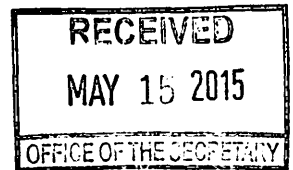


**BRIEF IN SUPPORT OF MR. ROWE'S PETITION FOR REVIEW OF INITIAL DECISION
RELEASE NO. 746
ADMINISTRATIVE PROCEEDING
FILE NO. 3-16155**



In the Matter of

NICHOLAS ROWE

Respondent

**MR. ROWE'S BRIEF IN SUPPORT OF HIS PETITION FOR REVIEW OF INITIAL DECISION RELEASE NO.
746
ADMINISTRATIVE PROCEEDING; FILE NO. 3-16155**

Enclosures:

- 1) EXHIBIT TAMPOSI AFFIDAVIT ABOUT NEW HAMPSHIRE BUREAU OF SECURITIES REGULATION USE OF DURESS TO FORCE MR. ROWE TO SIGN A CONSENT ODER FILLED WITH LIES
- 2) MR. ROWE'S ARGUMENTS AGAINST DIVISIONS MOTION FOR SUMMARY DISPOSITION; along with its exhibit listed directly below;
- 3) EXHIBIT A: PROOFS THAT THIS MATTER CANNOT BE HANDLED OUTSIDE OF A HEARING

Now comes Mr. Nicholas B. Rowe with his brief in support of his arguments as to why Administrative Law Judge Jason S. Patil's Initial Decision of February 27th 2015 in the matter so stated above should be reviewed.

Brief statement regarding this document

Mr. Rowe is not an attorney. Mr. Rowe cannot hire an attorney because of the abusive actions of the State of New Hampshire Bureau of Securities Regulation (referred to as New Hampshire, state of New Hampshire or NH Bureau) in this matter. Mr. Rowe has no way to collect case law in support of his arguments. Mr. Rowe depends on the forbearance of the readers of this document as he can only

depend on the truth of the matters he discusses and his understanding of common law and principles that are understood by any man who is untrained in law.

Background

Mr. Rowe was sued by 4 families in an effort to regain loses they suffered in 2008. These families were solicited by a former employee of Mr. Rowe who started his own firm and sought to bring them into his firm. Mr. Rowe has a copy of notes from one person which shows he used the “disturb the client” technique and an attempt to scare them into leaving Mr. Rowe (members of these families and a close friend of one of the families make up all of the so called New Hampshire “investors” except one, in this case). The matter was handled in arbitration. Everyone in the arbitration was convinced that the defense won the case, the attorney for the prosecution was such a mess that he even had to take a break in the middle of his closing arguments. However that night the state of New Hampshire arraigned for a front page article in the largest newspaper in the state describing all the allegations as facts. Everyone involved knew this was clear direction the arbitrators would follow. The arbitrators were faced with a problem however, the facts of the case did not support the claims made by the claimants or the state of NH. They solved this problem by not making any finding of facts while handing down a decision. New Hampshire then sought to force Mr. Rowe to sign a consent order. Mr. Rowe steadfastly refused even stating “I will never sign that document it is filled with lies and you know it”. The State of New Hampshire then resorted to using duress in order to force Mr. Rowe to sign the document against his will (this is the very document the SEC depends on to make its decision in this case, the New Hampshire consent order).

Apparently the SEC wished to streamline the procedures by not relying on its own investigation of facts and rely on a Consent Order Mr. Rowe was forced to sign by the New Hampshire Bureau of Securities Regulation. Mr. Rowe contended this would make the SEC a party to the crimes or mistakes of the NH Bureau. The SEC gives the impression of not caring about the truth or about justice but continued to look for rules and laws that would allow it to sidestep any responsibility to see that justice was served. In doing so it had to take a position of not allowing a hearing where Mr. Rowe could present witnesses that would if allowed to, give true and convincing evidence about the facts.

