

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

IN THE MATTER OF:

Thomas M. Chadwick (CRD: 2870028),

Respondent

COM-2021-000003

CONSENT ORDER

For purposes of settling the above-referenced matter and in lieu of further administrative proceedings, Thomas Chadwick has submitted an offer of settlement, which the State of New Hampshire, Department of State, Bureau of Securities Regulation ("Bureau") has determined to accept. Accordingly, and without admitting or denying the facts, violations, or statements of law contained herein, Chadwick does hereby consent to the entry of this Consent Order:

I. STATEMENT OF FACTS

a. Background on Thomas Chadwick & His Business

1. Thomas Chadwick ("Chadwick" or "Respondent"), a resident of New London, New Hampshire, was registered as an investment adviser representative in the State of New Hampshire until December 23, 2021.

2. Chadwick's New Hampshire registration was held with the investment adviser Chadwick & D'Amato LLC, which also was based in New London and had a CRD number of 116197. This registration was voluntarily terminated on December 31, 2021.



3. While registered, Chadwick conducted his fee-based business at Chadwick & D'Amato through Fidelity Brokerage Services, LLC ("Fidelity"). Fidelity maintained custody of the clients' funds.

4. Chadwick provided his investment adviser services through continuous management of clients' investment portfolios on a discretionary basis.

5. Prior to 2019, Chadwick invested most of his clients' assets in an SEC-registered mutual fund called "The Chadwick & D'Amato Fund" (hereinafter "the Fund"), a fund partly managed and created by Chadwick.

6. In 2019, the decision was made to close and wind down the Fund. As a result, Chadwick needed to transfer his clients' assets out of the Fund. He placed most clients' assets into money market accounts while looking for another investment.

b. Background on REML

7. Throughout the middle of 2019 to early 2020, Chadwick invested a substantial portion of his clients' assets into a complex, leveraged securities product known as "Credit Suisse X-Links Monthly Pay 2xLeveraged Mortgage REIT Exchange Traded Notes due July 11, 2036," alternatively known as "REML."

8. REML was a senior, unsecured debt security structured as an exchange traded note ("ETN"), that provided a monthly compounded interest of two-times leveraged long exposure to the price return of the FTSE NAREIT All Mortgage Capped Index ("FNMRC").

9. The FNMRC was comprised of Mortgage Real Estate Investment Trusts ("REITs"). Unlike a traditional REIT, which uses its capital to purchase multiple pieces of real estate, a Mortgage REIT uses its capital to issue mortgage loans to owners of real estate. The



FNMRC index measured the performance of tax-qualified U.S. Mortgage REITs with more than 50% of their total assets invested in mortgage loans or mortgage-backed securities.

10. In addition to other factors, as a leveraged and complex product, REML was only suitable for highly aggressive investors who were willing to lose their entire investments. Even for highly aggressive investors, a product like REML would only be suitable in small quantities and in circumstances which the investor would not suffer major negative consequences based on REML's performance.

11. Indeed, the REML pricing supplement, which accompanied the prospectus and prospectus supplement and was issued by creator of REML – Credit Suisse itself – warned: “[b]ecause the ETNs will be two times leveraged with respect to the Index, the ETNs may benefit from two times any positive, but will be exposed to two times any negative, monthly compounded performance of the Index You should not purchase ETNs unless you are willing to risk the loss of up to 100% of your investment.”

12. The REML supplement also highlighted and explained in detail several other risk factors associated with the product, including that REML's underlying ETNs “are fully exposed on a leveraged basis” and that “you will lose some or all of your investment if the Index Closing Level is less than the Index Closing Level at the time you purchased your ETNs.”

13. The supplement went on to subsequently warn that only investors understanding leveraged risks and consequences and risks associated with monthly compounding should consider the product. Further, and importantly, it was clearly noted that REML is not suitable if “[y]ou do not have sufficient financial resources to bear the risk of an investment in [REML], including the risk of loss of your entire investment.”

14. Further, the REML “fact sheet” also warned that REML was inappropriate for “buy-and-hold” investors. Combined with risks associated with monthly compounding, this made REML a generally unsuitable investment for holding more than a short period of time.



15. The supplement additionally warned that although REML paid dividends, the volatility of REML made it so that the dividend could be zero, and "[t]herefore, you should not purchase [REML] if you require fixed or periodic income payments."

16. Between late 2019 and the beginning of 2020, REML traded between \$23 to \$28 per share.

17. In March 2020, the price of REML fell precipitously: on March 2, 2020, REML had a closing price of \$24.40; on March 9, the closing price was \$18.75; and on March 16, the closing price fell to \$8.71. On March 18, 2020, REML reached its lowest value of just \$0.52 and had a closing price of \$1.65. On March 30, 2020, REML closed at \$2.96.

18. After the March 2020 crash, the price of REML slowly climbed, but never fully recovered. In December 2021, Credit Suisse prematurely called REML at a price of \$5.98 per share. REML ceased trading that same day.

c. Chadwick Lacked Understanding of REML's Risks

19. Based on communications to clients, an On-the-Record statement with the Bureau, and client testimony, Chadwick demonstrated that he did not fully understand the risks associated with REML.

20. In communicating with several of his clients, he indicated that REML was a low to moderate risk investment.

21. He indicated to other clients that REML was a good product for steady monthly income and could help meet monthly income needs.

22. He characterized REML as a stable long-term investment.

23. He further stated that he had read and was aware of the prospectus and warnings associated with REML suitability, but invested his clients in it anyway.

