[redacted]

November 7, 2014

FedX

Marc Jones, Esq.
Boston Reg. Office
SEC
33 Arch St., 23rd Floor
Boston, MA 02110-1424

RE: Administrative Proceeding File No. 3-16155 -- Notice of Appearance

Dear Mr. Jones,

Please accept this as Notice that:

1. I am currently representing myself in this matter.

2. The address above is my home address, home phone number and cell phone number.

3. I work at Horseless Carraige, LLC located at 754 Elm St., Milford, NH 03055 with a phone number of 603-554-8358 and this is the most likely place for me to be contacted during working hours.

4. The best phone number to reach me at is my cell phone 603-718-4583 because many times I am not at the business location but on the road conducting business.

5. I request that all papers and pleadings be directed to me at my home address. This does not constitute a change from the current practice of the SEC in this matter.

I am not an attorney and have reviewed Rules of Practice however I do not pretend to understand the procedures completely. Please excuse any misunderstanding on my part and know that I will correct any error or omission as soon as practical if it is brought to my attention.

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:

NRowe 11.7.14

Nicholas Rowe

[redacted]

November 7, 2014

FedX

Marc Jones, Esq.
Boston Reg. Office
SEC
33 Arch St., 23rd Floor
Boston, MA 02110-1424

RE: Administrative Proceeding File No. 3-16155

Dear Mr. Jones,

Please accept this as my answer to the Order Instituting Administrative Proceedings in the above referenced matter.

I first address two issues and then proceed with my answer.

Venue Location

As mentioned in my May 27, 2014 letter, and again in my July 17,2014 response to your letter dated May 14, 2014. I request that the location of any venue for any hearing be Boston, Massachusetts. I am destitute, any location further away than Boston would be the equivalent of a refusal to allow me a hearing.

SEC did not produce an important document

For some reason the SEC in its production of documents per rule 230, forwarded the SEC 6-12-12 deficiency letter in its correspondence file but did not include Rowe's answers to the allegations made by the SEC in its 6-12-12 deficiency letter. This oversight in the production of document on 9-26-2014 has been corrected by including that correspondence between Mr. Rowe and the SEC on the shared documents CD. The SEC may wish to review this document because it clearly identifies many material mistakes in the 6-12-12 deficiency letter.

The documents that Mr. Rowe needs to share with the [redacted] de available on the shared documents CD. If you wish to make copies loca[redacted] his media, please feel free to contact him.

Evt — 8
3-16155 - Exhibit
Copy

Answer to the Order Instituting Administrative Proceedings

Allegations by the NH Bureau of Securities are denied

All allegations in the consent order with the State of NH Bureau of Securities Regulation 03-12-2012 are denied by Mr. Rowe. Furthermore, the noted section of that order by Jill M. Peterson in her SEC communication to Mr. Rowe dated 9-23-14 page 2 section II B. 3. about unsuitable leveraged and inverse ETFs was disproven by one of the nation's top independent statisticians whose data clearly showed the portfolios using the strategies experienced approximately 41% less risk than the market as measured by standard deviation. These reports are found in the FINRA arbitration documents and are available for review by the SEC staff on the enclosed shared documents CD.

No consent was given by Mr. Rowe in the NH Bureau of Securities Regulation 03-12-2012 Consent Order

Mr. Rowe did not consent to the State of NH Bureau of Securities Regulation 03-12-2012 Consent Order as referred to by Jill M. Peterson in her SEC communication to Mr. Rowe dated 9-23-14 page 2 section II B. 2.. Mr. Rowe could not have consented because in any contract apparent consent may be vitiated because of mistake, fraud, innocent misrepresentation, duress, or undue influence. Mr. Rowe plans to ask the courts to vacate the consent decree after the conclusion of his bankruptcy cases which were brought about because of the State of NHs faulty examination of Mr. Rowe and its subsequent abusive manipulation of the FINRA arbitration process. The reason for waiting until after the bankruptcies are over is because three ongoing legal matters would be overwhelming to Mr. Rowe and make a fair contest impossible. Mr. Rowe asked for a delay with the SEC action for the same reason as well, but this was denied.

During the discussions between the NH Bureau of Securities Regulation ("Bureau") as represented by Jeff Spill and Eric Forcier, and Mr. Rowe (with his attorney present) Mr. Rowe made it clear he would never sign the consent order, and he wanted a hearing so he could show every time the claimants perjured themselves in the FINRA arbitration and prove that the Bureau made a mistake by depending on the perjurers testimony. The following statements were made by the representatives of the Bureau: "we have to find advisers like you guilty because we are an unfunded department." "If you do not sign this order we will hold a hearing and you will be found guilty"(underlined section was emphasized by them). They clarified in that discussion that there would not be an independent judiciary, that there would not be protections of appeals like there are in the courts. They stated that the fine would be $200,000.00 to $250,000.00 instead of the $20,000.00 in the Consent Order, they reemphasized you will lose and will be paying between $200- $250,000.00 and they stated "this is outside of bankruptcy, you will be ruined". I felt like I was being held up at gun point. The attorney with me on the phone conference asked to put them on hold. Once the Bureau was on hold he told me "Nick they are the mob. You are being held up. They are requiring you to pay protection money exactly the same as the mob. But these guys are in government. You are screwed. You have no option when dealing with these guys."

The corrupt or inept representatives of the Bureau that dealt with Mr. Rowe made the MISTAKE of believing the stories of perjurers and liars. These mistakes were compounded by the Bureau's refusal to

look for either confirmation or non-confirmation of the claimant's lies in the documents. The lies became the crux of the Bureau's Consent Decree making this a material mistake.

The corrupt or inept representatives of the Bureau that dealt with Mr. Rowe used DURESS or UNDUE INFLUENCE in making it clear he would not receive a fair hearing.

The corrupt or inept representatives of the Bureau that dealt with Mr. Rowe committed a FRAUD by ignoring the duties of their office to conduct an honest and fair examination of the lies perpetrated by the claimants and seeking to gain financially by funding their "unfunded department" thus ensuring their paychecks.

The SEC must not rely on an unreliable State of NH Bureau of Securities Regulation for its investigation.

If the SEC relies on the "Consent Order" then the SEC joins the State of NH Bureau of Securities Regulation in its criminal misconduct, mistakes, use of duress or undue influence, and fraud. Mr. Rowe seeks that which has been denied him until now, a fair hearing of the facts. Mr. Rowe is confident that a review of the facts will show that the morally weak and greedy complainants lied in an effort to regain 2008 market loses and 6-7 million additional dollars because of their claims of fraud (disallowed by FINRA arbitrators). The claimants could not win based on the data, documents or scientific measurements so they used lies and defamation of character as a tactic. Sadly the State of NH Bureau of Securities Regulation was taken in by this tactic.

The fact that the "Bureau" did not conduct a proper audit or investigation of Focus Capital was made clear by:

1. Their request to be present at the FINRA arbitration hearing. The department argued vehemently they needed to be present at the arbitration hearings; they stated to Mr. Rowe's attorney "we need to be present in order to help in our investigation". Mr. Rowe through his attorney did not permit this as he deemed it would be prejudicial to the arbitrators. Mr. Rowe did however arrange for the rough drafts of the transcripts to be forwarded each day as they became available and it is his understanding that this happened within 24 hours of the close of each day.

2. Their dependence on the word of the claimants rather than looking at documents that proved the claimants perjured themselves well over 100 times in the arbitration. If the "Bureau" had reviewed the documents that proved beyond a shadow of any doubt the gross perjury and lies of the claimants they would not have depended on the statements of the claimants, but rather, conducted a proper examination of the documents.

3. Their releasing of their "Order to Cease and Desist" (signed on 8-29-2012) before they could review the cross examination of the claimants from the transcripts. The claimants were not crossed until all claimants had testified as a tactic of the defense so that these perjurers would not learn how to manipulate their lying testimony as each was confronted with their perjury, therefore the last day or two of the arbitration was crucial to the Bureau in learning all the facts.

4. The Bureau could have easily determined that the claimants were repeatedly lying by a thorough review of supporting documents. They did not choose to conduct such a review.

The Bureau's arraigning for wide publication of their "Order to Cease and Desist" (signed on 8-29-2012) in order to manipulate and influence the arbitrators during the arbitrators deliberations was shocking to those who knew the facts of this case and Focus Capital clients who just signed amendments with Focus at the Bureau's request. The largest News Paper in the state of NH made this front page news, this could not have been missed by the arbitrators (exhibit 3).

The Bureau had no compelling reason to produce the "Order to Cease and Desist". They had an agreement with Mr. Rowe and Focus Capital based on their written communication of 8-3-2012 (exhibit 2). The conditions of this letter were agreed to and met by Mr. Rowe and Focus Capital. There was no event between 8-3-2012 and 8-29-2012 that would cause any reasonable person to believe Mr. Rowe or Focus Capital had reneged on the agreement. To any reasonable person the sole purpose of the "Order to Cease and Desist" was to influence the FINRA arbitrators, sadly it appears that is what happened.

For the remainder of this response, Mr. Rowe attaches the letter he addressed to Kevin M. Kelcourse on July 17, 2014 because the very same reasons there should not have been an action filed against Mr. Rowe apply to the hearing as well. This is exhibit 1 and it should be considered part of this text.

