

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 3930 / September 23, 2014**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-16155**

**In the Matter of**

**NICHOLAS ROWE,**

**Respondent.**

**ORDER INSTITUTING**  
**ADMINISTRATIVE PROCEEDINGS**  
**PURSUANT TO SECTION 203(f) OF THE**  
**INVESTMENT ADVISERS ACT OF 1940**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Nicholas Rowe (“Rowe” or “Respondent”).

**II.**

**A. RESPONDENT**

1. Nicholas Rowe, age 55, is a resident of Hollis, New Hampshire. Between 2001 and 2012, Rowe was the owner of Focus Capital Wealth Management, Inc. (“Focus Capital”). Focus Capital was registered as an investment adviser with the Commission from 2005 to 2012, at which point it registered with New Hampshire and withdrew its registration with the Commission. On March 8, 2013, New Hampshire revoked Focus Capital’s investment adviser registration. Rowe is identified on Focus Capital’s Forms ADV during the period 2007-2012 as its president and chief executive officer.

## B. ENTRY OF NEW HAMPSHIRE ORDER

2. On March 8, 2013, Rowe consented to an order issued on March 12, 2013 (“Consent Order”) by the New Hampshire Bureau of Securities Regulation in In the Matter of Nicholas Rowe, et al., COM2011-0037, barring Rowe and Focus Capital from securities licensure in the state of New Hampshire. The Consent Order of the Bureau of Securities Regulation constitutes a final order of a state securities commission.

3. The order alleged that Rowe and Focus Capital engaged in an investment strategy involving leveraged and inverse exchange traded funds (ETFs) that was unsuitable for their clients and made misrepresentations regarding the fees to be charged and thus was in violation of New Hampshire law prohibiting investment advisers from engaging in unethical business practices. Rowe and Focus Capital were also ordered to cease and desist from violating New Hampshire RSA 421-B:3 and RSA 421-B:4 and were ordered to pay \$20,000 (a \$5,000 fine plus the costs of the investigation) and restitution.

## III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations; and

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act.

## IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondent as provided for in the Commission's Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Brent J. Fields  
Secretary