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SECURITIES COMMISSIONER



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## *Texas State Securities Board*

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IN THE MATTER OF THE INVESTMENT  
ADVISER REPRESENTATIVE AND AGENT  
REGISTRATION OF LYLE BOUDREAUX

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**Order No. REG20-DEN-05**

TO: Lyle Boudreaux (CRD No. 4916217)  
5711 Sugar Hill Drive, #30  
Houston, TX 77057

### **CONSENT ORDER**

Be it remembered that Lyle Boudreaux ("Respondent") appeared before the Securities Commissioner of the State of Texas ("Securities Commissioner") and consented to the entry of this order ("Order"), the Undertaking incorporated by reference herein, and the Findings of Fact and the Conclusions of Law contained herein.

### **OVERVIEW**

From February 2016 through April 2017, Respondent traded leveraged ETFs in certain client accounts in connection with services he was providing the clients as an investment adviser representative. Respondent concentrated these client account holdings in the high-risk ETFs and held shares for periods much longer than one day. Ultimately, these clients incurred significant losses.

Respondent has not acted in any registered capacity in Texas since January 31, 2020. To resolve an investigation by the staff of the Texas State Securities Board, Respondent has agreed to the denial of Respondent's application with the Securities Commissioner and has agreed not to reapply for registration with the Securities Commissioner for at least one (1) year from the date this Order is entered.

## FINDINGS OF FACT

1. Respondent has waived (a) Respondent's right to notice and hearing in this matter; (b) Respondent's right to appear and present evidence in this matter; (c) Respondent's right to appeal this Order; and (d) all other procedural rights granted to the Respondent by The Securities Act, Tex. Rev. Civ. Stat. Ann. arts. 581-1 to 581-45 ("Texas Securities Act"), and the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001 to 2001.902.
2. Respondent was registered as an agent and investment adviser representative of Independent Financial Group, LLC ("IFG") from August 21, 2012 to January 31, 2020, at which time Respondent voluntarily left IFG.
3. Respondent subsequently applied for registration with the Securities Commissioner as an investment adviser representative of TCFG Investment Advisers, LLC and as an agent of TCFG Wealth Management, LLC (collectively, "TCFG") on February 5, 2020.
4. On July 23, 2020, TCFG withdrew Respondent's application.

### **Unsuitable Recommendations**

5. During his time at IFG, Respondent received five complaints. All five complaints alleged considerable losses sustained as a result of unsuitable ETF trading.
6. From February 2016 through April 2017 (the "Relevant Period"), Respondent provided investment advisory services to at least 18 client accounts (the "Client Accounts") that consisted of managing the Client Accounts at Respondent's discretion.
7. Respondent's management of the Client Accounts during the Relevant Period included buying and selling shares of Proshares Ultra VIX Short-Term Futures ETF ("UVXY"), a leveraged ETF.
8. Leveraged ETFs are securities that use financial derivatives and debt to amplify the returns of an underlying index. Leveraged ETFs are typically used to speculate on an index, or to take advantage of the index's short-term momentum. Due to the high-risk, high-cost structure of leveraged ETFs, they are rarely used as long-term investments. Generally, shares in leveraged ETFs are held for a few days or less, and may not be in the best interest of a client absent an identified, short-term and specific trading objective.

### *Long Term Use of UVXY*

9. UVXY is a leveraged ETF with an investment objective of seeking returns that are 1.5 times the return of its underlying benchmark (i.e. the S&P 500 VIX Short-Term Futures Index). UVXY is positively correlated to the VIX index which tracks the volatility of the S&P 500, and UVXY derives its profits from the increase in volatility of the S&P 500.
10. The Prospectus of UVXY indicates that it is “intended for short-term use; investors should actively manage and monitor their investments, as frequently as daily.”
11. Respondent held positions in the client accounts for periods that could not reasonably be considered “short-term”.
12. For example, in February of 2016, Respondent purchased 850 shares of UVXY at a price of \$40.00 a share in the account of Client A for a total cost of \$34,000.00. Respondent held the shares for 417 days, and ultimately sold the shares for an average price of \$12.94 a share.
13. As another example, in February 2016, Respondent purchased 1250 shares of UVXY at a price of \$40.00 a share in the account of Client B for a total cost of \$50,000. Respondent held the shares for 316 days, and ultimately sold the shares for an average price of \$9.20 a share.

