

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10978 / September 3, 2021

INVESTMENT ADVISERS ACT OF 1940
Release No. 5847 / September 3, 2021

INVESTMENT COMPANY ACT OF 1940
Release No. 34371 / September 3, 2021

ADMINISTRATIVE PROCEEDING
File No. 3-20526

In the Matter of

**Frontier Wealth Management,
LLC and Shawn Sokolosky**

Respondents.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO 8A OF THE SECURITIES
ACT OF 1933, SECTIONS 203(e), 203(f) AND
203(k) OF THE INVESTMENT ADVISERS
ACT OF 1940, AND SECTION 9(b) OF THE
INVESTMENT COMPANY ACT OF 1940,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Frontier Wealth Management, LLC (“Frontier”) and Shawn Sokolosky (“Sokolosky”) (Frontier and Sokolosky hereinafter collectively, “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings

herein, except as to the Commission’s jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondents’ Offers, the Commission finds¹ that:

Summary

1. This matter concerns Frontier’s failure to adopt and implement written policies and procedures reasonably designed to prevent its investment advisory representatives (“IARs”) from recommending certain types of complex products to clients for whom they were not suitable. In January 2016, Frontier, a Missouri-based registered investment adviser, created the Frontier Permo Fund (“Feeder Fund”), a private feeder fund, which provided its clients access to invest in Fund A, which was managed by a third-party advisor (“Advisor A”). Fund A purported to use complex option strategies and synthetic futures positions to generate returns. Fund A disclosed that its strategy carried speculative and substantial risks with high volatility. From January 2016 to February 2018 (the “Relevant Period”), approximately 177 Frontier retail clients invested approximately \$45 million into the Feeder Fund. In February 2018, due to extreme volatility in U.S. equity markets, Fund A lost about 35% of its value, resulting in losses of approximately \$16 million to Frontier’s clients who invested in the Feeder Fund.

2. During the Relevant Period, Frontier delegated broad autonomy over client investment recommendations to its IARs. Frontier, however, did not provide them with adequate policies, procedures, training, and supervision concerning the features and risks of complex products like the Feeder Fund or whether such products were suitable for clients. Without adequate policies, procedures, training, and supervision in place at Frontier, certain IARs failed to reasonably assess whether the Feeder Fund was suitable for each client. Consequently, certain clients with low risk tolerances and conservative trading preferences invested in the Feeder Fund.

3. Frontier adviser Shawn Sokolosky (“Sokolosky”) recommended that approximately fifty (50) of his clients invest in the Feeder Fund without adequately assessing whether the product was suitable for them. Sokolosky did not adequately consider each of his client’s risk tolerances, investment objectives, or financial circumstances when recommending the Feeder Fund, which rendered certain recommendations unsuitable for his clients. Sokolosky also did not adequately understand the Feeder Fund’s trading strategy, underlying investments, and risks. He

¹ The findings herein are made pursuant to Respondents’ Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

misrepresented the Feeder Fund's risks and made misleading statements about the fees associated with the Feeder Fund.

4. Under the circumstances described above, Frontier willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder and failed reasonably to supervise its IARs within the meaning of Section 203(e)(6) of the Advisers Act and Sokolosky willfully violated Sections 17(a)(2) and 17(a)(3) of the Securities Act and Section 206(2) of the Advisers Act.

Respondents

5. **Frontier** is a Missouri LLC based in Kansas City, Missouri. Frontier has been registered with the Commission as an investment adviser since July 2007. Frontier has 29 IARs in eight branches located in five states. It is principally owned by Frontier Wealth Enterprises, LLC.

6. **Sokolosky**, age 52, is a resident of Wichita, Kansas. Sokolosky is an investment advisory representative of Frontier and has been a Frontier employee since June 2012. From approximately 1997 to June 2012, Sokolosky was a partner at Dimensions Financial Group, a registered investment adviser based in Wichita, Kansas.

Background

Frontier's Feeder Fund

7. Fund A's investment strategy was to generate returns by investing in futures and options on S&P 500 futures. Fund A bought and/or sold options on futures to create bullish or bearish positions based on Advisor A's proprietary strategy. Fund A used option spreads and synthetic futures to generate returns while managing risk. Fund A's offering memorandum ("PPM"), which was included in the Feeder Fund offering materials, stated that the strategy was "speculative and entail[ed] substantial risks." The PPM also stated that financial instruments held by Fund A were "highly volatile" and exposed the fund to "greater volatility than investments in traditional securities." Furthermore, the PPM disclosed that these risks and that trading on margin subjected Fund A to potential "catastrophic margin call[s] ... [that] could lead to a substantial or even complete loss of the Fund's capital."

8. In January 2016, Frontier established the Feeder Fund to give its retail clients who may not have met Fund A's \$1 million minimum investment access to Fund A. The Feeder Fund had a minimum investment requirement of \$100,000, but Frontier permitted certain investments in the Feeder Fund under the stated minimum. Frontier clients paid fees when they invested in the Feeder Fund, which were in lieu of the client's standard advisory fee, and which were distributed as follows: (1) a 0.75% management fee to Frontier, (2) a 1.25% management fee to Advisor A, and (3) a 20% performance fee to Advisor A. Frontier IARs, including Sokolosky, received a percentage of the management fees their Feeder Fund clients paid to Frontier. Approximately 177 Frontier clients invested approximately \$45 million into the Feeder Fund.