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:

NRowe 11.7.14

Nicholas Rowe

Service list:

3 copies to:

Marc Jones, Esq.
Boston Reg. Office
SEC
33 Arch St., 23rd Floor
Boston, MA 02110-1424

3 copies to:

Honorable Brenda P. Murray
Chief Administrative law Judge
SEC
100 F Street, N.E.
Washington, DC 20549-2557

Exhibit 7 [redacted]

July 17, 2014

Kevin M. Kelcourse
Assistant Director, Division of Enforcement
Securities and Exchange Commission
33 Arch St., 23rd. Floor
Boston, MA 02110-1424

RE: Response to your letter dated May 14, 2014
In the matter of Focus Capital Wealth Management (B-02822)

Dear Mr. Kelcourse:

Thank you for this opportunity to formally respond to your letter dated May 14, 2014.

In my attached response, I set out many compelling reasons why the commission should not file an action against me (Nicholas Rowe), or Focus Capital.

Please accept the following attachment as my formal statement of reasons and arguments why the commission should not file an action against me or my firm.

Sincerely,

NRowe

Nicholas B. Rowe

REASONS AND ARGUMENTS WHY THE COMMISSION SHOULD NOT FILE AN ACTION AGAINST NICHOLAS ROWE AND FOCUS CAPITAL

In a letter dated 5-14-14 Kevin Kelcourse wrote to me (Nicholas Rowe) regarding the matter of Focus Capital Wealth Management (B-02822). In this letter he notes:

"The staff of the SEC has made a preliminary determination to recommend that the commission file an enforcement action against you. This proposed action would allege that on March 8, 2013, you consented to an order issued by the NH Bureau of Securities Regulation In the matter of Nicholas Rowe, et al., COM2011-0037 barring you and Focus Capital Wealth Management from securities licensure in the State of NH. The order alleged that you and Focus Capital engaged in an investment strategy involving leveraged and inverse exchange traded funds (ETFs) that was unsuitable for your clients and thus in violation of NH law prohibiting investment advisers from engaging in unethical business practices. You and Focus Capital were also ordered to cease and desist from violating NH RSA 421-B:3 and RSA 421-B4 and were ordered to pay $20,000 (a $5,000 fine plus the costs of the investigation) and restitution."

Mr. Kelcourse also stated in this letter: *"The Commission has a procedure to permit persons involved in its investigations to present reasons or arguments why the Commission should not file an action against them."*

I replied by letter on 5-27-14 requesting a stay until my two bankruptcies were completed and noted that *"three ongoing proceedings would perpetrate an extreme hardship effectively making a fair presentation and hearing with the SEC impossible."* In the event a stay was not granted I requested a delay stating the following compelling reasons:

1) *"My wife has a degenerative disease known as Myasthenia Gravis and this requires time to manage and to visit specialists that are approximately 97 miles away requiring a drive of just shy of two hours one way.*
2) *I am in not one but two ongoing bankruptcies and no reasonable person would think anyone in two bankruptcies could possibly prepare properly or care for 3 legal matters at once.*
3) *Due to the successful insurance fraud attempt by claimants and the ineptitude or corruption of the New Hampshire securities department who successfully influenced an arbitration panel, I have lost everything and am now destitute and have yet to meet my monthly living costs for a single month since November 2012, therefore I work an average of 10-12 hours a day 7 days a week in an attempt to care for my family's needs, meanwhile my family survives only because of the kindness of others who I believe are aware of the abuse of the State of NH in this matter. This work schedule leaves very little time to work on a presentation.*
4) *If the SEC is interested in the truth it will wish to allow me adequate time to prepare a full and complete presentation. If it is interested in "padding the stats" then nothing I do will influence the SEC to allow the truth about the injustice perpetrated on me by the State of NH, the Claimants and the Arbitrators to came to light.*

For these and other reasons I ask for 120 day delay from the date of notification to me of any delay."

Keven was unmoved by these requests. No stay or delay was granted. In a phone conversation on 7-18-14 Keven stated the reason for not granting a stay or extension was that it was in the public interest. He noted I could go to another state and set up shop as an SEC adviser. I stated that I would be happy to sign a legal agreement with the SEC agreeing not to work as an adviser until this matter was resolved with the SEC. Furthermore, I made it clear that I currently have no plans to work in any capacity in the industry and I am not now working in any capacity in the industry. When Keven still insisted that no extension would be granted even though the potential public threat was eliminated, I replied that this was beginning to look like an effort to "pad the stats" rather than an effort to have a fair and complete finding of facts. To his credit Keven did say that he was confident his report would not be filed until after 7-18-14 and if I delivered a reply to his office by then he would include it in any communication he forwarded.

I therefore present the following compelling reasons why the Commission should not file an action against me (Nicholas Rowe), or Focus Capital.

According to the May 14, 2014 letter from Mr. Kelcourse the SEC does not rely on any finding of facts by its examiners, but rather seeks to rely on the State of New Hampshire (NH) for its due diligence and investigative work in establishing cause for an enforcement action against Mr. Rowe. *"This proposed action would allege that on March 8, 2013, you consented to an order issued by the NH Bureau of Securities Regulation In the matter of Nicholas Rowe, et al., COM2011-0037 barring you and Focus Capital Wealth Management from securities licensure in the State of NH".*
This is a flawed strategy for several reasons.

1. This strategy will only bring about justice if NH did a proper investigation and came to proper conclusions. If NH relied on testimony of individuals who sought to deceive the state in order to commit Insurance fraud, then the SEC makes itself a victim to those same individuals by depending on the conclusions reached by a deceived securities department in NH. There is a clear and convincing record from the arbitration showing this is exactly what happened.

2. If the employees of the State of NH allowed themselves to be deceived by unsubstantiated claims of individuals because of a bias to convict an adviser in order to "fund their unfunded department" and insure their paychecks, then the SEC, by relying on the states conclusions, reinforces and perpetuates the injustice on the innocent adviser.

3. No creditable evidence has ever been presented in any venue which would back up the findings by the State of NH, furthermore there is a plethora of data to support findings that the claims found in the March 8, 2013 consent drafted by the State of NH are lies. The SEC need go no further than the records of the arbitration to enlighten itself of the truth in this matter.

4. There is ample circumstantial evidence the NH securities department sought to influence the arbitration panel. One can only surmise why they would engage in such behavior, however one possibility is they were convinced by the lavish storytelling and fraudulent lies of the defendants, and sought to convict someone they truly believed was guilty.

5. The consent order was signed under undue duress when representatives of the NH Bureau of Securities Regulation indicated in a phone conversation with Mr. Rowe and his attorney that:
   a) There would not be a fair hearing and
   b) The outcome had been fixed and
   c) The monetary penalty would be at least 10 times greater if there was a hearing and
   d) They also indicated that any penalty would survive bankruptcy.

6. Mark Connolly former Deputy Secretary of State and Director of New Hampshire Bureau of Securities Regulation (he held this position 2002 to 2009) wrote what could be described as a whistleblower book entitled "Cover-Up -- One Man's Pursuit of the Truth Amid the Government's Failure to End a Ponzi Scheme." In this book he describes the same type of disregard for the facts and shoddy investigations as I experienced by the NH Bureau of Securities Regulation. It appears that once he left office in protest over the lack of action on the government officials who permitted the decade long FRM Ponzi scheme fiasco all restraint was lost in the securities department as well.

For these and other reasons the SEC must not rely on the consent order issued by the NH Bureau of Securities Regulation In The Matter of Nicholas Rowe, et al., COM2011-0037

STATEMENT OF FACTS

On March 8, 2013 the State of NH took action to bar Nicholas Rowe and his firm Focus Capital, Inc. from working in the investment field. Nicholas Rowe consented to the action however he did not in any way agree with any finding or action by the State of NH as is so stated in the consent decree [1]. As part of this agreement the state demanded Mr. Rowe give up his freedom of speech rights [2] that every citizen of the United States believes is their birth right. Why would the State of NH insist on Mr. Rowe giving up the right to speak freely about the State of NH's behavior in this matter? I believe it is because they did not want their deplorable and perhaps illegal behavior in this matter to be exposed.

The decision by the State of NH was based largely on the statements and actions of a few former clients of Mr. Rowe. What follows is a small background statement so the reader can understand the context, and an extremely small sample of false statements given under oath, showing that these people were flagrant liars. These are in many cases the exact same lies they related to the State of NH and which the state relied on in their action taken against Nicholas Rowe and Focus Capital. These statements can be found in the records of the FINRA arbitration which are a public record because they were forwarded to the State of NH Bureau of Securities. Furthermore the consent order issued by the NH Bureau of Securities Regulation In The Matter of Nicholas Rowe, et al., COM2011-0037 is virtually a cut and paste of the original complaint from the courts and subsequent arbitration process.

[1] *"without admitting or denying the Statement of Facts and Conclusions of Law, Respondents do hereby consent to the entry of this Consent Order"*

[2] *"The Respondent may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any allegation in this Consent Order or creating the impression that the Consent Order is without factual basis."*

Some Background Information for Nicholas Rowe

Mr. Rowe worked in the consulting, insurance and investment fields from about the year 1986 - 2012. He owned a firm, Focus Capital, Inc. from about 2001 – 2012. Mr. Rowe was well liked and respected by clients and others. Neither Mr. Rowe nor his firm had ever had a complaint or even a concern until after the historic market collapse of 2008.

In 2008 the US stock market experienced a historic collapse the likes of which had not been seen since 1929. In the years following this event Mr. Rowe, with written client approval, implemented various hedging strategies in an attempt to reduce risk in client accounts.

Mr. Rowe met regularly, or was available to meet, throughout each year with his clients for discussions about risk, performance and any topic a client wished to discuss. In the years after 2008 some clients wished to take more risk than Mr. Rowe was comfortable providing for them and they left the firm to find an advisor that would accommodate their appetite for greater risk and potential returns. In all such cases Mr. Rowe wished them the very best and instructed his staff to deal with them with the utmost courtesy, reminding his staff that these former clients remained friends of Mr. Rowe.