Pertinent Facts

This case was not brought by the SEC to protect the public or bring about justice. As can be determined by the following facts:

- 1) If the goal of the SEC was to bring about justice it would first gather all pertinent facts of the case, it would not work so hard to deny Mr. Rowe a hearing where Mr. Rowe could present his witnesses to the material facts of the case.
- 2) The SEC in a conversation with an attorney not employed by Mr. Rowe stated that the Boston office of the SEC was "directed to improve its numbers". This was in response to the question "why are you pursuing a guy who is not in the business and presents not threat to anyone? What are you, looking to pad your numbers"? This conversation has never been denied by the SEC.*

*MR. ROWE'S ARGUMENTS AGAINST DIVISIONS MOTION FOR SUMMARY DISPOSITION **EXHIBIT A: PROOFS THAT THIS MATTER CANNOT BE HANDLED OUTSIDE OF A HEARING**, page 3 first paragraph;

"Well... yes we have been directed by Washington to improve our numbers' An SEC employee from the Boston Office explaining to attorney David Ward why the SEC was pursuing this case about a guy who had been screwed by the State of NH so the department could look good in the press, when the guy was no longer in the business and had no plans to be in the business and who presented no public threat."

- 3) The SEC did investigate Mr. Rowe but took no action based on its own investigation after receiving Mr. Rowe's response, but rather looked to an inept or unlawful action by the state of New Hampshire. This approach denies Mr. Rowe a fair hearing and cannot result in a just or fair result.*

* SEC Examination Findings Re: Focus Capital Wealth Management, Inc. SEC File No. 801-64156 dated 06-12, 2012 and Mr. Rowe's Response dated 08-10-2012 State of NH Bureau of Securities Regulation CONSENT ORDER dated 03-08-13 (these documents are not enclosed)

- 4) The state of New Hampshire's abusive actions in this case have resulted in Mr. Rowe's bankruptcy* and inability to hire representation thus resulting in a situation where Mr. Rowe must face the experienced attorneys of the SEC alone, with no way of backing himself by case law or prior examples that surely can be found in the law.

* United States Bankruptcy Court District of NH, Case No. 12-13684-JMD

- 5) The SEC wishes to depend on an unlawful document that the state of New Hampshire forced Mr. Rowe to sign, this fact being witnessed by an attorney not in Mr. Rowe's employ*. This fact

has never been denied by the SEC. Mr. Rowe has repeatedly asked to have a hearing where this and other witnesses could be presented to no avail.

*MR. ROWE'S ARGUMENTS AGAINST DIVISIONS MOTION FOR SUMMARY DISPOSITION, page 2 paragraph 7

"Mr. Rowe has clearly indicated to the SEC and Marc Jones that Mr. Rowe was forced to sign the Consent Order by use of threats of a fixed hearing, assuring an adverse outcome, and monetary damages so insurmountable that it threatened the existence of Mr. Rowe and his wife. These threats were witnessed by Mr. Rowe and his Bankruptcy attorney. Without the use of duress the NH Bureau could not impel Mr. Rowe to sign the Consent Order."

MR. ROWE'S ARGUMENTS AGAINST DIVISIONS MOTION FOR SUMMARY DISPOSITION, page 2 paragraph 2

"Mr. Rowe must be given an opportunity for a hearing"

*MR. ROWE'S ARGUMENTS AGAINST DIVISIONS MOTION FOR SUMMARY DISPOSITION **EXHIBIT A: PROOFS THAT THIS MATTER CANNOT BE HANDLED OUTSIDE OF A HEARING**, page 1 first paragraph 4;

"We are an unfunded department, we have to find guys like you guilty in order to collect fees and fund our unfunded department". **Eric Forcier New Hampshire attorney with the NH Bureau of Securities Regulation** together with Jeff Spill, Deputy Director of the Bureau on a phone conversation with Mr. Rowe and his bankruptcy attorney explaining why they influenced the Arbitrators and refused to allow a fair arbitration process and why they wished to force Mr. Rowe to sign a consent decree that was filled with lies.