### *Exceeding Clients' Risk Tolerances*

14. Respondent's purchasing and holding shares in UVXY concentrated certain client accounts in UVXY to levels that exceeded the risk tolerances these clients were willing to endure.
15. During the Relevant Period, Client A was a 58-year-old individual with a moderately aggressive risk tolerance and an investment objective of capital appreciation. Client A had an annual income of \$178,000 and a liquid net worth of \$765,000.
16. Client A had two advisory accounts managed by Respondent. The combined value of those accounts on February 1, 2016 was \$578,799.93. From February 2016 through April 2017, Respondent purchased \$307,832.58 worth of UVXY shares in Client A's advisory accounts. This represented 53% of Client A's February 2016 account value. By April 2017, Respondent sold all the UVXY shares for \$45,880.80 — a loss of \$261,951.78, 85% of Client A's investment in UVXY and 45% of Client A's February 2016 combined account value.
17. Client B was a 59 year-old individual with an aggressive risk tolerance and an investment objective of total return. Client B had an annual income of \$190,000 and a liquid net worth of \$325,000.

18. Client B's advisory account balance on February 1, 2016 was \$192,193.22. From February 2016 through October 2016, Respondent purchased \$138,316.03 worth of UVXY shares in Client B's account. This represented 72% of Client B's February 2016 account value. In January 2017, Respondent sold 29% of Client B's shares in UVXY (898 of 3125 shares) for an average cost of \$9.20. Then in July of 2017, Client B transferred his account to another adviser. At the time of transfer, Client B had 88 shares of UVXY in his account worth \$2620.64 and a realized loss of \$127,429.47, 92% of Client B's investment in UVXY and 66% of Client B's February 2016 account value.

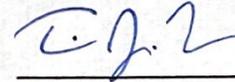
### CONCLUSIONS OF LAW

1. Respondent's purchasing and holding shares of UVXY in the Client Accounts in the manner described above and for the periods reflected, without a reasonable basis to do so, constitutes an inequitable practice in rendering services as an investment adviser representative.
2. Respondent's concentration of clients' accounts in UVXY to levels that exceeded the risk tolerance clients were willing to endure also constitutes an inequitable practice in rendering services as an investment adviser representative.
3. Pursuant to Section 14.A(3), the aforementioned inequitable practices in the rendering of services as an investment adviser representative constitute a basis for the issuance of an order denying Respondent's applications for registration with the Securities Commissioner.

### ORDER

1. It is therefore ORDERED that the applications for registration of Lyle Boudreaux with the Securities Commissioner are hereby DENIED.
2. It is further ORDERED that Lyle Boudreaux COMPLY with the terms of the Undertaking, incorporated by reference herein, wherein Respondent undertakes and agrees: to not reapply for registration with the Securities Commissioner as a dealer, investment adviser, agent of a dealer, or an investment adviser representative for one (1) year from the date this order is signed by the Securities Commissioner, and abide by any additional supervisory requirements related to the purchase of leveraged ETFs in connection with any future registration.

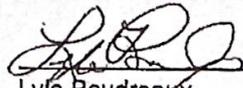
SIGNED AND ENTERED BY THE SECURITIES COMMISSIONER this 1<sup>st</sup>  
day of December, 2020.



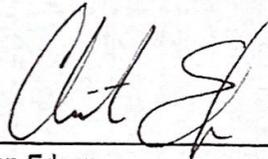
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TRAVIS J. ILES,  
Securities Commissioner

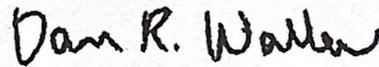
Respondent:

 11/18/20  
Lyle Boudreaux,  
Individually

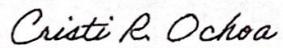
Approved as to Form:



Clinton Edgar,  
Deputy Securities Commissioner



Dan R. Waller,  
Glast, Phillips & Murray, P.C.  
Attorney for Respondent



Cristi Ramón Ochoa,  
Attorney  
Inspections and Compliance Division