However there were a few clients who hoped that by suing Mr. Rowe they could recapture losses suffered as a result of the historic 2008 stock market collapse.

This presented a problem. It is generally understood you cannot sue an adviser for damages if he has reduced risk in your account with your full knowledge and consent. The solution for some was simple and straightforward: They lied. And that is what the record shows they did. Later in this document some of their lies and perjury documented in the public record are recounted.

All records of the State of NH in this matter are a matter of public record.

The records of this matter can be obtained by a freedom of information request to the State of NH. Both parties in the arbitration agreed to forward the transcripts of each day's hearings and copies of all exhibits to the State of NH thus making the entire arbitration process a matter of public record.

What the record shows about potential conflicts of interest at Focus Capital.

First and foremost the record shows that Mr. Rowe invested his own money in the same manner in which he invested his client's money.
2) The record shows that since January of 2006 neither Mr. Rowe, nor his firm, nor any employee of Mr. Rowe's or his firm received commissions on the sale of securities.
3) The record shows that Mr. Rowe's firm was paid fees from client accounts based on the value of the account. This is known in the industry as "fee only" and it is generally understood to reward a firm for good performance and punish it for poor performance.
4) The record shows that Mr. Rowe was paid salary and his employees were paid either salary or hourly.

5) The record shows at least as far back as January 2006 that no one at the firm was ever paid a bonus for meeting any sales goal.

All the above points were in practice to eliminate any incentive for anyone at the firm to have anything but the clients' best interest as the prime motivator. They were in place to eliminate conflicts of interest with regard to investing and compensation. It is impossible to truthfully claim Mr. Rowe invested client money one way and his own another. It is impossible to truthfully claim any compensation arrangement for anyone at the firm incentivized them to act in any way other than to put the client's welfare first.

False statements given under oath.

Francis Straccia

This matter began with a letter of complaint submitted by Francis Straccia to Focus Capital in which she made many false claims and even some claims that were impossible for Mr. Rowe or anyone at his firm to have committed. In that letter she demanded payment of money and threatened to notify the State of NH of her accusations if Mr. Rowe did not pay.

Some of the claims in this letter are helpful because they indicate the level of credibility of this client through claims that have not been doctored or polished by a lawyer.

Some of the claims were simply impossible to be true, one such example was the charge of churning. This of course is impossible for an adviser who receives no commissions, such as Mr. Rowe.

The most important fact of this complaint letter is not what is in it, but rather what is not in it. In the original letter of complaint she never mentions any claim of falsifying documents or changing answers to the questions on any of the paperwork. After meeting with a lawyer this claim became the crux of the complaint. At the arbitration Ms. Straccia stated that virtually every answer she gave relating to her income and appetite for risk had been changed to indicate she could handle more risk than she really could. If that was true, why had it not occurred to her to include it in the very comprehensive complaint letter that she concocted on her own? In fact, if it were true why did she fail to call the office and say 'I just got the copies of all the paper work I filled out at your firm the other day in the mail and I don't remember answering the questions this way.'

> All completed forms for clients were mailed to them for their records; clients would often bring these forms back to the firm on their next appointment for help organizing them in client record keeping folders retained by the clients. Testimony was given by claimants that review meetings were held approximately six times a year.

The answer is simple; there was no truth to the case and nothing in the paperwork supported the claim. The case could not be successful without the outrageous claim that virtually all the paperwork had been falsified and none of the doctored responses in the paperwork had been discovered in all the years that she had been at the firm. However even with the fictitious

wrongs; this claim had no chance to stand unless there were several other people who would be willing to join in on the lie. Because there would be no evidence of the wrong, there needed to be a number of people who would back up her story. Furthermore no unscrupulous lawyer had yet helped in constructing the attack.

In the arbitration Frankie Straccia feigned a low risk tolerance and ignorance about investments. However on cross-examination she admitted detailed discussions about commodities, peak oil and cross currency transactions. She also admitted intimate knowledge of exploration geology, even that she was an editor for a Shell Oil trade magazine. It is also a fact that she told Mr. Rowe she had raced cars in what she described as the powder puff circuit. An email she sent to Focus Capital on November 9th 2009 was presented wherein she talked about the potential of a double dip in the markets. She noted that she regularly received and filed copies of paperwork from Focus Capital and despite earlier testimony that Mr. Rowe had falsified virtually every answer she gave when he filled it out with her, she never once called Focus Capital when she was a client to mention any question was not answered correctly.

It came to light during her testimony that she sought to find other clients of Focus Capital who might be unhappy with the 2008 performance so they could "find a new adviser" (as though the only way to find a new adviser was by talking to another current client of Focus Capital). In truth she needed others to join forces in an attempt to extort a payment from Focus Capital.

Why the need to find others to join her in making these claims? I submit that she knew she was lying and she hoped that if she could find others willing to join her in her lies she would become a greater threat through the strength in numbers philosophy, thus creating a greater incentive for Focus Capital to settle, in order to keep these false claims from becoming public. This is a known tactic used by unscrupulous people to, in effect; extort money from honest business people. The problem for her was that Mr. Rowe lives by a philosophy of never paying extortion money to anyone for any reason. How much more so will Mr. Rowe not pay extortion money to someone who says they will lie publicly in order to create the extortion opportunity.

The public record of the arbitration shows that Ms. Straccia joined together with another client, Mary Beth Lambert in the hopes of recapturing losses they suffered as a result of the historic 2008 market collapse. However it was not enough to find another person, they had to be willing to lie as well. Mary Beth Lambert proved to be just such a person.

Mary Beth Lambert

Mary Beth Lambert, among other lies, made a fraud claim about stolen funds from her account in the original complaint filed in court. This fictitious theft was related to a private real estate investment known as Addess.

The record shows her account statements from her brokerage firm that she received every month truthfully report no such theft. She was treated exactly the same as other investors in Addess and made just shy of a 10% profit on a commercial real estate investment during and

through the worst financial crisis in 80 years. The claim against Addess and Mr. Rowe (as one of the managing partners of Addess) were dismissed because not one word was spoken, nor was any document presented, on the matter. The only purpose of this claim was to create bad press. 'Nick stole money from this lady'.

Would you ever put faith in anything this person ever said on any topic after learning she lied in such a bold and outrageous fashion, making this false statement under oath to a court? The record shows this was only one of many such outrageous lies she made under oath.

Mary Beth Lambert is utterly undependable as a witness to anything.

Ronald Ferrante Jr.

The next client to get involved was Ronald Ferrante Jr. This client's behavior makes the aforementioned clients look like saints. Ron Jr. has experience complaining about other advisers in order to extract money from them. He jumped on the opportunity as soon as he saw that there was a chance to victimize another adviser for profit. Some of the more egregious lies that can be found in the record are:

1) Ron Jr. represented himself to the panel as having virtually no understanding of investments. He also made statements:
a) that indicated he was only 'vaguely familiar with Treasury Bills'.
b) that at the time of the arbitration he had only 'a little understanding of leveraged and inverse ETFs.'
c) that 'he had no interest in using options as investments in any account he had beneficial interest in.'
On the cross examination it was discovered that over the years Ron Jr. had accounts held at ScotTrade, all of which had no adviser assigned to them and were self directed (this means ScotTrade would have only given access and passwords to Ron Ferrante Jr. and would not have knowingly dealt with anyone else). His 09-30-2005 account statement ending in 787 (copies of these statements are in the record) shows Ron invested in Mutual Funds, Stocks, ETFs (exchange traded funds) and closed end funds. The types of investments include gold mining, oil refining, oil exploration, palladium, and platinum mining. He had ownership interests in USA, Japan, Finland, Canada, Netherlands, India, and South Africa. This list is by no means all inclusive as he had about 60 holdings in this one account. He also admitted on cross examination to being a partner in many partnerships. Hardly the holdings of someone with no investment experience.
Ron Ferrante Jr. further admitted that he was trading in options and leveraged ETFs in his ScotTrade accounts beginning in 2006 and the statements showed he continued trading in these accounts with options and leveraged and inverse ETFs up until one month before the commencement of the arbitration hearing. This was no small test account; he contributed over $880,000.00 on or about 12-31-2010 and managed to lose about 25% or about $200,000.00 by 3-31-12 while the market went up by about 12%. This is a man who is comfortable with high

risk trading even entering the trades himself. His statements a) b) and c) above were out and out lies.

2) Ron Jr testified that Mr. Rowe victimized many religious people who had few funds and could easily be taken advantage of. In one emotional outburst he exclaimed "I know this one person in particular, Carolyn Hilger. She's a widow. Her husband died and left her money. Their house is about to be sold. Her money's run out." This was a particularly moving demonstration, the entire room grew quiet as all eyes were on Ron and everyone felt his pain for this poor woman.

This statement by Ron Jr. consists of 5 sentences. Let's number the lies he manages to incorporate in this one short fabrication. 1) This woman, after both her parents passed away, inherited a very large sum amassed by her father. She did a great deal of planning, both while her husband was alive, and after his passing. 2) In time she gifted the bulk of her financial assets to another legal entity. That entity is managed by at least one trustee, an attorney in Portsmouth NH who was happy with the services provided by Focus Capital. The woman has had no ownership interest in her former investment assets for well over 10 years. 3) The value of the investment had not run out but was just shy of $300,000.00 at the time of the Ron Jr. testimony (I can provide a redacted copy of the statement). 4) Virtually the only asset she kept in her possession was her house; however she had not lived in the house for many years at the time of Ron Jr.s testimony. 5) The woman has dementia and has lived in a nursing home for many years (Ron Jr. knows this and has visited her there over the years). 6) As of the date of Ron's testimony the former home of this woman was not sold and was not on the market. When I checked a few years after Ron's testimony, the home was still not sold or on the market. Apparently the members of her family that are responsible for her did not see the need to sell the home.

