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

| | | |
|---|---|---|
| **IN THE MATTER OF:** | ) | |
| | ) | |
| **Peter A. Bill** | ) | **ORDER TO CEASE AND DESIST** |
| **Scanwood Limited Incorporated** | ) | |
| | ) | |
| **and** | ) | **COM2018-0002** |
| | ) | |
| **AOS, Inc.** | ) | |
| | ) | |
| **Respondents** | ) | |
| | ) | |

**Whereas,** the Bureau of Securities filed a Staff Petition for Relief in the above captioned matter on June 19, 2019, and

**Whereas**, an Order to Cease and Desist was issued on June 25, 2019, and,

**Whereas**, the Bureau has filed an **amended** Staff Petition for Relief dated November 7, 2019, a copy of which is attached, and

**Whereas**, finding that the allegations contained in the amended Staff Petition, if proved true and correct, form the legal basis of the relief requested, therefore:

It is hereby **ORDERED**, that:

1. Respondents are hereby ordered to continue to cease and desist from the above indicated acts and from in any other way violating RSA 421-B.
2. Respondent Peter Bill and Scanwood are prohibited from engaging in the purchase or sale of any option contract not currently in any customer account, or the purchase of any inverse or leveraged Exchange Traded Fund..
3. Respondents shall jointly and severally pay restitution to Investor #1, Investor #2, and Investor #3 as set forth in the Bureau's amended Staff Petition for Relief.

4. Respondents shall jointly and severally pay an administrative fine of $2,500 per violation and investigation costs to be determined by the Hearing Examiner
5. Respondents are subject to registration and licensure suspension, revocation or bar in the State of New Hampshire, to be determined by the Hearing Officer.

SIGNED,
**WILLIAM M. GARDNER**
Secretary of State
By His Designee:

Dated: 11-8-19

**BARRY J. GLENNON**, Director
N.H. Bureau of Securities Regulation

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

**AMENDED STAFF PETITION FOR RELIEF**
**IN THE MATTER OF:**

| | |
|---|---|
| **Peter A. Bill**<br>**Scanwood Limited Incorporated**<br><br>**and**<br><br>**AOS, Inc.**<br><br>**Respondents** | **No. COM.2018-0002** |

I. The staff of the Bureau of Securities Regulation, Department of State, State of New Hampshire (the "Bureau") hereby petitions the Director amending the petition dated 6/19/2019, and makes the following statement of facts:

**STATEMENT OF FACTS**

1. Peter A. Bill (hereinafter "PB") was a licensed broker-dealer agent for AOS, Inc. (CRD number 128605 dba Tradingblock and Moneyblock (hereinafter "AOS")) starting in January 2015 and terminating in November 2017. PB's CRD number is 825738. From December 2007 to the present, PB also is the owner and principal of Scanwood Limited Incorporated (hereinafter "Scanwood"), a New Hampshire licensed investment adviser firm located at 18 Mt. Forist Street, Berlin, New Hampshire 03570. Scanwood's CRD number is 145223. PB was and is also a New Hampshire licensed investment adviser representative for Scanwood.

2. Initially, Investor #1 called the Bureau, in or about January 2018, to complain about PB and Scanwood. Investor #1 is a widowed, retired elderly resident of North Stratford, New Hampshire and has been a retail brokerage and advisory customer of PB and Scanwood since the 1990s when Investor #1's husband (now deceased) placed his pension and savings with PB and PB placed approximately three hundred twenty-six thousand dollars ($326,000) into to two Polaris Variable Annuities. Investor #1's husband passed away in December 2000, and the two Polaris Variable Annuities paid a death benefit to Investor #1 in the amount of approximately four hundred five thousand dollars ($405,000). Then in 2001, PB rolled the Polaris death proceeds into two ING Variable Annuities combined with money from Investor #1's savings totaling approximately six hundred forty-two thousand dollars ($642,000). In 2008, PB switched Investor #1 into two Midland National Life Variable Annuities totaling approximately seven hundred twenty-eight thousand dollars ($728,000). Investor #1 started receiving the guaranteed income for life benefit from the two Midland annuities right away. Approximately two hundred twenty-five thousand dollars ($225,000) of combined payout over time was used to fund a brokerage account at BrokersXpress starting in April 2008 for Investor #1, who was at the time 70 years old. PB traded that account on a discretionary basis. Then in August 2012, PB changed broker-dealers to TD Ameritrade and transferred Investor #1's brokerage account accordingly. Then in January 2015, PB changed broker-dealers yet again and transferred Investor #1's brokerage account to AOS.