Frontier Did Not Adopt or Implement Reasonably Designed Policies and Procedures Relating to Suitability and Failed Reasonably to Supervise its IARs

9. During the Relevant Period, Frontier failed to adopt and implement written policies and procedures reasonably designed to prevent its IARs from recommending certain types of complex products to clients for whom they were not suitable. Frontier's Supervisory Procedures and Compliance Manual contained a section titled "Suitability," that addressed whether a "prospective client is suitable to become a managed account Client of Frontier." Yet, the Manual neither addressed nor required that Frontier IARs (1) understand the features and risks of certain types of complex products available for them to recommend or (2) make recommendations that are suitable for clients in light of the client's financial needs, investment objectives, risk tolerance and individual financial circumstances.

10. Instead, Frontier gave its IARs broad autonomy on client investments. As such, some Frontier IARs made investment recommendations based on varying factors they purportedly discussed orally with clients. Some Frontier IARs maintained notes of client conversations reflecting the factors they considered in making suitability determinations and/or used an "Investor Profile," a 15-question, multiple-choice survey addressing a client's investment objectives, net worth, annual income, employment status, and other information, when making investment recommendations. Yet, Frontier did not maintain such records for certain Feeder Fund clients. Indeed, approximately 40% of Frontier's Feeder Fund clients did not have an Investor Profile at the time the Feeder Fund was recommended to them.

11. Frontier also failed to adopt or implement an adequate supervisory system for determining whether IARs had developed a reasonable belief that their advice was in the best interest of each client, including by performing a reasonable inquiry into its clients' investment objectives, risk tolerances, and financial condition. Frontier IARs did not obtain formal supervisory review and approval of their investment recommendations. Frontier did not assign any Frontier supervisor the responsibility of reviewing, monitoring, or approving Frontier IARs' recommendations or IAR representations to clients and potential clients concerning complex financial products like the Feeder Fund. Frontier did not have adequate procedures in place for supervisors to review or monitor whether IARs' recommendations were suitable for their clients or whether IARs assessed the suitability of an investment for specific clients.

12. Frontier neither required nor provided regular training for its IARs and supervisors on the suitability of the Feeder Fund. Certain IARs had limited experience or knowledge of options, futures, synthetic futures, or options strategies. Yet, Frontier did not provide adequate training on the Feeder Fund or Fund A's complex options strategy, derivatives, or how to assess whether such investments were suitable for their clients.

Certain Frontier IARs Failed to Assess Whether the Feeder Fund Was Suitable for Clients

13. During the Relevant Period, approximately 177 Frontier clients invested approximately \$45 million in the Feeder Fund. Without adequate policies, procedures, training,

and supervision in place at Frontier, certain Frontier IARs recommended the Feeder Fund investment without assessing the suitability of the Feeder Fund for each client or whether the investment was in their best interest. Certain Frontier IARs did not consider each client's investment objectives, risk tolerances, and financial condition or determine that the Feeder Fund was suitable and in their client's best interest at the time they recommended the Feeder Fund to their clients. As a result, certain Frontier clients' investments in the Feeder Fund were inconsistent with their investment objectives and risk tolerances.

14. Due to extreme volatility in U.S. equity markets in February 2018, Fund A lost approximately 35% of its value, resulting in approximately \$16 million in losses for Frontier investors.

15. Certain Frontier clients did not believe the Feeder Fund was consistent with the investment objectives and low risk tolerances that they communicated to their Frontier IARs.

16. Frontier received complaints from certain Feeder Fund clients alleging that they were not adequately informed about the Feeder Fund's underlying investments and risks and that the Feeder Fund was inconsistent with their risk tolerances and/or risk profiles.

Sokolosky's Misrepresentations and Unsuitable Recommendations

17. During the Relevant Period, Sokolosky recommended that approximately 50 of his clients invest in the Feeder Fund. As compensation for these recommendations, he received approximately 50% of the total management fees paid by his clients to Frontier for their investment in the Feeder Fund.

18. Sokolosky did not adequately understand Fund A's strategy, underlying investments, or investment risks. He had limited knowledge and no experience trading or recommending a complex product that involved a combination of options, futures, options on futures, or synthetic futures. Likewise, he lacked experience and knowledge concerning the risks associated with these products and generally how these products traded. Frontier did not provide Sokolosky with sufficient tools or training on complex financial products like the Feeder Fund or on the underlying products or trading strategies used by Fund A. As such, Sokolosky lacked a fundamental understanding of Fund A's trading strategy and investment risks.

19. Because Sokolosky did not understand Fund A's trading strategy, underlying investments, or risks, he did not accurately describe them to his clients and prospective clients. Instead, in certain circumstances, he downplayed the risks associated with the Feeder Fund investment, misstated the volatility of the investment, and misrepresented that Fund A's historic performance was an indication of the Feeder Fund's future returns and low risks. Sokolosky also did not accurately describe to prospective clients and his Feeder Fund clients that Frontier and Sokolosky received fees on the Feeder Fund investment. As a result of Sokolosky's misstatements, certain of his clients had the false impression that the Feeder Fund (and Fund A) was a low-risk, low-volatility investment from which Frontier derived no financial benefit.

