

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

IN THE MATTER OF:)	
)	
Curtis S. Ridlon)	FINDINGS, RULINGS AND ORDER
)	C-2015000011
)	
Respondent)	

Procedural History

On April 25, 2017, the Bureau of Securities Regulation (hereinafter referred to as “the Bureau”) filed a Staff Petition for Relief against the above-captioned Respondent, Curtis S. Ridlon (hereinafter referred to as “Mr. Ridlon”), alleging violations of New Hampshire RSA 421-B¹ and requesting relief. A *Cease and Desist Order* was issued on April 27, 2017, commencing the adjudicative proceeding in this matter. Service of the *Order* and Staff Petition was made upon the Respondent. On May 26, 2017, the Respondent, through counsel, requested a hearing, thus initiating the hearing process in this matter. In addition, the Respondent, in his request for a hearing, requested that the presiding officer in this matter be someone other than an employee of the Bureau of Securities Regulation.

On June 16, 2017, the Respondent filed a *Motion to Dismiss*. Then, on August 15, 2017, the Respondent filed a *Motion to Stay*, based on having filed the same day in Merrimack County Superior Court a *Complaint for Declaratory Judgment and Injunctive Relief* against the Bureau. After several requests for extensions, a hearing on the Respondent’s motions was held on August 16, 2017. While the hearing on the *Motion to Dismiss* was continued due to procedural issues raised by the Respondent at the hearing on the motions, an *Order Denying Respondent’s Motion to Stay* was issued on September 13, 2017.

¹ Please note – references to N.H. RSA 421-B in this document are to the statute as in effect at the time that the Respondent’s violations occurred.

After a hearing on the *Motion to Dismiss*, an order was issued October 18, 2017 denying the motion. On October 25, 2017, the Respondent filed a *Motion for Preliminary Injunction* in Merrimack County Superior Court seeking to stop the Bureau's hearing process pending the court's decision on the declaratory judgment action. On November 7, 2017, a *Scheduling Order* was issued. On December 19, 2017, an order was issued by Judge Richard B. McNamara of the Merrimack County Superior Court denying a Bureau *Motion to Dismiss* and enjoining the administrative hearing process in this matter. The Bureau appealed the trial court ruling to the New Hampshire Supreme Court. The trial court decision was subsequently reversed.

As a result, the administrative hearing process resumed with a status conference on November 19, 2019. A scheduling conference was held on February 18, 2020 at which Mr. Ridlon appeared, representing himself *pro se*. A *Scheduling Order* was issued on March 5, 2020 setting a final hearing on the merits for no later than October 5, 2020. In anticipation of the hearing, a prehearing conference was held on August 28, 2020. It should be noted that Mr. Ridlon did not appear at the conference, that the Bureau represented that Mr. Ridlon had not responded to requests for discovery nor had the Bureau heard from Mr. Ridlon since February 18, 2020, and that Mr. Ridlon did not submit filings contemplated by the prior *Scheduling Order*. Furthermore, several items of correspondence, including orders from the presiding officer, were sent Certified Mail Return Receipt. The "green cards" which reflect delivery all came back as signed and acknowledged by Mr. Ridlon. The schedule was subsequently amended and a final hearing on the merits was scheduled for January 12, 2021.

Finally, it should also be noted that the hearing was conducted in compliance with CDC guidelines related to the current COVID-19 pandemic in that: 1) all surfaces were thoroughly cleaned; 2) the temperatures of all participants were taken before entering the designated hearing room; 3) social distancing rules requiring six feet of distance between participants was required and there was more than adequate room within the hearing area to maintain distance; and 4) masks were required at all times.

Synopsis

The final hearing occurred on January 12, 2021. The Bureau was represented by Staff Attorneys Eric Forcier and Noah Abrahamson. Mr. Ridlon failed to appear for the hearing, had not previously contacted the Bureau or the presiding officer to notify them that they would not appear, and was not represented by counsel.