3. When Investor #1 was at age 76, PB listed her risk tolerance on the AOS account opening form as "medium" with experience of 1 year for options, 0 years for futures, 0 years for bonds, and 20 years for stocks. Upon information and belief, Investor #1 is an unsophisticated retail investor and did not have any experience or knowledge about trading options or inverse and leveraged exchange traded funds. Her investment objectives are listed as capital appreciation (high risk, capital growth invested primarily in stocks and options). The time horizon is listed as four to seven years. The account was closed out in January 2018 when Investor #1 complained to the Bureau.

4. The Bureau retained an expert who analyzed Investor #1's account for the time period of August 11, 2010 to January 2, 2018, prepared a report of his findings, and reviewed the transcript of PB's testimony before the Bureau on January 16, 2019. In addition to Investor #1, the Bureau's expert prepared a report of his findings related to PB's trading activity in the accounts of Investors #2 and #3. The expert calculated the losses in Investor #1's account attributable to the option trading described herein to be about sixty-five thousand three-hundred eighteen dollars and ninety-eight cents ($65,318.98), the losses in Investor #2's account, attributable to excessive trading described herein, to be about eighteen thousand three-hundred thirty-two dollars and thirty-eight cents ($18,332.38), and the losses in Investor #3's account, attributable to the excessive trading described herein, to be about eight-thousand six hundred ninety-two dollars and twenty-six cents ($8,692.26). Further, the Bureau's expert reviewed the trading in the following 81 client accounts of PB, which includes Investors #1, #2, and #3 (collectively referred to as "All Client Accounts"):

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xxxx9631
xxxx9701
xxxx9819
xxxx9977
xxxx9810
xxxx9823
xxxx9968
xxxx9837
xxxx0292
xxxx0348
xxxx0717
xxxx1680
xxxx1510
xxxx2636
xxxx3457
xxxx8622
xxxx9021
xxxx8877
xxxx8774
xxxx8860
xxxx9371
xxxx9368
xxxx9478
xxxx8773
xxxx9413
xxxx8802
xxxx9329
xxxx9436
xxxx9466
xxxx9643
xxxx9750
xxxx9742
xxxx8849
xxxx9476
xxxx9005
xxxx9764
xxxx9893
xxxx9953
xxxx9363
xxxx9473
xxxx9481
xxxx9682
xxxx9783
xxxx9950
xxxx9711
xxxx9712
xxxx9892
xxxx8879
xxxx9816
xxxx0347
xxxx0448
xxxx0965
xxxx9424
xxxx2381
xxxx3154
xxxx4938
xxxx8904
xxxx9327
xxxx8690
xxxx8821
xxxx9370
xxxx9417
xxxx9441
xxxx8608
xxxx9364
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xxxx9426

## Excessive Trading

5. The Bureau determined that, to the detriment of Investor #1's account, PB's trading scheme involved excessive trading in her account from August 11, 2010 to January 2, 2018 with an annualized turnover ratio of 6.24 (excluding cash holdings). The cost-to-equity ratio was determined to be 4.90% during this time period (excluding cash holdings). While with AOS since in or about January 2015, Investor #1's account had an annualized turnover ratio of 6.64 and a cost-to-equity ratio of 14.09% (excluding cash holdings). Generally, a turnover ratio of six indicates excessive trading. Pinchas, 1999 SEC LEXIS 1754 at 17. A cost-to-equity ratio of 14.09% means that the account would have to earn 14.09% just to break even.

6. PB excessively traded the accounts of Investor #2, an elderly man from Berlin, New Hampshire. Specifically, in three accounts from February 2015 to November 2017 Investor #2 had a turnover ratio of 4.66 and a cost-to-equity ratio of 23.46% (excluding cash holdings). PB also excessively traded the accounts of Investor #3, an elderly woman from Berlin, New Hampshire. Specifically, in two accounts from February 2015 to November 2017, Investor #3 had a turnover ratio of 6.14 and a cost-to-equity ratio of 30.11%.

