a scheme to defraud, by use of material misrepresentation and omission, and by engaging in an act or practice that operated as a fraud or deceit upon Investor #1. There are three primary ways in which Olivier defrauded Investor #1. First, Olivier represented to Investor #1 that he was successful trading securities and that he made money every month. In actuality this was false. The Olivier TD Ameritrade trading account was opened on about January 23, 2015. During many months of the accounts history prior to December 2017 there was little if any securities trading taking place. In the months that there was trading, many months netted a loss. When Olivier recommended trading to Investor #1 in about December 2017, the year-to-date securities trading had a net loss of over six thousand dollars. Second, at times when Investor #1 gave Olivier money to invest, not all the investment money was deposited into the TD Ameritrade account. For example, in January 2018, Investor #1 gave Olivier three thousand dollars to invest withdrawn on his account at First Interstate Bank. Only twenty-eight hundred dollars of that money was deposited into the TD Ameritrade account on January 23, 2018. Third, on February 13, 2018, Olivier texted Investor #1 and stated that the TD Ameritrade account had increased in value to seventy-three hundred dollars (\$7,300). In actuality, that day, it was no higher than one-thousand two-hundred seventy-eight dollars and thirty-three cents (\$1,278.33). Again on April 9, 2018, Olivier texted Investor #1 and stated that the TD Ameritrade account was down to twenty thousand dollars (\$20,000). In actuality the account balance that day was no higher than one thousand three hundred seventy-three dollars and ten cents (\$1,373.10). Olivier's false and misleading text messages touted favorable trading which lead Investor #1 to keep adding to his investment money with Olivier and lead to greater investment losses for Investor #1 and the unauthorized use of his money for Olivier's personal expenses.

4. On September 20, 2019, Olivier's testimony was taken at the Bureau. Key questions were posed to Olivier regarding whether Olivier lied to Investor #1 regarding the status of his investment money placed with Olivier. Olivier asserted his Fifth Amendment privilege to

remain silent. An adverse inference may be drawn from that.

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, N.H. RSA 421-B, and regulations thereunder:

1. Olivier is a “person” within the meaning of N.H. RSA 421-B:102(39)
2. The agreement between Investor #1 and Olivier for the money of Investor #1 to be invested by Olivier into Olivier’s TD Ameritrade account for the purpose of securities trading and making a profit for Investor #1 was an investment contract and a security as defined by RSA 421-B:102(29)(A).
3. Pursuant to RSA 421-B:5-501(a), it is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly: (1) To employ any device, scheme, or artifice to defraud; (2) 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 (3) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person. Olivier violated this section by misrepresenting and omitting material facts to Investor #1, by employing a scheme to defraud, and by engaging in an act or practice that operate as a fraud or deceit upon Investor #1.
4. Pursuant to RSA 421-B:6-604(d), in a final order, the secretary of state may impose a civil penalty up to a maximum of \$2,500 for a single violation. In addition, every such person who is subject to such civil penalty, upon hearing, and in addition to any penalty provided by law, be subject to such suspension, revocation, or denial of any registration or license, or be barred from registration or licensure. Olivier is subject to this provision and should be fined up to \$2,500 for each and every fraudulent inducement of investment money transfer perpetrated on Investor #1 by Olivier and be barred from any further securities business.
5. Pursuant to RSA 421-B:6-604(a), if the secretary of state determines that a person has, is, or is about to materially aid in an act, practice, or course of business constituting a violation of this chapter, the secretary of state may issue an order directing the person to cease and desist from engaging in an act, practice, or course of business or to take other action necessary or appropriate to comply with this chapter. Olivier is subject to this

section and should be required to cease and desist from engaging in the conduct as described in the Statements of Fact for violations of RSA 421-B:5-501.

6. Pursuant to RSA 421-B:6-604(e), the secretary of state can order Respondent to pay restitution to Investor #1 in the amount of twenty-six thousand one-hundred dollars (\$26,100.00). Olivier is subject to this provision.
7. Pursuant to RSA 421-B:6-604(g), in any investigation to determine whether any person has violated any rule or order under this title, the secretary of state shall be entitled to recover the costs of the investigation. Olivier is subject to this provision and should be ordered to pay the Bureau's costs.

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 Statements of Fact 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 Olivier to permanently cease and desist from further violations of N.H. RSA 421-B:6-604.
4. Pursuant to RSA 421-B:6-604 impose an order of restitution of twenty-four thousand nine-hundred dollars (\$24,900) plus interest at the legal rate against Olivier to be paid to Investor #1.
5. Order Olivier permanently barred from any securities business, licensure and securities registration in the State of New Hampshire, in accordance with N.H. RSA 421-B.
6. Pursuant to N.H. RSA 421-B:6-604, order Olivier to pay an administrative fine of forty-five thousand dollars (\$45,000).

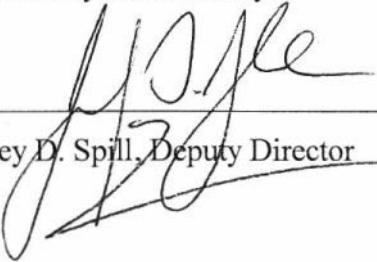
7. Pursuant to N.H. RSA 421-B:6-604, order Olivier to pay the Bureau's costs of investigation in an amount of ten thousand dollars (\$10,000).

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 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:



Jeffrey D. Spill, Deputy Director

12/10/19

Date