Mr. Rowe did not make any of these facts known to the panel as it would have been a violation of his privacy policy with the innocent parties who in fact had not made a claim and they had confirmed to Mr. Rowe they were pleased with his management of the investable assets at the time.

The documents and brokerage statements to back up these facts are available to anyone should they ever wish to correct the grievous wrong committed by the arbitrators and the State of NH because of being taken in by these liars.

In just five sentences two of which were; I know a woman. She is a widow. Mr. Ferrante Jr. manages to construct six lies! This is by no means an exceptional example of the skill this man used in lying and manipulation of the emotions of the members of the panel.
The arbitrators should not have allowed this testimony, it is pure hearsay. That fact that they regularly allowed such wild stories with no basis in fact shows the utter failure of a system that was originally designed to bring about a swifter, less expensive form of justice.

This man has to be the most despicable of the lot. To make up stories with no basis of truth and to use other innocent people who despise lying and extortion and are not even aware of

his using them to further his attempt to steal funds from Mr. Rowe, who remains the friend of those people... there just are no words to express the likes of such a person.

Ron Ferrante Jr. was singled out by the attorney for the defense in the arbitration hearing when he stated that Ron Jr's. perjury and behavior amounted to fraud.

This client cannot be believed. He is one of only two people I have met in my life who will lie even when the truth would do neither him nor anyone else any harm. It is my impression that he convinces himself of the lie he has concocted. Doing this to such a point that I have witnessed him be shocked when presented with evidence that disproves the lie, he going so far as to say "I don't believe the evidence" of the truth and refusing to look at documents that disprove his lies. It is as though he must ignore the factual evidence, his lie being more important to him than the truth. I am sure this condition must be written up in psychological literature somewhere, but not being an expert in this area, I would not know where to find it.

This person is worse than a liar. He is worse than someone who commits fraud. He is a danger to anyone who has knowledge of his true nature and could potentially expose him. Mr. Rowe is only one of many that Ron Jr. has left in his wake and threatened to vilify, or has vilified. I am the fourth adviser that I know of that Ron has victimized by these tactics. Two of us fought him and lost due to his perjury, resulting in both of us being barred by the State of NH Bureau of Securities and two paid the extortion price and continue to work in the industry to this day. He has also victimized a neighbor and several ministers in his former religious congregation, in every case he claims to be the victim.

Ron Ferrante Jr. is utterly untrustworthy and any testimony by him on any topic has no credibility whatsoever.

Ron Ferrante Sr. and Anne Ferrante

The lies these two told were the most surprising to me. I did not think they were the type of people to get caught up in this type of fraud.

I can have some empathy for them however. The Ferrante Srs. are the parents of Ron Ferrante Jr. I have already written about how Ron convinces himself of his lies. Imagine how convincing he becomes to anyone who will give ear to his claims. He comes across as sincerely concerned for those he wishes to attract to his side of an issue. Ron Jr. himself related this story at the arbitration (now a public record with the State of NH):

He stated that in October of 2008 he suffered a complete mental breakdown and his parents were on occasion checking on him at his house in the early morning hours. 1:00am was mentioned one time when they found him in lying in the street in front of his house (this is no small road it has a speed limit of about 35 - 45 mph) he stated that he was committed to a hospital and made a ward of the State of NH "under the control of a judge". He stated "I lost the right to have and use floss. I couldn't wear sneakers. I couldn't wear underwear. I didn't

have a toothbrush. I didn't have a telephone. I lived in a small room about 15 feet square." He also described the breakup of his marriage describing himself as a victim in the matter (despite the fact that he cheated on his wife and she divorced him for adultery, these facts are verifiable in court documents). He described other matters always describing himself as the victim.

Who would not want to protect their son, not just from himself, but from all potential threats? Each of the parents indicated they would do anything to protect and care for their son.

His parents expressed concern for their son who came to them sometime after getting out of the hospital, no doubt in a mentally fragile state. They were disturbed enough by the stories they heard about wrongdoing to not even call Mr. Rowe and ask him about these allegations, something that may, if they learned their son was delusional, require his re-hospitalization, or, they could simply believe his fantastic stories. Therefore not giving any opportunity to learn the truth about their son and allowing them to continue living in a state of denial. They chose the latter; I dare say many others would do the same. The email record shows that Mr. Rowe several times reached out to Ron Sr. and offered to meet to discuss the claims he heard from his son. He ignored several of these until finally contacting Mr. Rowe through his lawyer Mr. Fuller, asking Mr. Rowe to stop attempting to contact Ron Sr.

The major contribution of the Ferrante Srs. was to state that Mr. Rowe changed virtually every answer to questions they answered, so the paperwork would appear as though they could handle a higher risk than they really could. This was important testimony because it would corroborate the false testimony from each of the other witnesses. They played their part well. They were very convincing as each of them stated they sat across from Mr. Rowe and answered Mr. Rowe's questions truthfully but that Mr. Rowe had to have changed each answer as he wrote them down because they never would have answered them the way they now appear on the paper work. These claims can easily be proved to be lies for the following reasons:

1) Copies of all paperwork were sent to all clients within a day or two of having been filled out for their review. The Ferrante Srs. acknowledged receiving these forms in the mail but never, not once, did they call Mr. Rowe or Focus Capital to say any answer did not look correct to them.

2) The Ferrantes (and all clients that matter) were sent paperwork to complete and sign and return to the Focus Capital office where it would be signed by Mr. Rowe, copied and then the copies would be sent back to the client so they could review it and file it in their records. They swore under oath that they would not have answered the questions the way they themselves answer them, when they had the paperwork in their own home and Mr. Rowe was 25 miles away! This fact can be verified by simply looking at the top of each form for a date stamp. If there is a date stamp then that form was sent to the home of the client for completion and signatures. Some of the very forms they swore under oath that Mr. Rowe changed their answers to, while they were in his office were not filled out in his office at all, but by them in their own home, with all the time in the world to review and answer them correctly. All

incoming mail to an advisory firm must have the top page date stamped when it is first opened as a matter of law. These clients clearly did not know this law when they concocted their lies.

I can have empathy and understanding for someone who does not wish to come out of denial about the mental condition of their son. However I must protest that to lie in such a way as to cause damage to another to protect yourself from that fact is going too far. Simply meeting with Mr. Rowe early on when their son first told them his stories may well have protected them from being an active part in their son's "fraud".

People lie for one of two basic reasons. First, they misspeak or misremember, second, they knowingly lie to create some benefit for themselves. The record shows the Sr. Ferrantes' lied repeatedly over several hours, involving virtually every question on every form. They have shown by their willingness to repeatedly lie under oath that their testimony cannot be trusted. They are not credible witnesses. To make a mistake is one thing, however the evidence is clear, this was no mistake on their part. They lied in hopes of gaining a substantial monetary reward that they believed was due them because of belief in the lies of their son.

With such a record of lying in an attempt to profit the Sr. Ferrantes' have proven beyond a shadow of a doubt they are not credible witnesses, nothing they say can be trusted.

If the claimants were so obviously liars why did the arbitrators find in their favor? I believe for two basic reasons: incompetence and bowing to the influence by NH Bureau of Securities.

Facts from the FINRA arbitration are vital to the SEC because claims made in the FINRA hearing are virtually identical to the 'findings of the State of NH' in it's consent order, and to the public release of the allegations by the State of NH to the press.

By examining the testimony, exhibits, and the claims made in the arbitration hearing, it is easy to determine if each accusation is valid or is a lie and if the State of NH acted properly in depending on the testimony of these very same people in taking action against Mr. Rowe and Focus Capital.

Background information on FINRA Arbitration and on this case specifically.

Arbitration is offered by FINRA as an alternative to the court system. It is final and binding, meaning there is no recourse when it is completed, therefore it is vitally important that FINRA make sure they supply only highly competent and qualified arbitrators, otherwise the parties could find themselves in a situation where incompetent arbitrators were hearing a case with little hope of correcting the mistakes they make. Sadly, in this case the record is clear; two of the three arbitrators were woefully incompetent.

Prior to the beginning of the Arbitration proceedings on the first day, the Chair Mr. Bill McCarter stated: "we do not have to follow any law, we can give an award for any reason we see fit or not give an award for any reason, this is arbitration and arbitration is arbitrary, I

repeat, arbitration is arbitrary". The following facts will show that is exactly what they did; they made an arbitrary decision rather than basing it on fact, documents, or sound science.

The Arbitrators made no finding of facts.
The arbitrators could have clearly stated findings of facts. This would require identifying wrongdoing or mistakes made by Mr. Rowe. It also would preclude making an arbitrary decision based in part on the hearsay stories about other made up victims and well played emotional testimony of these charlatans.
Although the arbitrators made no finding of facts by examining the transcripts from the proceedings it is possible to perform a process of elimination of reasons.

The Arbitrators were:

Bill McCarter the chair
Who was prone to falling asleep during the proceedings, even knocking over his glass of water while sleeping on one occasion.
Wright Danenbarger
A very competent and alert gentleman who gave every appearance of wanting to do his best and be unbiased.
Jane Venckus Zirlis
A woman who was entirely in over her head. She often stated off the record, "I don't understand Exchange Traded Funds and they scare me." She can be seen repeatedly throughout the sessions asking what an ETF is, or "please help me understand"... "I still don't get it". She did not know what the basic disclosure document (ADV) was, even after it had been explained to her. She appeared especially moved by the emotional storytelling and lies of Ron Ferrante Jr.