In its Staff Petition, the Bureau alleged that Mr. Ridlon, over a period of at least eight years, led as many as 208 clients to believe that they were required to pay non-negotiable annual fees for the management of their account through an annually executed Financial Planning Services Agreement (hereinafter referred to as "FPSA"). The Bureau also alleged clients were led to believe this was the only fee they were paying when, in fact, they were also paying commissions and 12b-1 service fees. Many clients stated that they were never shown the first three pages of the FPSA nor did they receive a copy of Waddell & Reed, Inc.'s (hereinafter referred to as "Waddell") Form ADV, Part 2A, as required under federal law.

The presiding officer notes that the Bureau based its allegations of fraud against Mr. Ridlon on N.H. RSA 421-B:5-502(a) (formerly N.H. RSA 421-B:4, I), and did not allege violations of

N.H. RSA 421-B:5-502(b)(2) (formerly N.H. RSA 421-B:4, IV), which addresses the fiduciary duty of investment advisers and investment adviser representatives. While the Bureau correctly explained at hearing that this subsection of the statute applies to investment advisers, and thus by definition excludes federal covered advisers subject to the jurisdiction of the Securities and Exchange Commission, the presiding officer notes that RSA 421-B:5-502(b)(2) also applies to investment adviser representatives who are registered by the state of New Hampshire, as Mr. Ridlon was. However, since the issue was not raised with the presiding officer, it will not be addressed further.

Hearing

The Bureau presented its case after requesting that a default order against Mr. Ridlon not be issued but that instead the hearing should proceed on the Bureau's evidence. However, pursuant to NH RSA 421-B:6-613(w), "Any party to whom notice has been forwarded pursuant to and in accordance with this section who fails to appear *shall* (emphasis added) have a default judgment rendered against him." As a result, the statute does not give the presiding officer discretion as to the issuance of a default order. As noted, in the final hearing on this matter, Mr. Ridlon failed to appear. Therefore, a default judgment is required and the allegations contained in the Bureau's Staff Petition for Relief are taken to be established. Nonetheless, in issuing an order for relief, the presiding officer may and should take into account evidence that goes to establishing the monetary relief requested.

The Bureau was called to present its case. Pursuant to a previous order in this matter authorizing the use of affidavits by the Bureau instead of live witness testimony, the Bureau offered 40 affidavits executed by victims of Mr. Ridlon's fraudulent activities. (See Exhibits 3-42.) In addition, the Bureau provided six other exhibits as follows:

1. A DVD containing all documents submitted into evidence, including copies of client FPSAs (Exhibit 1)
2. Affidavit (along with attached exhibit) of Matthew Reeves, Senior Vice President of the Wealth Solutions Group, Waddell & Reed, Inc. (Exhibit 2)
3. "Corrected Expert Witness Report: Opinions on Investment Advisory Misconduct by Curtis Mr. Ridlon" prepared by R. Wayne Klein of Klein & Associates, PLLC, Salt Lake City, Utah (Exhibit 43 and attached exhibits labeled 43A-43G)
4. Investigative Statement Under Oath of Curtis Ridlon dated March 10, 2016 (Exhibit 44)
5. Investigative Statement Under Oath of Curtis Ridlon dated January 18, 2017 (Exhibit 45, including attached exhibits)
6. A "Master Spreadsheet" with columns labeled "Witnesses," "Total Fee," "Paid by Waddell," "Balance owed by Mr. Ridlon," "Number of Financial Planning Services Agreements executed," "Max fine amount @ \$2,500 per Financial Planning Services Agreement executed," and "Notes" (Exhibit 46)

At hearing, the Bureau requested the following relief (which, in effect, amended Items 1, 4, 5, and 6 of its originally filed Staff Petition):