MR. ROWE'S ARGUMENTS AGAINST DIVISIONS MOTION FOR SUMMARY DISPOSITION **EXHIBIT A: PROOFS THAT THIS MATTER CANNOT BE HANDLED OUTSIDE OF A HEARING**, page 2 first paragraph 2;

"If this goes to a hearing you will lose, and we will fine you \$200,000.00 to \$250,000.00 and it will not be dischargeable by bankruptcy". **Either Jeff Spill Deputy Director of the NH Bureau of Securities Regulation or Eric Forcier of the NH Bureau of Securities Regulation** on a phone conversation with Mr. Rowe and his bankruptcy attorney, successfully using duress to force Mr. Rowe to sign the consent decree filled with lies and untruths.

Mr. Rowe's Arguments Against Divisions Motion for Summary Disposition **Exhibit A: Proofs that this matter cannot be handled outside of a hearing**, page 2 first paragraph 4;

"You are screwed. You have to sign this. These guys are the mob, they are demanding protection money... and they are the government". **Peter Tamposie Mr. Rowe's bankruptcy attorney**, about the NH consent decree, after being told by Jeff Spill of NH securities department, on a phone conversation with Mr. Rowe and his bankruptcy attorney, that the potential hearing held for Mr. Rowe would be tried by his office (the NH Security Bureau), and there would be no independent judge over the matter and the outcome was assured.

Mr. Tamposie did not represent Mr. Rowe in the matter of the State of NH Bureau of Securities Regulation nor with the SEC therefore he is an unimpeachable witness to the use of duress by the state

of NH in order to force Mr. Rowe to sign the consent order the SEC wants to depend on in its action against Mr. Rowe. Please see: EXHIBIT TAMPOSI AFFIDAVIT ABOUT NEW HAMPSHIRE BUREAU OF SECURITIES REGULATION USE OF DURESS TO FORCE MR. ROWE TO SIGN A CONSENT ODER FILLED WITH LIES

- 6) The SEC has proof of Mr. Rowe's innocence but refuses to look at it. Mr. Rowe has forwarded documents that prove his innocence to the SEC on 11-07-2014 by FedEx to Marc Jones. Mr. Rowe has told the SEC of his witnesses to the truth of New Hampshire's use of duress to force Mr. Rowe to sign the New Hampshire consent decree. Only by a willful act of blindness was the SEC able to pursue this case.

All the above facts were made known repeatedly to the SEC by Mr. Rowe throughout this process. The SEC's response to Mr. Rowe's pointing out these and other facts of the case was to state that Mr. Rowe shows no signs of remorse and does not acknowledge his crimes. Mr. Rowe's response to such hyperbole is simple, Mr. Rowe is entirely innocent in this matter; innocent people cannot show remorse or acknowledge a crime they did not commit. Far from demonstrating how irreformable Mr. Rowe is, his position is exactly what would be expected from someone who is innocent.

Conclusion

If the SEC wants to depend on the NH Bureau of Securities Regulation Consent Order then it must allow Mr. Rowe to present his witness to show that New Hampshire used duress to force Mr. Rowe to sign it. This can only properly be done in a hearing where Mr. Rowe's witness can be cross examined, Mr. Rowe's witness has offered to travel in order to speak to the SEC on this matter. It appears the only reason the SEC has not spoken to this witness is the SEC does not want to hear what he has to say. This is exactly what one would expect if the true reason for this action was to improve the numbers of the Boston office rather than a search for truth.

There can be no doubt that New Hampshire used duress to force Mr. Rowe to sign a fraudulent Consent Order. Therefore The SEC cannot depend on it in their action. It is not a legal document. If the SEC wishes to pursue Mr. Rowe based on its own examination Mr. Rowe would welcome this and Mr. Rowe would present all the proofs of the perjury and lies of the witnesses the State of New Hampshire named and depended on, in coming to their conclusions (these are the same individuals from the arbitration hearing). Mr. Rowe, also because of the arbitration, has conclusive proof of the risk taken in the client portfolios, the measurements of the risk being done by one of the nation's leading forensic analysts. These measurements prove conclusively Mr. Rowe took less risk over time. Just the opposite of the claim by the state of New Hampshire.

