

STATE OF NEW HAMPSHIRE
DEPARTMENT OF STATE
BUREAU OF SECURITIES REGULATION
25 CAPITOL STREET
CONCORD, NH 03301

RECEIVED
JAN 04 2021
NEW HAMPSHIRE
DEPARTMENT OF STATE

CONSENT ORDER
IN THE MATTER OF:

Frank Stama (CRD # 4956271)
MKT Investments, LLC (CRD #298252)

COM-20170003

- I. For purposes of settling the above-captioned matter, and in lieu of administrative proceedings, Frank Stama and MKT Investments, LLC have submitted an offer of settlement which the State of New Hampshire, Department of State, Bureau of Securities Regulation (the "Bureau") has determined to accept. Accordingly, without admitting or denying the facts or allegations contained herein, Frank Stama and MKT Investments, LLC do hereby consent to the following undertakings and sanctions:

THE FACTS

1. Frank Stama ("Stama") is an investment adviser representative and sole owner of MKT Investments, LLC ("MKT"), which is an investment adviser that has been licensed by the Bureau since November 13, 2018. MKT's principal business office is located at 264 South River Road, Suite 520, in Bedford, New Hampshire. Prior to creating and operating MKT, Stama was an investment adviser representative of Northeast Wealth Management, LLC ("NWM"), which was an investment adviser partly owned by Stama and licensed by the Bureau from March 2013 through March 2019.
2. The Bureau commenced an investigation of Stama in 2017 after receiving a complaint from a client of Stama (hereinafter referred to as "Investor #1"). Investor #1's complaint was concerning a mutual fund sales charge in the amount of \$9,208.63 that Investor #1 incurred and felt that Stama was responsible for paying.
3. During the course of the Bureau's investigation, the Bureau learned that Stama was engaged in trading leverage and inverse exchange-traded funds ("ETFs") in Investor #1's account. The Bureau also noted that Stama was holding leveraged and inverse ETFs for longer than the recommended hold period of these products, demonstrating a lack of understanding about how leveraged and inverse ETFs are designed to be traded. Investor #1 suffered losses as a result

of Stama's trading in leveraged and inverse ETFs.

4. ETFs are exchanged-traded open-end investment companies or unit investment trusts that track an underlying benchmark or index. The shares represent an interest in a portfolio of securities and trade throughout the day at prices established by the market. These complex investments include various types of ETFs such as inverse, leveraged, and leveraged inverse ETFs. Inverse ETFs, also known as short ETFs, try and deliver the opposite of the performance of the benchmark or index that the fund tracks. Leveraged ETFs seek to deliver multiples of the benchmark or index's performance. Leveraged inverse ETFs, or ultra-short funds, intend to deliver a multiple of the opposite of the performance of the underlying index or benchmark. Inverse, leveraged, and leveraged inverse ETFs are designed to achieve their objectives daily, and reset the performance for the next day. Because of this daily resetting, the performance over longer periods of time can have significantly different results when compared to the daily performance, or to the actual benchmark or index they are tracking. This effect can be worse in a volatile market. Large losses can easily accrue when the ETF is held for longer periods of time; if the price of the ETF drops over a number of days the losses will compound instead of tracking the benchmark.
5. On August 1, 2009, the Securities and Exchange Commission (hereinafter "SEC") issued an investor alert titled "Leveraged and Inverse ETFs: Specialized Products with Extra Risks for Buy-and-Hold Investors ," which stated that buy-and-hold investors with longer term time horizons should carefully consider whether inverse, leveraged, and leveraged inverse ETFs are appropriate, and warned of the risks with these specialized ETFs. In June 2009, the Financial Industry Regulatory Authority, Inc. (hereinafter "FINRA") released Regulatory Notice 09-31 - "FINRA Reminds Firms of Sales Practice Obligations Relating to Leveraged and Inverse Exchange-Traded Funds." Regulatory Notice 09-31 was circulated to all members and states "inverse and leveraged ETFs that are reset daily typically are unsuitable for retail investors who plan to hold them for longer than one trading session."
6. During the course of its investigation, the Bureau also discovered that Stama and MKT failed to have written investment adviser contracts and written discretionary authority for a number of client accounts. Stama and MKT immediately obtained these documents once the issue was brought to their attention by the Bureau. Stama and MKT have also been cooperative throughout the Bureau's investigation.

THE LAW

1. MKT is an investment adviser within the meaning of RSA 421-B:1-102(26) (2016) and RSA 421-B:2(IX) (pre-2016) and Stama is an investment adviser representative within the meaning

of RSA 421-B:1-102(27) (2016) and RSA 421-B:2(IX-a) (pre-2016). MKT, and Stama are persons under RSA 421-B: 1-102(39) (2016) and RSA 421-B:2(XVI) (pre-2016).