1. Find as fact statements presented in the Bureau's Staff Petition, Section I, the Statement of Facts, as modified at hearing.
2. Make conclusions of law relative to the statements contained in the Bureau's Staff Petition, Section II, the Statements of Law.
3. Pursuant to N.H. RSA 421-B:6-604(a) (formerly N.H. RSA 421-B:23, I(a)), order Mr. Ridlon to immediately cease and desist from further violations of N.H. RSA 421-B.
4. Pursuant to N.H. RSA 421-B:6-604(d) (formerly N.H. RSA 421-B:26, III), order Mr. Ridlon to pay an administrative fine in the amount of \$2,490,000.00.
5. Pursuant to N.H. RSA 421-B:6-604(e) (formerly N.H. RSA 421-B:26, V), order Mr. Ridlon to pay restitution in the amount of \$815,741.20.
6. Pursuant to N.H. RSA 421-B:6-604(d) (formerly N.H. RSA 421-B:26, III), order Rildon be permanently barred from licensure in any capacity under N.H. RSA 421-B.
7. Pursuant to N.H. RSA 421-B:6-604(g) (formerly N.H. RSA 421-B:22, IV), order Mr. Ridlon to pay the Bureau's costs of investigation and any related proceedings in the amount of \$200,000.

Findings of Fact

1. Mr. Ridlon currently resides in Hooksett, New Hampshire. Mr. Ridlon was employed by Waddell from August of 1985 until his resignation on or about October 14, 2016. Waddell is both a securities broker-dealer and a registered investment adviser serving clients nationwide. Mr. Ridlon was licensed by the Bureau as a registered representative of Waddell from at least February 7, 1989 and licensed by the Bureau as an investment adviser representative with Waddell from at least June 28, 1998. Mr. Ridlon terminated his employment with Waddell in October 2016 and is no longer licensed as a securities professional in New Hampshire or elsewhere.
2. Mr. Ridlon committed a widespread fraud against many of his clients over a period of approximately eight years. This fraud allowed Mr. Ridlon to fraudulently obtain up to two million, eight hundred thousand dollars (\$2,800,000) in fees from those same clients. Many of Mr. Ridlon's clients are in their 60s, 70s and 80s with his oldest client being 98 years old.
3. As part of Waddell's investment adviser business, it offers optional financial planning to clients and has a wide array of proprietary financial planning products from which to choose. Fees for these financial planning products are either set by Waddell and non-negotiable or, for some advisers like Mr. Ridlon, are variable and Waddell expects the fee to be negotiated by the agent and the client. Despite whether the fees charged

were fixed or negotiable, Mr. Ridlon engaged in providing financial advice by engaging in financial planning for clients.

4. Mr. Ridlon engaged in a scheme to defraud at least 109 clients over a period of at least eight (8) years by deceiving those clients into believing that they were required to pay an annual fee for management of their accounts when in reality Mr. Ridlon was having them sign up for unnecessary optional financial planning. Nine hundred and ninety-six FPSAs were fraudulently executed.
 - a. The victims believed that: 1) the FPSAs they signed each year were required; 2) the FPSAs were primarily for Mr. Ridlon to continue managing their accounts; and 3) the fee charged was based on a percentage of the value of their accounts as calculated by Mr. Ridlon. As for the financial planning booklets they received each year, the victims believed that the financial planning products, although unwanted, were an ancillary benefit of the annual fee and not something they could opt out of. Many of Mr. Ridlon's victims asserted that they had no need for extensive financial planning year after year, to which they attached little to no value, but only paid the fee because they were led to believe that it was required if they wanted to keep their accounts with Waddell. The high frequency with which Mr. Ridlon sold these unnecessary services to his clients was wholly improper.
 - b. Many of Mr. Ridlon's victims assert that they would not have paid for these financial planning services as a separate fee if given the option. They also assert that they simply paid what they thought was their required annual fee for continued management of their accounts which they believed was calculated by Mr. Ridlon and was non-negotiable. Some of these victims were led to believe that this was the only fee they paid Mr. Ridlon despite the fact that they were already paying significant commissions and other 12b-1 service fees.
 - c. Many of Mr. Ridlon's victims assert that they were never shown the first three pages of the five-page FPSA and that they were never provided with Waddell's Form ADV, Part 2A for Financial Planning, as required by law.
5. The majority of Mr. Ridlon's victims signed their FPSA and paid their "optional" financial planning fee disguised as a required annual fee on the same month, or nearly the same month, year after year for several consecutive years. The timing of the execution of the FPSA and payment of the corresponding fee support the fact that these victims believed that they were paying a required annual fee.
6. On December 5, 2016, the Bureau entered into a *Consent Order* with Waddell whereby Waddell, without admitting or denying the facts or allegations, refunded over two million dollars (\$2,000,000) in financial planning fees to Mr. Ridlon's victims, paid a three hundred thousand dollar (\$300,000) fine, paid three hundred thousand dollars (\$300,000) in costs to the Bureau, and contributed three hundred thousand dollars (\$300,000) to the Bureau's investor education fund. Waddell also agreed to make significant enhancements to its supervision of the financial planning conducted by its investment advisor representatives, some of which were already underway before the Bureau's investigation. These enhancements included transitioning of financial