## Leveraged and Inverse ETF Trading

7. Exchange-traded funds ("ETFs") are registered investment companies whose shares represent an interest in a portfolio of securities that track an underlying benchmark or index. ETFs are highly complex and are unlike traditional mutual funds since they trade throughout the day at market prices as opposed to traditional mutual funds that are priced at the end of each trading day based on net asset value. Inverse and leveraged ETFs have different performance objectives than regular ETFs. Regular ETFs track the underlying index or benchmark whereas inverse and leveraged ETFs are designed to reach their stated performance objectives on a daily basis. Inverse ETFs seek to deliver the opposite of the performance of the index or benchmark they track. Inverse ETFs are marketed as a way to profit in a declining market. Since inverse and leveraged ETFs seek to achieve their performance on a daily basis, their performance over longer periods of time, such as weeks, months or years, can have significantly different results. This negative effect can be made worse in a volatile market. Large losses can accrue through what's known as "compounding". Compounding occurs when the price of inverse and leveraged ETFs drop over a number of days and the losses compound rather than track the index or benchmark. Therefore, inverse and leveraged ETFs are unsuitable for retail investors who cannot sustain the high risk of loss and who are better suited for a buy and hold strategy. Financial Industry Regulatory Authority ("FINRA") Regulatory Notice 09-31 explains that inverse and leveraged ETFs, "[d]ue to the effects of compounding, their performance over longer periods of time can differ significantly from their stated daily objective" and "inverse and leveraged ETFs that are reset daily typically are unsuitable for retail investors who plan to hold them for longer than one trading session, particularly in volatile markets."

8. The Bureau determined that, to the detriment of Investor #1's account, PB's trading scheme included improper trading of leveraged and inverse ETFs by holding positions in these funds beyond a single trading day, demonstrating that PB was not aware of basic, material facts which determine the particular risks and likely returns of those types of investments.

**Options Trading**

9. During the on the record testimony of PB on January 16, 2019, when asked why PB engaged in the put and call options trading in his customer accounts, he testified that his options strategy had a 70 to 80 percent chance of being successful. When asked what the benefit of the trading was, PB stated that the customer would retain the options contract premiums when the contracts expired as worthless. However, PB's heavy options trading scheme was erratic and costly substantially reducing the chance for any profit and success for the clients.

10. The Bureau determined that, to the detriment of Investors #1's, #2's, #3's accounts, PB engaged in erratic and costly trading of options on leveraged and inverse ETFs, on ETNs, and on individual stocks, demonstrating a lack of understanding of option trading basics which was also made evident by PB's on the record under oath statement to the Bureau.

11. PB engaged in the same erratic and costly options trading scheme on leveraged and inverse ETFs, on ETNs, and on individual stocks across All Clients Accounts.

**Supervision**

12. AOS had supervisory compliance procedures and policies in place that are supposed to be designed to supervise the conduct of its agents and prevent the type of fraudulent trading that occurred in All Client Accounts. AOS's compliance manuals address this requirement in section 7 on transaction processing. All transactions must be sent to the home office for execution, review and approval. According to the procedure, suitability reviews should be conducted by principals who will approve or reject representative recommendations and determine if they meet stated investment objectives. Excessive trading is prohibited and turnover ratio and in-and-out trading are factors in determining excessive trading. Particularly, since PB was in an advisory relationship with his clients, purchase and exchange of securities should have been in the best interest of the customers. According to the compliance procedures, there should be special care taken when making trades for seniors. Trading reports are to be reviewed for excessive trading. Had AOS followed its own compliance procedures and policies, AOS would have discovered the violative trading by PB. AOS failed to fulfill its supervisory and compliance obligations with respect to All Customer Accounts.

## STATEMENTS OF LAW

II. The unlawful conduct described in this Staff Petition spans the "relevant time period" January 2015 to January 2018. 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 in effect both before and after the reenactment of RSA 421-B effective January 1, 2016:

1. PB, Scanwood and AOS are "persons" within the meaning of RSA 421-B:2, XVI (prior to January 1, 2016) and RSA 421-B:1-102(39) (on or after January 1, 2016).

2. AOS is a broker-dealer within the meaning of RSA 421-B:2, III (prior to January 1, 2016) and RSA 421-B:1-102(6) (on or after January 1, 2016).

3. Scanwood is an investment adviser within the meaning of RSA 421-B:2, IX (prior to January 1, 2016) and RSA 421-B:1-102(26) (on or after January 1, 2016).

4. PB is a broker-dealer agent of AOS within the meaning of RSA 421-B:2, II (prior to January 1, 2016) and RSA 421-B:1-102(3) (on or after January 1, 2016).

5. PB is an investment adviser representative of Scanwood within in the meaning of RSA 421-B:2, IX-a (prior to January 1, 2016) and RSA 421-B:1-102(27) (on or after January 1, 2016).

