

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

IN THE MATTER OF:

Aden Rusfeldt, and  
ETF Trend Trading

Respondents

)  
)  
) ORDER TO CEASE AND DESIST  
)  
) COM2014-0002  
)  
)

**NOTICE OF ORDER**

This Order commences an adjudicative proceeding under the provisions of RSA 421-B:26-a.

**LEGAL AUTHORITY AND JURISDICTION**

Pursuant to RSA 421-B:23, 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:26,III-a, every person who directly or indirectly controls a person liable under 421-B:26,III, may upon hearing, and in addition to any other penalty provided for by law, be subject to a fine, and suspension, revocation, or denial of any registration or license.

Pursuant to RSA 421-B:26, the Secretary of State has the authority to impose administrative penalties of up to \$2,500.00 for each violation of New Hampshire securities law and rules.

Pursuant to RSA 421-B:26,V the Secretary of State my order restitution for violations of this chapter.

Pursuant to RSA 421-B:24, I, any person who willfully violates a cease and desist order issued pursuant to RSA 421-B:23 shall be guilty of a class B felony.

### **NOTICE OF RIGHT TO REQUEST A HEARING**

The above named respondents have 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 respondents, or by the duly authorized agent of the above named respondents, 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:23, I, if respondents fails to request a hearing on this order within 30 calendar days of receipt of this order, respondents shall be deemed in default, and this order to cease and desist shall, on the thirty-first day, become permanent.

Upon request for a hearing being received by the Bureau of Securities Regulation, in the manner and form indicated above, a hearing shall be held not later than ten days after such request is received by the Bureau, after which hearing, the Secretary of State, or such other person authorized by statute, shall issue a further order vacating or modifying this order, or making it permanent, as the circumstances require.

## STATEMENT OF ALLEGATIONS

The allegations contained in the Staff Petition for Relief dated December 4, 2015 (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. Respondents are hereby ordered to immediately cease and desist from the above indicated acts and from in any other way violating RSA 421-B.
2. Respondents shall jointly and severally pay restitution to the investor as set forth in the Bureau's Staff Petition for Relief in the amount of \$3,997.00.
3. Respondents shall jointly and severally pay an administrative fine of \$55,000 and investigation costs of \$20,000 for a total of \$75,000.
4. Respondents are permanently barred from conducting securities business in the State of New Hampshire.
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 being imposed upon the defaulting Respondents.

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

Dated: 12-8-15

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**



2. ETF sold trading signals and systems to trade various securities such as ETFs, stocks, options and futures contracts in such programs such as the ETF Trend Trading Course, Oil Auto Trading System, Insider IPO and Binary Options course. An ETF is a security that is much like a mutual fund, but it is traded on the stock exchanges and is priced throughout the trading day whereas a mutual fund price adjusts at the end of the trading day based upon net asset value. An ETF holds a basket of securities, much like a mutual fund, that usually track an index such as the S&P 500. A futures contract, according to the Commodities Futures Trading Commission is an agreement to buy or sell a particular commodity at a future date. A futures contract is, therefore, an investment contract.
3. The complainant in this matter is a New Hampshire resident living in Warner (hereinafter referred to as Investor). In about October 2012, Investor paid ETF three thousand nine hundred and ninety-seven dollars (\$3,997.00) for ETF's Oil Auto Trading System which promised a five year lease on the trading system software, e-mail support to use the software, set-up instructions and a 90 day money back guarantee. The Oil Auto Trading System gives advice on trading futures contracts for oil. Investor could never get it to operate and in about September 2013 he asked ETF and Rusfeldt for his money back, but he was denied with an explanation that the request was outside of the ninety day period.
4. Under the New Hampshire securities act, a person acts as an investment advisor if he engages in the business of advising others either directly or through publications or writings as to the advisability of investing in, purchasing or selling securities for a fee. Rusfeldt and ETF are not and have not been licensed as an investment advisor in the State of New Hampshire.

#### 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, RSA 421-B, and regulations thereunder:
  1. Rusfeldt and ETF are "investment advisors" within the meaning of RSA 421-B:2.
  2. ETFs, stocks, options and futures contracts are "securities" within the meaning of RSA 421-B:2.
  3. The sale of the Oil Auto Trading System in New Hampshire for a fee as well as the other above named trading signal and systems constitutes the business of advising others as to the advisability of investing in, purchasing or selling securities within the meaning of RSA 421-B:2.

4. Rusfeldt and ETF acted as unlicensed investment advisers with respect to the sale of the Oil Auto Trading System and the other above listed trading signal and systems programs pursuant to RSA421-B:6.
5. Pursuant to RSA 421-B:22, the Bureau may order the costs of the investigation be paid by the Respondents.
6. Pursuant to 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 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. Rusfeldt and ETF are subject to this section for violations of 421-B.
7. Pursuant to 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. Rusfeldt and ETF are subject to a suspension, revocation, or denial, and a fine for violations of RSA 421-B:6.
8. Pursuant to RSA 421-B:26,III-a, every person who directly or indirectly controls a person liable under 421-B:26,III, may upon hearing, and in addition to any other penalty provided for by law, upon hearing, be subject to a fine and such suspension, revocation, or denial of any registration or license. Rusfeldt and ETF are subject to this section.
9. Pursuant to RSA 421-B:26,V the Bureau can order restitution for violations of 421-B.

#### **RELIEF REQUESTED**

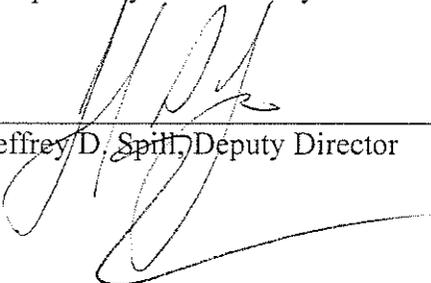
- III. In view of the foregoing, the Bureau staff makes the following requests for relief, as permitted under RSA 421-B, the New Hampshire Uniform Securities Act:
  1. Find as fact the allegations contained in Section I above;
  2. Make conclusions of law, based upon Section II above, as applied to the facts stated in Section I above;
  3. Pursuant to RSA 421-B:23, issue an Order to Cease and Desist against Respondents for violations of the Uniform Securities Act;

4. Assess an administrative fine in the amount of \$55,000;
5. Assess costs of this investigation in the amount of \$20,000.
6. Assess restitution to the Investor in the amount of \$3,997.00.
7. Permanently bar the Respondents from the securities business in the State of New Hampshire.
8. Provide just and equitable relief as provided for under the New Hampshire Uniform Securities Act.

**RIGHT TO AMEND**

The Bureau 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 this N.H. RSA 421-B or the regulations thereunder.

Respectfully submitted by:

  
\_\_\_\_\_  
Jeffrey D. Spill, Deputy Director

12/4/15  
\_\_\_\_\_  
Date