planning supervision from local supervisors to a financial planning supervision unit at Waddell's principal office in Overland Park, Kansas, as well as implementation of a new system for the submission, review, and approval of FPSAs, and certain revisions to the FPSA.

7. On January 18, 2017, pursuant to a subpoena from the Bureau, Mr. Ridlon appeared before the Bureau for sworn testimony but refused to answer the Bureau's questions apart from asserting his right against self-incrimination under the state and federal constitutions. Questions asked of Mr. Ridlon and his responses included the following:
 - a. When asked, with respect to each paying client listed in Exhibit 1 to the Investigative Statement of January 18, 2018, whether he led any of his clients to believe that they were required to pay an annual fee for account management, Mr. Ridlon refused to answer the question and asserted his right against self-incrimination under the state and federal constitutions.
 - b. When asked, with respect to each paying client listed in Exhibit 1 to the Investigative Statement of January 18, 2018, whether he told clients that the financial planning fees were mandatory and based on a percentage of their account value, Mr. Ridlon refused to answer the question and asserted his right against self-incrimination under the state and federal constitutions.
 - c. When asked, with respect to each paying client listed in Exhibit 1 to the Investigative Statement of January 18, 2018, whether the financial planning services he provided to his clients were unnecessary based on their needs and circumstances, Mr. Ridlon refused to answer the question and asserted his right against self-incrimination under the state and federal constitutions.
 - d. When asked, with respect to each paying client listed in Exhibit 1 to the Investigative Statement of January 18, 2018, whether he failed to provide the first three pages of the FPSA to clients, Mr. Ridlon refused to answer the question and asserted his right against self-incrimination under the state and federal constitutions.
 - e. When asked, with respect to each paying client listed in Exhibit 1 to the Investigative Statement of January 18, 2018, whether he failed to provide the financial planning Form ADV, Part 2A to clients, Mr. Ridlon refused to answer the question and asserted his right against self-incrimination under the state and federal constitutions.

Rulings of Law

The presiding officer makes the following conclusions of law relative to the Bureau's factual allegations:

1. Mr. Ridlon is a "person" within the meaning of N.H. RSA 421-B:1-102(39) (formerly N.H. RSA 421-B:2, XVI).

2. For the entirety of the violative conduct described herein, Mr. Ridlon was an investment adviser representative of Waddell within the meaning of N.H. RSA 421-B:1-102(27) (formerly N.H. RSA 421-B:2, IX-a). All of the "financial planning services" fraudulently sold by Mr. Ridlon as outlined herein were sold by Mr. Ridlon in his capacity as an investment adviser representative of Waddell.
3. Pursuant to N.H. RSA 421-B:5-502(a) (formerly N.H. RSA 421-B:4), it is unlawful for any person that advises others for compensation, either directly or indirectly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as part of a regular business, issues or promulgates analyses or reports relating to securities: 1) to employ a device, scheme, or artifice to defraud another person; or 2) to engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person. Mr. Ridlon violated this provision and employed a scheme to defraud many of his clients by misleading them into purchasing optional and unnecessary financial planning services by misrepresenting that the fees charged were required and by failing to disclose the true nature of those fees. Additionally, these misrepresentations coupled with the high frequency with which Mr. Ridlon sold his unwitting victims extensive and excessive financial planning services operated as a fraud and deceit on those clients.
4. Pursuant to N.H. RSA 421-B:6-604(a) (formerly 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. Mr. Ridlon is subject to this provision.
5. Pursuant to N.H. RSA 421-B:6-604(d) (formerly N.H. RSA 421-B:26, III), in a final order, the secretary of state, in addition to any bar, suspension, revocation or denial of any registration or license, may impose a civil penalty not to exceed \$2,500 for a single violation. Mr. Ridlon is subject to this provision and should be permanently barred from licensure. Additionally, Mr. Ridlon is subject to a fine of \$2,500 for each fraudulently obtained financial planning fee as presented at hearing. The Bureau has established that Mr. Ridlon's victims were deceived by Mr. Ridlon into executing 996 FPSA's, which equates to a fine of \$2,490,000.00.
6. Pursuant to N.H. RSA 421-B:6-604(e) (formerly 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. Mr. Ridlon is subject to this provision. Based on the fees paid by victims and after offsetting the recovery from Waddell as part of the Consent Order discussed above, Mr. Ridlon must pay \$815,741.20 in restitution to his victims.
7. Pursuant to N.H. RSA 421-B:6-604(g) (formerly 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 person charged with the violation being found in default, 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. Mr. Ridlon is subject to this provision and should be ordered to pay the Bureau's costs of two hundred thousand dollars (\$200,000).

Discussion

The evidence offered by the Bureau is uncontested. Furthermore, the presiding officer notes that Mr. Ridlon refused to answer questions during his Investigative Statement Under Oath, dated January 18, 2017, invoking his right to remain silent under the state and federal constitutions. (See Exhibit 45.) The presiding officer may and does draw adverse inferences from Mr. Ridlon's refusal to answer.

As previously noted, due to Mr. Ridlon's default, the Bureau has established the case for relief requested in Items 1, 2, 3 and 6 in the section labeled "Hearing" above. The Bureau has eliminated the request for disgorgement found in the originally filed Staff Petition. All, then, that remains to decide is the amount of administrative fines, restitution, and costs of investigation and any related proceedings. It should be noted that, as stated in the Findings of Facts above, the Bureau has already entered into a Consent Order with Waddell in which the firm agreed to refund over two million dollars (\$2,000,000) in financial planning fees to Mr. Ridlon's victims, representing approximately 60% of the fees obtained by fraud. Therefore, the Bureau is not requesting that Mr. Ridlon make restitution for all of the fees fraudulently obtained from victims. To the extent that Waddell has already agreed to pay such refunds, Mr. Ridlon is responsible for the difference.

The Bureau has presented evidence of specific damages suffered by each person it has identified as an alleged victim of Mr. Ridlon's scheme to defraud clients, as well as the number of financial plans that were alleged to have been fraudulently obtained. The evidence included the affidavit of Matthew Reeves attesting to the fact that, with respect to the spreadsheet presented to him by the Bureau which identified clients who paid financial planning fees, "(t)he majority of financial planning fees Mr. Ridlon charged to his clients were retained by Mr. Ridlon." (See Exhibit 2.) In addition, the Bureau presented affidavits from individual victims as well as survey's returned to the Bureau, demonstrating the fraud perpetrated on the victims. (See Exhibits 3-42 and 43.)