2. Pursuant to RSA 421-B:5-502(b)(2)(B) (2016), it shall constitute an unethical business practice to exercise any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within 10 business days after the date of the first transaction placed pursuant to oral discretionary authority. Stama and MKT are in violation of this provision.
3. Pursuant to RSA 421-B:5-502(b)(2)(Q) (2016), it shall constitute an unethical business practice to enter into, extend, or renew any investment adviser contract unless such contract is in writing. Stama and MKT are in violation of this provision.
4. Pursuant to RSA 421-B:6-604 (2016), RSA 421-B:23 (pre-2016), if the secretary of state determines that a person has engaged, is engaging or is about to engage, in an act, practice, or course of business constituting a violation of this chapter or an order issued under this chapter, or that person has, is, or is about to materially aid an act, practice, or course of business constituting a violation of this chapter or an order issued under this chapter, the secretary of state may: issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with this chapter. Stama and MKT are subject to this provision and should be ordered to cease and desist from purchasing inverse, leveraged, and leveraged inverse ETFs in non-institutional client accounts. Stama and MKT should also be ordered to cease and desist from providing investment advisory services to clients without advisory agreements in writing or acting with discretion in client accounts without first receiving written discretionary authority.
5. Pursuant to RSA 421-B:6-604 (2016), in a final order, the secretary of state may impose a civil penalty up to a maximum of \$2,500 for a single violation. In addition, every such person who is subject to such civil penalty, upon hearing, and in addition to any other penalty provided for by law, be subject to such suspension, revocation, or denial of any registration or license, or be barred from registration or licensure, including the forfeiture of any application fee. Stama and MKT are subject to this provision.
6. Pursuant to RSA 421-B:6-604 (2016) and RSA 421-B:22 (pre-2016), the secretary of state may charge the actual cost of an investigation or proceeding for a violation of the chapter or an order issued under the chapter. Stama and MKT are subject to this provision.
7. Pursuant to RSA 421-B:6-604 (2016), and RSA 421-B:26(V) (pre-2016) after notice and hearing, the secretary of state may enter an order of rescission, restitution, or disgorgement directed to a person who has violated this chapter. Rescission, restitution, or disgorgement shall be in addition to any other penalty provided for under this chapter. Stama and MKT are subject to this provision.

- II. In view of the foregoing, Stama and MKT agrees to the following undertakings and sanctions:
1. Stama and MKT agree that they voluntarily consented to the entry of this Consent Order and represent and aver that no employee or representative of the Bureau has made any promise, representation, or threat to induce their execution.
 2. Stama and MKT agree to waive their right to an administrative hearing and any appeal therein under this chapter.
 3. Stama and MKT agree that this Consent Order is entered into for the purpose of resolving only the matter as pertaining to Investor #1. This Consent Order shall have no collateral estoppel effect in any other lawsuit, proceeding, or action, not described herein. Likewise, this Consent Order shall not be construed to restrict the Bureau's right to initiate an administrative investigation or proceeding relative to conduct by Stama or MKT or its agents that the Bureau has no knowledge of at the time of the date of final entry of this Consent Order. Notwithstanding this provision, Stama and MKT agree that the Bureau is not restricted from pursuing any complaint it may receive following the date of this Consent Order related to any conduct by Stama or MKT, including but not limited to any complaints involving any of inverse and leveraged ETF trading activity previously reviewed by the Bureau.
 4. Stama and MKT agree not to 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 contained in this Consent Order or create the impression that the Consent Order is without factual basis. Nothing in this provision affects Stama and MKT's testimonial obligations or right to take any legal positions in administrative proceedings or in litigation, in which the Bureau is not a party.
 5. Stama and MKT agree to pay restitution to Investor #1 totaling nine thousand two hundred eight dollars and sixty-three cents (\$9,208.63). Payment shall be made within ten days of the execution of this Consent Order. Stama and MKT shall provide this check to the Bureau for distribution to Investor #1. This payment shall be made by United States postal money order, certified check, bank cashier's check, or bank money order and made payable to Investor #1.
 6. Stama and MKT agree to pay a fine in the amount of seven thousand five hundred dollars (\$7,500.00) and pay the Bureau's costs in the amount of ten thousand dollars (\$10,000.00), for a total payment to the Bureau of seventeen thousand, five hundred dollars (\$17,500). The Bureau agrees to accept quarterly payments of four thousand three hundred seventy-five dollars (\$4,375.00) to be received by the Bureau by the end of each quarter in 2021 so that payment is made in full by the end of 2021. Payment shall be made by 1) United States postal money order, certified check, bank cashier's check, or bank money order; 2) made payable to the State of New Hampshire; and 3) hand-delivered or mailed to the Bureau of Securities

III. Based on the foregoing, the Bureau deems it appropriate and in the public interest to accept and enter into this Order. **THEREFORE, IT IS HEREBY ORDERED THAT:**

1. Stama and MKT cease and desist from recommending the trading of inverse ETFs, and inverse and leveraged ETFs, in any client accounts.
2. Stama and MKT cease and desist from providing investment advisory services or acting with discretion in client accounts without first obtaining a written investment advisory agreement and discretionary authority in writing.
3. Stama and MKT pay restitution to Investor #1 totaling nine thousand two hundred eight dollars and sixty-three cents (\$9,208.63).
4. Stama and MKT pay fine in the amount of seven thousand five hundred dollars (\$7,500.00) and pay the Bureau's costs in the amount of ten thousand dollars (\$10,000.00), for a total payment to the Bureau of seventeen thousand, five hundred dollars (\$17,500), as stated above.
5. Stama and MKT comply with all other undertakings outlined herein.

SO ORDERED.

Executed this 29 day of December 2020.



Frank Stama

Executed this 29 day of December 2020.



on behalf of MKT Investments, LLC

(Please print name below)

FRANK STAMA

Entered this 5th day of January 2020. 1



Barry Glennon, Director
N.H. Bureau of Securities Regulation