Remedies

Mr. Rowe asks that the SEC overturn judge Jason S. Patil's Initial Decision and either abandon its pursuit of Mr. Rowe in this matter or allow Mr. Rowe to present his witnesses and proofs. Any other position by the SEC is to bring about a miscarriage of justice and to join itself to and make itself a party to the state of New Hampshire in its misconduct and violation of the law.

Attestation

I certify, under penalty of perjury under the laws of the United States of America, that the information and statements made in this document, including exhibits and any other information submitted, are true and correct, and that I am signing this form as a free and voluntary act.

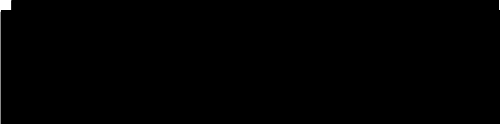
Signature:

Date:

N Rowe

5.14.15

Nicholas Rowe



Service list:

3 originals

Brent J. Fields, Secretary
SEC Commission
100 F Street
N.E. Washington D.C. 20549

3 originals

Marc J. Jones
SEC Commission
Boston Regional Office
33 Arch Street, 23rd floor
Boston, MA 02110

EXHIBIT TAMPOSI AFFIDAVIT ABOUT NEW HAMPSHIRE
BUREAU OF SECURITIES REGULATION USE OF DURESS TO
FORCE MR. ROWE TO SIGN A CONSENT ODER FILLED
WITH LIES

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

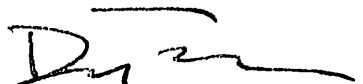
In the Matter of Nicholas Rowe

File No. 3-16155

Affidavit of Peter N. Tamposi, Esq.

1. I am an attorney practicing in the State of New Hampshire. I represented Nicholas Rowe and Focus Capital in their respective bankruptcy proceedings.
2. I was not representing Mr. Rowe with respect to any actions by the New Hampshire NH Bureau of Securities Regulations (the "Bureau").
3. On or about March 7th 2013 I was witness to a series of negotiations between Mr. Rowe and the Bureau concerning the language of the Consent Order in the Matter of Nicholas Rowe (CRD# 2109143) Focus Capital Wealth Management, Inc. (CRD# 11715)(the "Consent Order").
4. During these negotiations, Jeff Spill and Eric Forcier instructed Mr. Rowe that the paragraph at page 10. IV. 9. would not apply in any proceeding with the SEC and it would not apply in any religious setting or review. Both of these points were the topic of great discussion and these assurances were repeated on more than one occasion to Mr. Rowe because of his concern over the language in this paragraph.
5. Jeff Spill and Eric Forcier of the NH Bureau of Securities Regulation used duress to induce Mr. Rowe to sign the Consent Order in the Matter of Nicholas Rowe (CRD# 2109143) Focus Capital Wealth Management, Inc. (CRD# 11715) when they:
 - a) Made it clear there would not be a fair hearing, stating that the Bureau itself would act as the arbiter of the claims brought by the Bureau against Mr. Rowe;
 - b) Stated that the penalty would be in excess of \$200,000; and that
 - c) Represented that the penalties would not be dischargeable by bankruptcy.
6. It was because of these threats that I believe Mr. Rowe reluctantly signed the Consent Order.

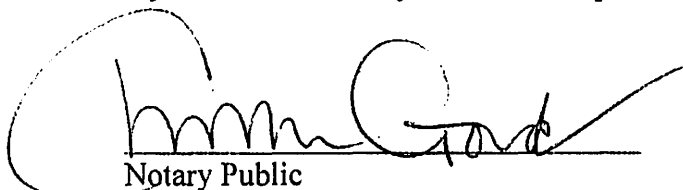
Further affiant sayeth naught.


Peter N. Tamposi

STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH

Subscribed and sworn to before me this 18th day of March, 2015 by Peter N. Tamposi.

Witness my hand and seal.


Notary Public
My commission expires: _____