The record shows all claimants lied, stating Mr. Rowe misstated their income to indicate it was higher than it was, in an effort to invest them in riskier investments.

Upon cross-examination all admitted they lied when confronted with their tax returns and then compared them to figures on the forms. The forms were either accurate or the income was listed as lower and as more conservative than their income truly was.

The record shows all claimants stated they were misrepresented by the answers Mr. Rowe recorded on virtually every one of their answers on forms and risk questionnaires.

1) Several of these forms and questionnaires were sent in the mail to claimants for them to review and sign, and then return in the mail. These are some of the very forms on which the claimants stated were filled out in Mr. Rowe's office and he wrote down the wrong answers in effect falsifying the documents. This shows they were utterly untrustworthy about any other claims about alleged paperwork misstatements. Date stamps on these forms verify these lies.
2) All claimant copies of paperwork were routinely sent to the claimants within days of being filled out and they acknowledged getting them and filing them either in binders or boxes. There

was never any communication from any claimant that paperwork was filled out improperly in all the years they were clients.
3) There were detailed drawings and notes in the margins of many of these questionnaires, claimants explained Mr. Rowe was helping them to understand the questions because they were having difficulty answering one or more of the questions. How could he draw a diagram in the margin of the form show it to them and at the same time answer the question right next to the diagram incorrectly without their notice?

The record shows the use of ETFs (Exchange Traded Funds) cannot have been the reason for the award.
Claimants stated they did not understand ETFs and did not authorize their use and would not have authorized their use had it been disclosed they were being used in their accounts.

1) ETFs were in claimant accounts from inception. If the cause for the award was use of ETFs then the award should have been based on claimant returns from inception. A simple review of the award amounts and claimant returns from inception shows this not to be the case.
2) The use of every possible type of ETF was disclosed to all claimants on the proper disclosure form, ADV, which all claimants acknowledged receiving in writing.
3) The use of ETFs was disclosed on every advisory agreement for every claimant, on page one paragraph one.

The record shows the hold period of ETFs for longer than one day could not have been the reason for the award.

A great deal has been made by the State of NH Bureau of Securities and the claimants that in the FINRA 09-31 release from June 2009 the statement is made: "inverse and leveraged ETFs typically are not suitable for retail investors who plan to hold them for more than one trading session"

1) These are not retail investors of a FINRA member firm; they are advisory clients of an advisory firm. This statement was not directed to advisory clients. Retail investors tend to buy and forget their investments. These advisory accounts were closely monitored by the advisor Mr. Rowe and his firm Focus Capital. This line in this bulletin is not directed to, nor does it apply to, these clients.
2) On the same page of the same document quoted above, the statement is made: "With respect to leveraged and inverse ETFs, this means that a firm must understand the terms and features of the funds, including how they are designed to perform, how they achieve that objective and the impact that market volatility, the ETF's use of leverage, ***and the customer's intended holding period*** will have on their performance." This language talks about the clients intended holding period. This implies a holding period of more than one trading session.
3) At http://www.sec.gov/investor/pubs/leveragedetfs-alert.htm under the heading: Leveraged and Inverse ETF: Specialized Products with Extra Risks for Buy-and-Hold Investors; Heading: Things to Consider Before Investing; 2nd Bulleted Item; the statement is made:

— "While **there may be trading and hedging strategies that justify holding these investments longer than a day,** buy-and-hold investors with an intermediate or long-term time horizon should carefully consider whether these ETFs are appropriate for their portfolio" (Emphasis added). An intermediate or long-term time horizon by FINRA definition would equate to from three to longer than ten years. This guidance was followed by Mr. Rowe and Focus Capital.
4) There are countless other notations from both FINRA and the SEC that holding periods can properly be longer than one day with these products but they will not be included here for reasons of space, however neither claimants counsel nor the State of NH Bureau of Securities division can be ignorant of these facts.
5) Dr. McCann, expert for the claimants (also expert for the NH Bureau of Securities) indicated that one to two weeks was an acceptable hold period for leveraged and inverse ETFs. He also indicated that under certain circumstances a longer period of time would be ok.
6) Account performance for ETFs held for longer than one day in claimants' accounts that had utilized the Behavioral and/or FAAS strategies was $198,750.80.
Any one of the above reasons gives cause to believe that no award could be given because of a hold period of longer than one day for the ETFs, but how can an award be given on gains? It is impossible.

The record shows the so called Basil strategy could not have been the reason for the award.

Claimants argued that this strategy increased risk and resulted in loses.
1) Reports from an independent expert showed all accounts invested in the strategy had gains.
2) No one was invested in this strategy in 2008. The size of the award precludes any possibility that 2008 was not included in the consideration of the award.
3) Standard deviation analysis did not support the claim that the strategy increase risk.
4) Anne Ferrante was given an award; she was never invested in this strategy.

The record shows the Behavioral and FAAS strategies could not have been the reason for the award.

Claimants argued in arbitration and the courts that the Behavioral and FAAS strategies exposed them to high risk.
1) The earliest these strategies were used in claimant accounts was January 2009. Any award for them would not have included the historic market collapse of 2008.
2) Anne Ferrante was given an award; she was never invested in these strategies.
3) The Standard Deviation analysis performed by an independent expert clearly showed that on average claimants as a group took 18% less risk than the markets over the entire time they were invested but took 41% less risk while invested in the Behavioral and FAAS strategies. The data does not support any argument that more risk was taken by these strategies.
(Standard Deviation analysis was identified by Dr. McCann expert witness for the claimants (also the expert used by the State of NH Bureau of Securities) as "the most useful measure of risk of an investor's portfolio" and he also verified his statement that: "standard deviation is the correct measure of risk for investors' entire portfolios.".)

The record shows that standard deviation analysis proves that the portfolios were not exposed to high risk. This analysis rules out professional mismanagement.

Claimants as a group took 18% less risk than the markets over the entire time they were invested but took 41% less risk while invested in the Behavioral and FAAS strategies. The claimants make the claim Mr. Rowe took excessive risk in their portfolios. They pointed to the Behavioral and FAAS investment strategies as the reason for the greater risk. standard deviation the *"most useful measure of risk of an investor's portfolio" and "the correct measure of risk for investors' entire portfolios"* shows the risk was not excessive and the portfolios risk was lower while the strategies were used. All portfolios managed by Focus Capital that used these strategies would have similar risk return characteristics to these.

The record shows that excluding 2008 the claimants had gains over the life of their accounts. This rules out professional mismanagement.

Claimants netted gains of $739,000 over the life of their accounts at Focus Capital, not including the historic stock market crash of 2008.

The claim was made the fees were not properly disclosed and this amounted to fraud.

In every single case where the fee had been adjusted on a claimant agreement the fee had been adjusted lower, than the fee schedule on the disclosure documents provided to the regulatory authorities and to the claimants, furthermore in every single case it was found the claimant did not initial the change but signed their name within one inch of the change on the fee schedule. So how can this claim be made? "This man committed fraud, he charged me less than he said he would"!
Yet another trumped up charge designed for headlines but with no basis in facts.

The record shows awards were not related to claimant losses.

If you examine losses of claimant accounts and the relationship to the awards, we see that Ron Ferrante Jr. a man in his working prime, was awarded 50% more than his actual losses, however Frankie Straccia a retired widow, was awarded 34% less than her actual losses. Nothing in the data and nothing in the documents supports this behavior. However in the testimony Ron Ferrante Jr. was the most emotional and he was by far the most talented liar. Frankie Straccia's lies were more obvious and less emotionally delivered.

The record shows the claimants set a pattern of lying through their attorney Mr. Fuller;
At the ATTACHMENT/STRUCTURING CONFERENCE BEFORE DAVID A. GARFUNKEL, JUDGE OF THE SUPERIOR COURT at Manchester, New Hampshire, June 9, 2011, Superior Court No. 216-2011-CV-00294

Mr. Fuller stated:
(Page 4 of the court transcript)

"These people were solicited by Mr. Rowe. He told them that he had a highly respected secret Wall Street trader who was giving him trading signals that would allow them to outperform the market as the markets declined, as the Court knows, in 2008, he would be able to avoid these significant
(Page 5 of the court transcript)
market drops. These people agreed to it. He said that he had to charge them an additional fee on top of their management fee of two percent that they were already being charged and added a five percent -- an additional .5 percent fee. That fee he told them would be paid to this secret Wall Street trader whose identity he could [not] have reveal to them because of confidentiality documents he had signed with the lawyers relating to this scheme and -- but it was a sure-fire way to protect their portfolios as the markets continued to decline in 2008. These people agreed to it, they were charged the extra fee, and, in reality, there was no secret Wall Street trader feeding him signals, there was no additional fee being paid to a Wall Street trader in New York for these signals and he simply pocketed the money."

This small quote is filled with lies. The most egregious being that
1) The facts and documents prove not a single claimant was told they would be able to avoid the historic market decline of 2008. The record shows not a single claimant added the Behavioral strategy until 2009. FAAS was added in 2010.
2) The record shows that every claimant paid less than the fee schedule at all times.
3) Without focusing on Fuller's misstating the entity as a "secret Wall Street trader"... "in New York", the contract with the entity was produced along copies of fronts and backs of canceled checks to that entity. The firm did exist, it was paid a fee, and there was a confidentiality clause. *(This was another fantasy fraud claim, easily disproved by documentation).*

Mr. Fuller further stated:
(Page 21 of the court transcript)
"with respect to RedBlack that's wholly owned by Mr. Rowe and Addess Realty is owned by Mr. Rowe and once someone that works in his office, all the assets of these entities come from assets that were fraudulently obtained from the Focus entity and Mr. Rowe."