24. Despite REML falling to nearly \$0 in March 2020 and never approaching a full recovery, Chadwick successfully encouraged many of his former clients to buy back into REML and erroneously noted the risk of not owning it was greater than owning it.

25. In written communications to former clients, Chadwick stated that his "mistake" had been that he "overconcentrated" REML, and openly apologized for losses associated with his investment choices.

d. Losses Associated with REML

26. Exercising discretionary authority to trade in his clients' accounts, Chadwick purchased REML in the accounts of approximately 99 clients. Chadwick initially purchased REML in most of his clients' accounts in late 2019 or early 2020, when REML was trading at around \$25 per share.

27. When the price of REML dropped in March 2020, Chadwick sold REML positions in most of his clients' accounts, often resulting realized losses of around \$23 or more per share – or around 90 percent of their investment in REML. For many of these same clients, Chadwick repurchased REML in April 2020, in hopes of recovering some of their losses. This strategy never materialized.

28. Individualized client losses are herein incorporated in attached Exhibit A.

II. ALLEGATIONS AND STATEMENTS OF LAW



29. All preceding paragraphs of this Consent Order are restated and incorporated herein.
30. Respondent is a "person" within the meaning of N.H. Rev. Stat. Ann. § 421-B:1-102(39).
31. Respondent is an "investment adviser" within the meaning of RSA 421-B:1-102(26).
32. Pursuant to RSA 421-B:5-502(b)(2)(A), it is a violation of the New Hampshire Securities Act to:
- [r]ecommend to a client to whom investment supervisory, management, or consulting services are provided the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser or investment adviser representative. Respondent is subject to this provision.
33. Pursuant to RSA 421-B:6-604(d), any person who violates any provisions of this chapter, may, "upon hearing, and in addition to any other penalty provided for by law, be subject to such suspension, revocation, or denial of any registration or license," or an administrative fine not to exceed \$2,500 or both. Each violation shall constitute a separate violation. Respondent is subject to this provision.
34. Pursuant to RSA 421-B:6-604(e), the Secretary of State can order Respondent to pay restitution for losses associated with their conduct to affected investors. Respondent is subject to this provision.
35. Pursuant to RSA 421-B:6-604(g), in any investigation to determine whether any person has violated any rule or order under this title, the Secretary of State shall be entitled to recover the costs of the investigation. Respondent is subject to this provision.



III. UNDERTAKINGS

In view of the foregoing Sections of this document, Respondent agrees to the following undertakings:

1. Respondent agrees that he 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 signing of this Order.
2. Respondent agrees to waive his right to an administrative hearing and any appeal thereof under this chapter.
3. This Consent Order is entered into for the purpose of resolving the matter as described herein. This Order shall have no collateral estoppel effect in any other lawsuit, proceeding, or action, not described herein. Likewise, this Order shall not be construed to restrict the Bureau's right to initiate an administrative investigation or proceeding relative to conduct by Respondent of which the Bureau has no knowledge at the time of the date of final entry of this Consent Order.
4. Respondent agrees not to take any action or make any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any allegation in this Consent Order or create the impression that the Consent Order is without factual basis. Nothing in this provision affects Respondent's right to take contrary legal or factual positions in litigation or other legal or regulatory proceedings in which the Bureau is not a party.
5. Respondent agrees to be permanently barred from securities licensure by the State of New Hampshire.
6. Respondent consents to judgment of restitution to the affected investors in the amount of \$4,858,364.74. For purposes of restitution and settlement, all amounts lost in REML above the first 10 percent concentration shall be included in restitution. Additionally, relief

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already obtained by affected investors through other legal mechanisms (lawsuits, arbitrations, other state securities division settlements etc.) and directly associated with REML are not included in the restitution judgment contained herein. Exhibit A to this Consent Order is fully incorporated herein and details the amount of restitution ordered per investor. Upon execution of this consent order, should any investors decide not to accept their allotted restitution payment for any reason, and after opportunity for communication with the Bureau, the restitution amount owed to that investor will be reduced from the total amount of restitution owed under this Consent Order.

7. Respondent shall be ordered and agree to pay an administrative fine of \$750,000.00 and costs of the Bureau's investigation in the amount of \$250,000.00 for a total of \$1,000,000.00. The Bureau will not move to collect the fine and cost amount until all ordered restitution is paid in full.

8. Respondent agrees to the aforementioned judgment amounts. Respondent represents to the Bureau an inability to satisfy the ordered amounts in full and acknowledge that the Bureau may seek relief, to collect the judgment amounts, through the courts and legal processes which may determine how the judgment is satisfied.

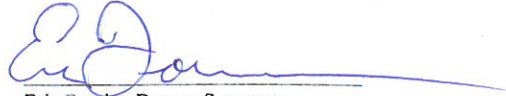
9. Respondent acknowledges that, solely for the purposes of the exceptions to the discharge set forth in 11 U.S.C. § 523, any and all fines, costs, and restitution payments as outlined herein are debts for the Respondent's violations of the State securities laws, or any regulation or order issued under such State securities laws, that are non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(19). Respondent agrees that the entry of this Order is a judgment, order, consent order, settlement agreement, within the meaning of 11 U.S.C. § 523(a)(19)(B), and that the Bureau has all necessary power and jurisdiction to enter this Order, including a determination of non-dischargeability of all obligations pursuant hereto.

Executed this 23rd day of April, 2024.



Thomas Chadwick

Entered this 24th day of April, 2024.



Eric Forcier, Deputy Secretary
N.H. Bureau of Securities Regulation

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