6. Pursuant to RSA 421-B:3-a (prior to January 1, 2016) and RSA 421-B:5-501(b) (on or after January 1, 2016), in recommending to a customer the purchase, sale or exchange of a security, a broker-dealer or broker-dealer agent must have reasonable grounds for believing that the recommendation is suitable for the customer. PB, Scanwood, and AOS violated these provisions as to Investor #1, Investor #2 and Investor #3.

7. Pursuant to RSA 421-B:3 (prior to January 1, 2016) and RSA 421-B:5-501(a) (on or after January 1, 2016), 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. It constitutes a device, scheme, or artifice to defraud within the meaning of this section for any person to induce excessive trading in a customer's account as to Investor #1, Investor #2 and Investor #3. PB, Scanwood and AOS violated this section by engaging in excessive trading.

8. Pursuant to RSA 421-B:4(V)(a) (prior to January 1, 2016) and RSA 421-B:5-502(2) (on or after January 1, 2016), fraud involving investment advice, a person who is an investment adviser or a investment adviser representative is a fiduciary and has a duty to act primarily for the benefit of the person's clients. While the extent and nature of

this duty varies according to the nature of the relationship between an investment adviser and the clients and the circumstances of each case, an investment adviser or investment adviser representative shall not engage in unethical business practices which constitutes violations of subsection (a) including the following: [r]ecommending to a client to whom investment consulting services are provided the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser or investment adviser representative. AOS, Scanwood and Bill violated this section by engaging in erratic and costly option trading in All Client Accounts substantially reducing the chance for any profit and success for the clients.

9. Pursuant to RSA 421-B:8, X (prior to January 1, 2016) and RSA 421-B:4-406(k) (on or after January 1, 2016), persons licensed under RSA 421-B to conduct securities business shall abide by the rules of the Securities and Exchange Commission and other self-regulating organizations (e.g., FINRA) which have jurisdiction over the licensee, which set forth standards of conduct in the securities industry. PB and AOS violated this provision in All Client Accounts for failing to abide by FINRA Rule 2010 Standards of Commercial Honor and Principles of Trade, Rule 3110 Supervision, and Rule 2111 Suitability.

10. RSA 421-B:10, I(a) and (b)(2) (prior to January 1, 2016) allows the secretary of state to deny, suspend, or revoke any license or application if he finds that it is in the public interest and that the applicant or licensee has willfully violated or failed to comply with any provision of RSA 421-B, or the Securities Act of 1933, the Securities Exchange Act of 1934, or any rule under any of such statutes. PB, Scanwood, and AOS are subject to this provision, and their licenses should be suspended or revoked for violating the provisions of RSA 421-B for All Client Accounts.

11. Pursuant to RSA 421-B:10, I(a) and (b)(7) (prior to January 1, 2016), the secretary of state may by order deny, suspend, or revoke any license or application if he finds that it is in the public interest and that the applicant or licensee has engaged in dishonest or unethical practice in the securities business. PB, Scanwood, and AOS are subject to this provision and their licenses should be suspended or revoked due to the fraud and or unsuitable trading they perpetrated in All Client Accounts.

12. Pursuant to RSA 421-B:10, I(a) and (b)(10) (prior to January 1, 2016) and RSA 421-B:4-412(d)(9) (on or after January 1, 2016), the secretary of state may by order deny, suspend, or revoke any license or application if he finds that it is in the public interest and that the applicant or licensee has failed to reasonably supervise his agents if he is a broker-dealer. AOS is subject to this provision and should have their broker-dealer license suspended or revoked for failing to supervise PB's trading in All Client Accounts.

13. Pursuant to RSA 421-B:26, I (prior to January 1, 2016) and RSA 421-B:6-604(d) (on or after January 1, 2016), the secretary of state may, upon hearing, assess an administrative

fine of not more than $2,500 per violation. PB, Scanwood and AOS are subject to this provision and should be fined up to $2,500 for each and every violation found in All Client Accounts.

14. Pursuant to RSA 421-B:23 (prior to January 1, 2016), 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. PB, Scanwood, and AOS are subject to this section and should be ordered to cease and desist the violative conduct identified herein.

15. Pursuant to RSA 421-B:26, III (prior to January 1, 2016) and RSA 421-B:6-604(a) (on or after January 1, 2016), 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. PB, Scanwood, and AOS are subject to a suspension or revocation and a fine as to each violative customer transaction.