The facts show that
4) Mr. Rowe was one of 5 owners of RedBlack and his share of ownership was less than 25% and
5) he was one of 10 partners that owned Addess Realty, LLC and
6) each owner contributed their personal funds to the partnership
7&8) not one word was spoken on, and not once piece of evidence was put before the Arbitration panel on either of these entities. Both RedBlack and Addess were dismissed from the arbitration, *with the claimants not even attempting to prove their malicious fraud charges.*

In just seven sentences Mr. Fuller on behalf of the claimants has lied at least eight times (no fraud was found by the arbitrators). Each lie can be verified by documentation. This was consistent behavior of this lawyer and the claimants and gives the impression Mr. Fuller knew he didn't have a case and wanted to make it clear he was willing to destroy Mr. Rowe's reputation and firm with his vicious lies if Mr. Rowe continued to refuse to settle.

Mr. Fuller continued this behavior in the arbitration hearings as well, for example:

The record shows Mr. Fuller, the claimants' attorney regularly gave false testimony and for some unknown reason the arbitrators allowed this behavior.

By no means the most egregious example was when Mr. Fuller made the claim that margin was used to create leverage in the accounts, which he did countless times. On one occasion he stated that his expert Dr. McCann 'created an exhibit that shows $33,000.00 of margin costs for one of Mr. Ferrante's accounts'. No such exhibit was presented.

The truth was that Mr. Ferrante Jr. had margin interest charges for just one month in over 10 years of being with the firm and the cost was negligible. Furthermore margin was not used to create leverage but only to avoid T+3 violations while he was waiting to be paid for securities he sold from his account to other investors!

This type of behavior by Mr. Fuller was a regular occurrence in the arbitration hearings.

The record shows Dr. McCann, expert for the claimants (also for NH Bureau of Securities), lied under oath and gave testimony on the risk of the portfolios but never measured their risk.

1) The transcript of the arbitration shows this exchange:
MR. DAVID WARD: "You will talk about the risks of the portfolio, I think is one things that you also said?"
Dr. McCann: "Yes".
However Dr. McCann did not present any analysis of actual measuring of the risk of any account or portfolio, in fact he stated he did not perform an analysis of the risk of the portfolios for the timeframe reviewed. That did not stop him from making the unsubstantiated claims that claimant portfolios took 150% risk of the market or at times even more. Even though he had access to all the claimant statements he did not measure the risk by standard deviation which he testified was *"the most useful measure of risk of an investor's portfolio" and "the correct measure of risk for investors' entire portfolios".* It is easy to see why he did not measure the risk in the portfolios by "the most correct measure". The most correct measure did not give him the answer his paying clients wanted.

The arbitrators should not have allowed an "expert" who did not measure the risk of client accounts to speak about the risk in the accounts. It amounts to pure speculation.

2) Dr. McCann makes an out an out lie when he stated that Mr. Rowe "cherry picked highly selected sub periods, not the full three and a half year period" for the standard deviation analysis Mr. Rowe performed when responding to questions raised by the SEC. Mr. Rowe was responding to questions raised by the SEC. Mr. Rowe did not choose the time periods questioned. The SEC made the selection through their communications. Furthermore a standard deviation analysis was performed (though not by Dr. McCann) for both the entire time

of the client relationship and also just the time claimant portfolios were in the Behavioral and FAAS, these showed conclusively that on average claimants as a group took 18% less risk than the markets over the entire time they were invested, but took 41% less risk while invested in the Behavioral and FAAS strategies.

3) Three glaring errors were discovered and discussed in exhibits from Dr. McCann while he was speaking on them and still on the stand. Two mathematical errors (one of which was discovered by Dr. McCann himself while testifying) and his reports included an account of a Focus Capital client who was not a claimant, in numbers for profit and loss and potential damages (the only reports he made).

4) Dr. McCann has been found to have knowingly given false testimony under oath by a federal judge in the past and had a FINRA case vacated because of his lying, and the vacating of that case was not appealed (this can be found as EXHIBIT Focus-2 in the FINRA arbitration records which can be obtained from the State of NH).

5) In a Freddie Mac case in the southern District of New York, there was an opinion that was issued March 27 of 2012 by Judge Cedarbaum. In that opinion, Judge Cedarbaum says that Dr. McCann's first study contained several significant errors and that there are other serious errors in his first study. She said Dr. McCann's analysis changed so many times in important ways and was so internally inconsistent that she found it unreliable and unpersuasive.

6) I cannot personally speak to Dr. McCanns lying and false reports in other cases. What I can say without any doubt is that he at the very least misrepresented facts in this case and made glaring errors in his reports. I submit that he did not perform a Standard Deviation analysis of the claimant portfolios because to do so would have been devastating to his clients and he felt not doing it freed him to make his unsubstantiated claims about portfolio risk. One has to ask why any attorney would hire such a man. The answer, I believe, is self-evident.

Did the State of NH Bureau of Securities attempt to influence the arbitrators?

Prior to the Arbitration, the NH Bureau of Securities repeatedly and dogmatically asked to be present in the room during the process. This request was welcomed by the claimants and it was refused by the defense. Through my counsel I, Mr. Rowe, repeatedly took the position that this was a blatant effort to influence the arbitrator's decision. The Bureau stated they felt it was important for them to help them learn the facts in the case, and that they could not complete their ongoing investigation without being present for the arbitration. Mr. Rowe's response through counsel was that we would be happy to provide the Bureau a copy of each day's rough transcripts as they became available (generally the next morning after each day) and a copy of all exhibits. They continued to insist on being in the room during the arbitration; however they could not force themselves in without the defense's consent.
What was the real purpose of the Bureau's request? The record shows that prior to receiving all transcripts they, on August 29th the last day of the arbitration and just in time for deliberation of the arbitrators, released their Staff Petition for Relief In The Matter of Nicholas

Rowe and Focus Capital Wealth Management and made a Statement of Allegations that was essentially a cut and paste of the claimant's allegations and notified the press. This was an amazing about face; they chose not to review the transcripts for the arbitration they said they had to attend just 2 weeks earlier, because it was vital to their investigation. The arbitrators could not have missed the front page article in the Manchester Union Leader courtesy of the State of NH.

There was no finding of fraud.

1) The arbitrators made no finding of facts in their award. Instead they merely repeat the allegations of the claimants.
2) The arbitrators did not make a finding of fraud. If they had, the judgment would have been at least three times greater. Mr. Fuller told them if they found fraud, they would have to award $9,670,239.00. Without fraud he asked for $3,223,413.00. They ultimately awarded about $1,800,000.00.
3) The State of NH Bureau of Securities removed all language and mention of fraud in their Consent Order In The Matter of Nicholas Rowe and Focus Capital Wealth Management, Inc. The State of NH had all the power and could have said whatever they wanted in the consent order. They could have included the allegation of fraud. In fact they could have found fraud had been committed but they did not.
4) All claimants acknowledged receiving monthly statements.
5) All claimants acknowledged receiving and filing paperwork and forms they had signed shortly (within days) after they were completed. Before this action no claimant expressed any concern about paperwork not being accurate.
6) Mr. Rowe's personal investments were invested in the same manner as the claimants.

In summary

The complainants are all known to one another and communicated with one another prior to their complaint. The award according to the chair of the arbitration panel did not have to be based on any law and could be completely arbitrary and thus it is no indication in-of-itself, of wrongdoing. The arbitrators made no finding of fact, which is exactly what would be expected of an arbitrary rather than law based decision. The Chair regularly fell asleep requiring Mr. Fuller to take regular short breaks (about every hour to hour and a half) in an effort to keep him awake. Jane Venckus Zirlis, another member of the panel, regularly stated (off record) "I don't understand exchange traded funds and they scare me". Furthermore, her confusion throughout the hearings is well documented, however, ETFs are ruled out as the reason for the award as they were held from inception, and the award ignored gains prior to 2008. A hold period of longer than a day could not have been the reason for the award because when ETFs held longer than a day were examined in accounts that used Behavioral and FAAS they made an overall profit. All claimants invested in the Basil strategy made profits so it could not have been the reason for the award. Behavioral and FAAS strategies were ruled out as a reason for the award as they were not implemented prior to Jan 1 of 2009 and the award clearly included losses from 2008, furthermore the portfolio's risk was much lower when these strategies were

used. Disclosure of fees could not have been the reason for the award, as the only changes to client fees resulted in lower fees than the disclosure documents, and every client signed their name within an inch of the change. The most useful measure of risk and the correct measure of risk, standard deviation, showed that the accounts were not mismanaged or invested in a speculative way but rather took less risk than the market's, furthermore excluding 2008 the claimants accounts gained $739,000.00, therefore mismanagement could not have been the reason for the award. A blatant and consistent pattern of lying, and misstatements was exhibited by the claimants attorney, the so-called expert witness Dr. McCann, and the claimants themselves, showing their testimony to be completely untrustworthy. Awards were not related to client losses, Ron Ferannte Jr. a young man, getting 50% more than his actual losses while the widow Frankie Straccia received 34% less than her actual losses. There was one clear correlation in the amount of the award to each claimant. The claimants that gave the most emotional storytelling and told the most engrossing lies got the greatest awards. The arbitrators did exactly what they talked about before the hearing even commenced. They ignored the law and made an arbitrary decision. No fraud, no mismanagement, no breach of fiduciary duty was committed or proven by anyone, including governments, their agencies, regulators, self-regulatory organizations, associations, and arbitrators. The only entity that made any finding was the NH Bureau of Securities, however in the face of the evidence in the record and summarized above, one is left to wonder on just what did the State of NH base its decision?