The Bureau's evidence shows that, as a result of the fraud perpetrated by Mr. Ridlon, the victims identified in the Bureau's evidence suffered damages apportionable to Mr. Ridlon of \$815,741.20, after taking into account the amount of restitution paid by Waddell pursuant to the Consent Order into which the firm entered. This is supported by the report issued by the Bureau's expert witness. (Exhibit 43.) In addition, when asked to comment in his Investigative Statement Under Oath of January 18, 2017 regarding the validity of the financial plans and fees enumerated in Exhibit 1 to the Statement, Mr. Ridlon asserted his right not to incriminate himself under the state and federal constitutions. (See Exhibit 45.) The plans and fees described in Exhibit 1 to the Investigative Statement included those alleged by the Bureau at hearing to have been fraudulently obtained. Taken together, this evidence supports the numbers presented in the Bureau's hearing Exhibit 46, the spreadsheet displaying the names of the victims, the total fees paid, the fees paid by Waddell, the balance owed by Mr. Ridlon, the number of FPSAs paid for by each victim,

and the fine amounts associated with each violation (996 in total based on the number of fraudulent financial plans) of the Act.

Lastly, the entire record of this proceeding reflects that the Bureau engaged in an extensive investigation of this matter, involving the discovery and review of boxes of documents, interviews (both sworn and unsworn), preparation of surveys and review of responses, and much other investigative work. In addition, this proceeding has resulted in multiple hearings on scheduling, motions and related proceedings, as described in the procedural history above. As a result, if anything, the amount requested by the Bureau for costs of investigation and related proceedings is very conservative. The Bureau has more than justified the costs which it claims as a result of this proceeding.

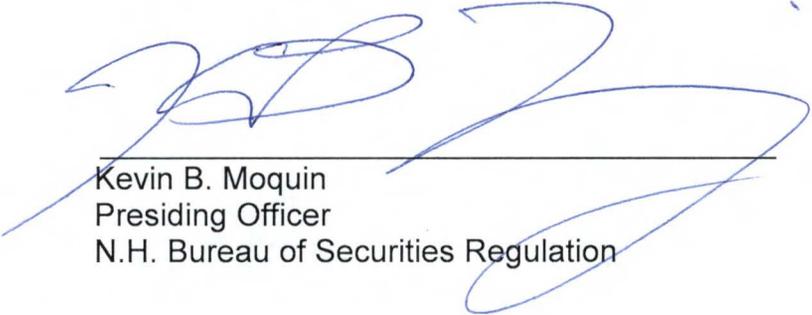
Order

WHEREAS, finding it necessary and appropriate and in the public interest and for the protection of investors and consistent with the intent and purpose of the New Hampshire Securities Act, RSA 421-B, it is hereby **ORDERED**, that:

1. Mr. Ridlon shall cease and desist from further violations of N.H. RSA 421-B pursuant to N.H. RSA 421-B:6-604(a) (formerly N.H. RSA 421-B:23, I(a)).
2. Mr. Ridlon is hereby barred from licensure or registration privileges pursuant to N.H. RSA 421-B:6-604(d) (formerly N.H. RSA 421-B:26, III).
3. Mr. Ridlon shall pay the Bureau's costs of investigation in the amount of \$200,000.00 pursuant to N.H. RSA 421-B:6-604(g) (formerly N.H. RSA 421-B:22, IV).
4. Mr. Ridlon shall pay administrative fines and penalties in the amount of \$2,490,000 pursuant to N.H. RSA 421-B:6-604(d) (formerly N.H. RSA 421-B:26, III).
5. Mr. Ridlon shall pay restitution to the victims identified by the Bureau in the amount of \$815,741.20 pursuant to N.H. RSA 421-B:6-604(e) (formerly N.H. RSA 421-B:26, V).

SIGNED,
William M. Gardner
Secretary of State
By His Designee:

Date: 3/8/21



Kevin B. Moquin
Presiding Officer
N.H. Bureau of Securities Regulation