20. Sokolosky also failed to reasonably assess the suitability of the Feeder Fund for certain of his clients. He failed to consider each Feeder Fund client's investment objectives, risk profiles, and financial circumstances in light of the risks presented by the complex financial product. Sokolosky recommended that several of his clients invest in the Feeder Fund either without the client completing an Investor Profile or based on dated information. Indeed, certain clients were subsequently surprised that Sokolosky recommended the Feeder Fund to them because they claimed that Sokolosky knew, or should have known, that their investment objective and low-risk tolerances did not align with the Feeder Fund investment.

21. Sokolosky's misrepresentations and unsuitable recommendations caused certain of his clients to invest in the Feeder Fund contrary to their conservative risk profiles and investment objectives.

Violations

22. As a result of the conduct described above, Frontier willfully² violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder and failed reasonably to supervise within the meaning of Section 203(e)(6) of the Advisers Act.

23. As a result of the conduct described above, Sokolosky willfully³ violated Sections 17(a)(2) and 17(a)(3) of the Securities Act and Section 206(2) of the Advisers Act.

Disgorgement

The disgorgement and prejudgment interest ordered in paragraph IV.F. is consistent with equitable principles and does not exceed Respondent Frontier's net profits from its violations, and will be distributed to harmed investors to the extent feasible. The Commission will hold funds paid pursuant to paragraph IV.F. in an account at the United States Treasury pending distribution. Upon approval of the distribution final accounting by the Commission, any amounts remaining that are infeasible to return to investors, and any amounts returned to the Commission

² "Willfully," for purposes of imposing relief under Section 203(e) or (f) of the Advisers Act, "means no more than that the person charged with the duty knows what he is doing." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965). The decision in *The Robare Group, Ltd. v. SEC*, which construed the term "willfully" for purposes of a differently structured statutory provision, does not alter that standard. 922 F.3d 468, 478-79 (D.C. Cir. 2019) (setting forth the showing required to establish that a person has "willfully omit[ted]" material information from a required disclosure in violation of Section 207 of the Advisers Act).

³ *Id.*

in the future that are infeasible to return to investors, may be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

Frontier's Remedial Efforts

In determining to accept Frontier's Offer of Settlement, the Commission considered remedial acts promptly undertaken by Frontier and cooperation afforded the Commission staff. Frontier's remedial actions included enhancements to its policies and procedures as well as enhancements to its internal controls.

IV.

In view of the foregoing, the Commission deems it appropriate, and in the public interest, to impose the sanctions agreed to in Respondents' Offers.

Accordingly, pursuant Section 8A of the Securities Act, Sections 203(e), 203(f) and 203(k) of the Advisers Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Frontier cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-7 promulgated thereunder.

B. Respondent Sokolosky cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act and Section 206(2) of the Advisers Act.

C. Respondent Frontier is censured.

D. Respondent Sokolosky be, and hereby is, suspended from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization for a period of 12 months, effective on the second Monday following the entry of this Order.

E. Respondent Sokolosky is prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter for a period of 12 months, effective on the second Monday following the entry of this Order.

F. Respondent Frontier shall, within 10 days of the entry of this Order, pay disgorgement of \$261,617, prejudgment interest of \$47,095, and a civil money penalty in the amount of \$350,000 to the Securities and Exchange Commission. If timely payment of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to

SEC Rule of Practice 600 and if timely payment of a civil money penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

Payment must be made in one of the following ways:

- (1) Respondent Frontier may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent Frontier may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent Frontier may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Respondent's name as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Ana Petrovic, Division of Enforcement, Securities and Exchange Commission, 175 West Jackson Boulevard, Suite 1450, Chicago, Illinois 60604.

H. Respondent Sokolosky shall pay a civil penalty of \$100,000 to the Securities and Exchange Commission. Payment shall be made in the following installments: \$25,000 within 10 days of entry of this Order and the remaining amount to be paid within 12 months of entry of the Order with \$25,000 installments due every 90 days after the entry of this Order. Payments shall be applied first to post order interest, which accrues pursuant to 31 U.S.C. 3717. Prior to making the final payment set forth herein, Respondent Sokolosky shall contact the staff of the Commission for the amount due. If Respondent Sokolosky fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission. If timely payment of a civil money penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

Payment must be made in one of the following ways:

- (1) Respondent Sokolosky may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent Sokolosky may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent Sokolosky may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Respondent's name as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Ana Petrovic, Division of Enforcement, Securities and Exchange Commission, 175 West Jackson Boulevard, Suite 1450, Chicago, Illinois 60604.

I. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, a Fair Fund is created for the disgorgement, prejudgment interest, post order interest and penalties referenced in paragraphs IV.F. and IV.H. above. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against the Respondents by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent Sokolosky, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Sokolosky under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Vanessa A. Countryman
Secretary