The State of NH Bureau of Securities behavior is confusing to say the least. Stating they had to be at the arbitration hearing in order to learn facts but then releasing their 8-29-12 statement of allegations before even learning what the testimony at the hearing was, is an amazing about face. Is it possible that they wanted to influence the arbitrators even at the expense of creating the impression that they could care less about the facts? What changed in the two weeks from the time the state had said it was crucial for them to learn everything they could from the arbitration, to when they made their public release of the allegations before having time to review the transcripts and exhibits? The sworn testimony from the arbitration and the transcripts from the proceedings could have shed a great deal of light on the matter the state said they were investigating. This action robbed them of the opportunity to examine the credibility of the claimants, and the opportunity to incorporate the facts revealed at the arbitration hearing in their thought process. It is confusing to Mr. Rowe why the state felt the need to remove Mr. Rowe's freedom of speech rights with regard to this matter. Some people might think that rather than instill confidence in the regulator this action could give the impression of a regulator that had something to hide.

It truly was a sad day when Mark Connelly left the NH Securities Department. His reporting of the incompetence or corruption in state government was a real eye opener for many. (see the book "Cover-Up" by Mark Connelly)

An honest review of the facts proves beyond a shadow of a doubt this affair was nothing more than former clients attempting to recover losses from the historic market collapse of 2008 and either an incompetent state securities department, or one which lost its moral compass.

Shortly after Ron Ferrante Jr. learned of Francis Straccia's lies he met with me and told me "I know you didn't do anything wrong but I will join them and say you did. You need to pay me $80,000.00 or I will tell my father and Bill Duby. This thing will become known and you will lose everything: your business, your money, your reputation. You need to pay me to be quiet. I have done this before to Dave Losher (sp?). He lost everything and the State of NH shut him down and barred him from the industry, he lost everything and the same thing will happen to you. I know you didn't do anything wrong but you need to pay me to be quiet".

This case has always been an insurance fraud case. The SEC would make a grievous error should it depend on the actions of a corrupt or incompetent State of NH Bureau of Securities in taking action against me and or Focus Capital.

The State of NH findings are basically a cut and paste of the claims found in the original complaint filed in court and in the FINRA arbitration. By examining the evidence of fraudulent perjury in the FINRA arbitration, it can be proved beyond a shadow of a doubt that NH made a grievous error in the Consent Order issued by the New Hampshire Bureau of Securities Regulations in In The Matter of Nicholas Rowe, et al., COM2011-0037.
By depending on the findings of the State of NH Bureau of Securities, the SEC adopts these grievous errors and repeats the harm done to an innocent victim of these malicious perjures.

Venue Location

As mentioned in my May 27, 2014 letter, I request that the location of any venue for any hearing be Boston, Massachusetts. I am destitute, any location further away than Boston would be the equivalent of a refusal to allow me a hearing.

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:

NRowe 7.17.2014

Nicholas Rowe

Exhibit 2

State of New Hampshire

Department of State
Bureau of Securities Regulation

107 North Main Street, State House Rm. 204
Concord, NH 03301-4989
Telephone: (603) 271-1463
Fax: (603) 271-7933

8/3/2012

David Ward, Esq.
Michaels, Ward & Rabinovitz, LLP
One Beacon Street, 2nd Floor
Boston, MA 02108

Re: Nicholas Rowe and Focus Capital Wealth Management

Dear Mr. Ward;

This letter is a follow-up to our phone conversation on 7/31/2012 at which time this office informed you that unless we receive certain assurances from the above named persons, this office will take immediate action to stop the trading in Exchange Traded Funds, Inverse Exchange Traded Funds and Leveraged Exchange Traded Funds in retail accounts during the pendency of this matter. The Bureau requests that the above persons sign an agreement to:

1. Immediately cease trading in any Exchange Traded Funds;
2. Notify Ceros Financial Services of the Bureau agreement to restrict trading;
3. Revoke any discretionary trading authority for Exchange Traded Funds for all customers unless specific trading authority is received from a customer in writing after having been made aware of FINRA NM 09-31.

If the above terms are not agreed upon by the end of business on 8/10/2012, an immediate suspension of license privileges may result. Should there be a license revocation or suspension, court action may result for the appointment of a receiver to take over the affairs of the business.

If you have any questions, please call.

Sincerely,

Jeffrey Spill
Deputy Director

Cc file
Jamie Boffetti, Sr. Assistant Attorney General

F·O·C·U·S CAPITAL
Wealth Management Inc.

8.3.12

August 3, 2012

Enclosed please find a regulatory notice from the FINRA to its members and registered representatives and a form that must be signed and returned to our office.

Please sign and date the enclosed form, and return it to our office as soon as possible. For any account that we have not received this signed form for by August 10, 2012, we will restrict trading on your accounts until we receive the signed form at our office.

Background Information on FINRA, Their Member Firms and How They Conduct Business

FINRA is an organization made up of the members, which are broker-dealers, referred to as member firms. Some employees of Member Firms are registered representatives. Their job is to sell securities to the general public. Typically, the way they do business is they call the client and recommend the client buy or sell a security and they make a profit on the commission on that sale. Please note that Focus Capital is not a member firm of FINRA, and is not in the business of selling securities. These members firms typically require their registered representatives to do some careful due diligence before recommending the sale of any financial instrument; however, the registered representative typically does not have a duty to continue to monitor that investment once it has been sold to the client and the client has it in their account. In most cases, the clients are using a buy-and-hold strategy, not a trading or managed strategy. The client/customer has the responsibility of monitoring their own investments and making sure they are performing the way they want them to. Again, Focus Capital is not in that business. We do monitor client investments on a regular basis and we do buy and sell securities when we feel it is the prudent thing to do on behalf of our clients. Because the registered representative is typically not monitoring the security once it is in the account, this can present a danger if someone buys a security and nobody is really paying attention to it.

The enclosed regulatory notice is a warning to member firms that inverse and leveraged ETFs are not appropriate to be sold for a buy-and-hold strategy. While we encourage our clients to read through the whole notice, we will draw attention to a specific part of the notice, and the difference between a buy-and-hold strategy during that timeframe, and the typical performance or risk in client accounts that Focus Capital was managing during that same timeframe. This should help you understand the difference between these very different strategies.

On page 2 you will note the two bullet points the line before that reads, "For example, between December 1, 2008, and April 30, 2009:" and this follows:

- "The Dow Jones U.S. Oil & Gas Index gained 2 percent, while an ETF seeking to deliver twice the index's daily return fell 6 percent and the related ETF seeking to deliver twice the inverse of the index's daily return fell 26 percent.

- An ETF seeking to deliver three times the daily return of the Russell 1000 Financial Services Index fell 53 percent while the index actually gained around 8 percent. The related ETF seeking to deliver three times the inverse of the index's daily return declined by 90 percent over the same period."

Of great interest but not noted in this Notice is how much risk was taken by these type of ETFs during the time examined. ETFs that are similar to those mentioned in the first bullet took more than two times the risk of the S&P 500 (as measured by standard deviation). ETFs that are similar to those mentioned in the second bullet took more than six times the risk of the S&P 500. Clearly a buy-and-hold strategy was a disaster during that time. They took much more risk and provided negative returns.

A recent sampling of client accounts of Focus Capital that used inverse and leveraged ETFs during that same time period showed an average return that was greater than the S&P500 and these same accounts took an average of 11% less risk than the S&P500.

Focus Capital has not used, and has no plans to use, inverse or leveraged ETFs in a buy-and-hold strategy. However we feel it is important for our clients to be fully informed.

For any clients who do not return the enclosed form to our office by August 10th, we will immediately stop trading ETFs in their accounts and will make up new investment agreements to reflect the change.

Thank you,

NRowe

Nicholas Rowe, CFP

Nothing in this letter is a solicitation to buy or sell any security. Past performance is not a guarantee of future performance. Focus Capital sample account risk and performance numbers were used for comparative use only to the specific time frame used in the FINRA Notice, and must not be relied upon for an indication of what may have happened in your account. For actual performance in your account please call our office for an appointment.

I/We have received a copy of FINRA Regulatory Notice 09-31, furthermore, I/we understand that Exchange Traded Funds (ETFs) inverse ETFs and leveraged ETFs may be used in my/our accounts, and I/we reaffirm that the discretionary trading authority that I/we assigned to Focus Capital remains on my/our accounts.

Sign Name	Date	Sign Name	Date
Print Name		Print Name	

F·O·C·U·S CAPITAL
Wealth Management Inc.

August 15, 2012

Ceros Financial Services
[redacted]

Re: ETF Trading Restriction

The purpose of this letter is to inform you that we are restricting trading of Exchange Traded Funds (ETFs) in a portion of our client accounts as of 8/17/12. We have done this through our trading software (Rebalance Express) as clients tell us in writing that it is ok to trade ETFs in their accounts we are removing them from being restricted.

Attached is a letter to Focus Capital from the State of New Hampshire Bureau of Securities Regulation, requesting that we agree to cease trading in any ETFs in client accounts until we receive a form signed by the client stating that they have received FINRA Regulatory Notice 09-31, they understand that ETFs, including inverse and leveraged, may be used in their accounts and they reaffirm discretionary trading authority is given to Focus Capital. A copy of the form clients are signing and returning to our office is enclosed.

We have enclosed a list of clients that remain restricted until we receive the signed disclosure from them.