16. Pursuant to RSA 421-B:26, III-a (prior to January 1, 2016) and RSA 421-B:4-412(h) (on or after January 1, 2016), every person who directly or indirectly controls a person liable under paragraph I, II, or III every partner, principal executive officer, or director of such person, every person occupying a similar status or performing a similar function, who materially aids in the acts or transactions constituting the violation, either knowingly or negligently, 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. AOS is subject to this provision and, should PB be found liable for any violations alleged herein, AOS should also be found liable as a control person and subject to a suspension or revocation of their license as a control person of PB, as well as subject to a fine of up to $2,500 for every violation of PB.

17. Pursuant to RSA 421-B:6-604(a) (on or after January 1, 2016), 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. AOS, PB and Scanwood are subject to this section and should be required to cease and desist from engaging in the conduct as described in the Statement of Facts for violations of RSA 421-B:3 (prior to January 1, 2016) and 421-B:5-501 (on or after January 1, 2016), RSA 421-B:4(V)(a) (prior to January 1, 2016) and RSA 421-B:5-502(2) (on or after January 1. 2019), RSA 421-B:10, I(a) and (b)(10) (prior to January 1, 2016) and RSA 421-B:4-412(d)(9) (on or after January 1, 2016), RSA 421-B:26, III-a (prior to January 1, 2016) and RSA 421-B:4-412(h) (on or after January 1, 2016), and

RSA 421-B:8, X (prior to January 1, 2016) and RSA 421-B:4-406(k) (on or after January 1, 2016).

18. Pursuant to RSA 421-B:26, V (prior to January 1, 2016) and RSA 421-B:6-604(e) (on or after January 1, 2016), the secretary of state can order Respondents to pay restitution to Investor #1 in the amount of sixty-five thousand three hundred eighteen dollars and ninety-eight ($65,318.98), to Investor #2 in the amount of eighteen thousand three-hundred thirty-two dollars and thirty-eight cents ($18,332.38), and to Investor #3 in the amount of eight thousand six-hundred ninety-two dollars and twenty-six cents ($8,692.26) plus additional restitution to all other PB's customers who lost money due to this conduct. PB, Scanwood, and AOS are subject to this provision.

19. Pursuant to RSA 421-B:22 (prior to January 1, 2016) and RSA 421-B:6-604(g) (on or after January 1, 2016), 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. Scanwood, PB and AOS are subject to this provision and should be ordered to pay the Bureau's costs.

## RELIEF REQUESTED

III. In view of the foregoing, the Bureau staff makes the following requests for relief, as permitted under RSA 421-B, the New Hampshire Uniform Securities Act:

1. Find as fact the allegations contained in Section I above;

2. Make conclusions of law, based upon Section II above, as applied to the facts stated in Section I above;

3. Pursuant to RSA 421-B:6-604(a) and RSA 421-B:23 continue the Order to Cease and Desist against Respondents for violations of the New Hampshire Uniform Securities Act;

4. Pursuant to RSA 421-B:6-604(d), RSA 421-B:26, III, and RSA 421-B:26, III-a, issue a registration and licensure suspension, revocation or bar against Respondents for violations of the New Hampshire Uniform Securities Act;

5. Pursuant to RSA 421-B:4-412(f), continue to summarily condition and restrict the license of PB and Scanwood to prohibit in any customer account the purchase or sale of any option contract not currently in any customer account or the purchase of any inverse or leveraged ETF;

6. Pursuant to RSA 421-B:6-604(d), RSA 421-B:26, III, and RSA 421-B:26,III-a, assess an administrative fine of $2,500 per violation for a total fine amount to be determined by the Hearing Examiner against Respondents jointly and severally;

7. Pursuant to RSA 421-B:6-604(g) and RSA 421-B:22 assess costs of this investigation

to be determined by the Hearing Examiner against Respondents jointly and severally;

8. Pursuant to RSA 421-B:26, V and RSA 421-B:6-604(e) order Respondents to pay restitution to Investor #1 in the amount of $65,318.98 jointly and severally, Investor #2 in the amount of $18,332.38 jointly and severally, and to Investor #3 in the amount of $8,692.26 jointly and severally, and additional restitution in an amount to be determined by the Hearing Examiner as to all other PB clients who lost money while with AOS due to this conduct;

9. Provide such relief as deemed just and proper under the New Hampshire Uniform Securities Act.

## RIGHT TO AMEND

The Bureau staff reserves the right to amend this Staff Petition for Relief and to request that the Director of the Bureau take additional administrative action. Nothing herein shall preclude the Bureau Staff from bringing additional enforcement action under this RSA 421-B or the regulations thereunder.

Respectfully submitted by:

Jeffrey D. Spill, Deputy Director

11/7/19
Date