Please note that the required date of acceptance of 8/10/12 has been extended to the 8/17/12.

Please call if you have any questions.

Sincerely,

NRowe

Nicholas B. Rowe
President

Enclosures (3) Ltr to Focus Capital from State of NH dated 8/3/12
Form to be signed & returned by clients
Current Client Restricted List

State of New Hampshire

Department of State
Bureau of Securities Regulation

107 North Main Street, State House Rm. 204
Concord, NH 03301-4989
Telephone: (603) 271-1463
Fax: (603) 271-7933

8/3/2012

David Ward, Esq.
Michaels, Ward & Rabinovitz, LLP
One Beacon Street, 2nd Floor
Boston, MA 02108

Re: Nicholas Rowe and Focus Capital Wealth Management

Dear Mr. Ward;

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1. Immediately cease trading in any Exchange Traded Funds;
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3. Revoke any discretionary trading authority for Exchange Traded Funds for all customers unless specific trading authority is received from a customer in writing after having been made aware of FINRA NM 09-31.

If the above terms are not agreed upon by the end of business on 8/10/2012, an immediate suspension of license privileges may result. Should there be a license revocation or suspension, court action may result for the appointment of a receiver to take over the affairs of the business.

If you have any questions, please call.

Sincerely,

Jeffrey Spill
Deputy Director

Cc: file
James Boffetti, Sr. Assistant Attorney General

I/We have received a copy of FINRA Regulatory Notice 09-31, furthermore, I/we understand that Exchange Traded Funds (ETFs) inverse ETFs and leveraged ETFs may be used in my/our accounts, and I/we reaffirm that the discretionary trading authority that I/we assigned to Focus Capital remains on my/our accounts.

Sign Name	Date	Sign Name	Date
Print Name		Print Name	

Exhibit

3

Epping: 26 hours, 4 arrests • A3
UNH football: Big win • D1
Northern Pass: Underground? • A2

☆ GREATER MANCHESTER EDITION • 75¢

"There is nothing so powerful as truth" DANIEL WEBSTER

NEW HAMPSHIRE
UNION LEADER

UnionLeader.com · Friday, August 31, 2012 · Vol. 150, No. 132 • 48

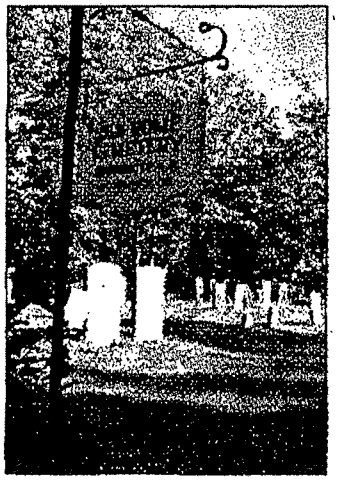
School athletics headed for cuts?

◆Mayor vs. supt.: Sports cuts suggested, but not everyone is in favor.

By DOUG ALDEN
New Hampshire Union Leader

MANCHESTER — Some middle school and junior varsity sports at Manchester schools are not officially on the chopping block — at least not yet.

Mayor Ted Gatsas reiterated his opposition Thursday to cutting some athletic programs to



Bridgewater's Old Home Cemetery, where the ornate iron gate was stolen and sold for scrap.

COURTESY

1785 gate stolen, sold for scrap

◆Remote cemetery: By the time theft was noted, it was too late to save gate.

By BOB HOOKWAY
Union Leader Correspondent

In a case that the president of the New Hampshire Old Graveyard Association said reflects a disturbing trend in tough economic times, a North Sandwich man is accused of stealing the iron gate from a 1785 cemetery in Bridgewater, and selling it as scrap to a salvage dealer.

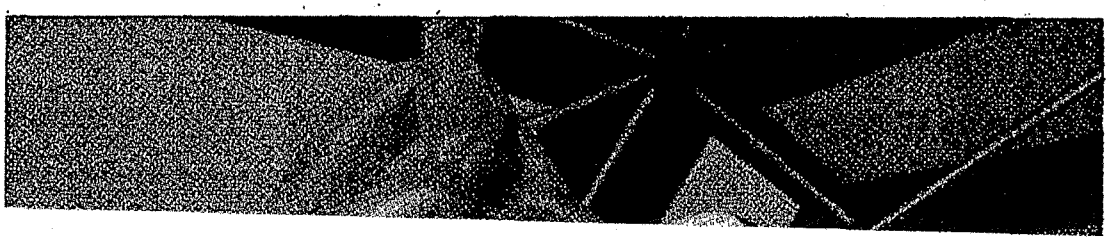
A Grafton County Superior Court grand jury this month indicted John Campbell, 43, on a felony charge of theft by unauthorized taking of an item with a value greater than $1,000.

But Bridgewater Police Chief EJ Thompson said Thursday the gate had much higher historic value to townspeople as part of th trance to Old Home Cem the oldest among a half-c town cemeteries in Bridgew

And, said the chief, the g believed to have been stol May 2011. By the time its c pearance was discovered a ported, and Campbell arr the gate was long gone and destroyed.

►See Gate, P

HATS ON IN HOPKINTON



Inmates hack into NH priso

ing block — at least not yet.

Mayor Ted Gatsas reiterated his opposition Thursday to cutting some athletic programs to save the financially strapped school district money, a controversial option that has been only suggested and discussed so far.

"Nothing I know of has been proposed formally or is even on an agenda," Gatsas said.

Gatsas, chairman of the city school board, said he would vote against the cuts that School Superintendent Thomas Brennan brought up again during a committee meeting

eliminate five of eight middle school sports and some high school [illegible] man programs, freeing up nearly $189,000 to add staff and alleviate at least some of the overcrowding in the city's schools.

The sports in possible jeop-

►See Athletics, Page A10

Eight-year-old Izzy Holmes of Hopkinton laughs with her mom, Kelly, after getting a balloon hat from Buddy the Clown on Thursday, the opening day of the Hopkinton State Fair. The fair continues through Labor Day.

THOMAS ROY/UNION LEADER

Bedford investment guru in hot water

◆Retirees lost big: State is looking to get restitution, suspend license.

CONCORD — State authorities are seeking $2.4 million in restitution from a Bedford investment adviser who allegedly drew elderly customers into highly risky and confusing investments that lost money.

A news release from the New Hampshire Bureau of Securities Regulation said Nicholas B. Rowe and his company, Focus Capital Wealth Management of Bedford, sold investment vehicles called inverse and leveraged exchange traded funds, or ETFs, that "seek profits two times or even three times the movement in the stock market."

Rowe could not be reached for comment Thursday evening.

According to Focus Capital's website, the company uses inverse trading to hedge against losses in turbulent market conditions.

"We may use inverse techniques or stops on certain positions in an effort to protect the portfolio during turbulent times. As a result of these protective strategies the market exposure may be reduced until such time as we feel it prudent to return to the risk policy of the client. These techniques may help to protect a portfolio during times of

►See Rowe, Page A10

State legislator could lose rights to railroad line

◆Payments returned: State appears to be working on contract with a competing company.

By MARK HAYWARD
New Hampshire Union Leader

Long under scrutiny for his use of a state-owned railroad line, a Peterborough state representative could end up losing access to the 18 1/2-mile line, which runs between Wilton and Bennington.

Peter Leishman, owner of Milford-Bennington Railroad Company, said he's currently using the track without the blessings of state transportation officials.

They even returned payments he tried to send them last year, said Leishman, a Democrat from Peterborough.

►See Railroad, Page A10

> "None of this makes any sense."
>
> PETER LEISHMAN,
> railroad company owner

REGULAR FEATURES

Continued from Page A1

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n in March 2010 for allegedly fighting in the parking lot outside the facility after work. Corrections Commissioner William Wrenn called for an external criminal investigation by state police, rather than an internal affairs review, which caused Jordan to lose his benefits through much of the suspension. He was found not guilty of a simple assault charge and returned to work two days later with $29,000 in back pay, but was docked a week's pay.

Jordan, a former chapter president of New England Police Benevolent Association Local 250, representing more than 300 unionized prison workers across New Hampshire, realizes that some will accuse him of simply having an ax to grind in speaking out about the computer breach, but he said he has heard from staff at the prison who are worried about the incident.

"There are guards and civilians there working that don't even know what happened on Friday," said Jordan. "They need to be more open and honest when something like this happens. People there and the public need to know."

pfeely@unionleader.com

man referred to.

"I don't know anything about it," he said. He said the DOT sought bids for operation of the Hillsboro branch rail line in February, and that process is ongoing.

Hilts said Leishman lost the submitted letters of support from his customer, Granite State Concrete; a potential customer, Monadnock Paper Mills; and a snowmobile club.

His bid was rejected, he said.

Whatever happens, Leishman said he just wants DOT to take his $6,000 check for use of the track.

"It just doesn't look good," he said, "that you've got this state legislator running on this state corridor for free."

mhayward@unionleader.com

Rowe

Continued from Page A1

crisis," the Focus Capital website said.

The Bureau is looking to suspend Rowe's investment license and seek a permanent cease-and-desist order, as well as an administrative fine, the news release said.

"Given that many of these customers were in retirement and do not have the ability to recoup losses that younger individuals might, these customers were particularly vulnerable to the high risks of this trading strategy," Bureau Enforcement Deputy Director Jeff Spill said in a statement.

While the investments seek to double or triple profits, "correspondingly, when the ETF loses value, the loss in value in the customer account is also compounded over time which can result in quick and substantial decreases in customer account values," the release said. "Here, the customers lost hundreds of thousands in account value between 2008 and 2010."

NICHOLAS ROWE