

**ADMINISTRATIVE PROCEEDING**

**BEFORE THE**

**SECURITIES COMMISSIONER OF SOUTH CAROLINA**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>Foster Rogers Wealth</b>	)	<b>NOTICE OF INTENT TO</b>
<b>Management Group, LLC</b>	)	<b>SEEK THE REVOCATION OF</b>
<b>(IARD #143610),</b>	)	<b>INVESTMENT ADVISER</b>
<b>Cody Rogers (CRD #3068373), and</b>	)	<b>AND INVESTMENT ADVISER</b>
<b>Hamilton Foster (CRD #4862999),</b>	)	<b>REPRESENTATIVE REGISTRATIONS</b>
	)	
<b>Respondents.</b>	)	
<hr/>	)	<b>File Number 12078</b>

The Securities Division of the Office of the Attorney General of the State of South Carolina (the "Division") under the authority of the South Carolina Uniform Securities Act of 2005 (the "Act"), S.C. Code Ann. §§ 35-1-101 to 35-1-703 (Supp. 2012), upon due consideration of the subject matter herein and having reason to believe that Foster Rogers Wealth Management Group, LLC ("Foster Rogers WMG"), Cody Rogers ("Rogers"), and Hamilton Foster ("Foster"), should not be permitted to engage in any type of investment advisory business or activity, or otherwise engage in business in the securities industry in this State, through this Notice of Intent to Seek Revocation of Investment Adviser and Investment Adviser Representative Registrations ("Notice of Intent") hereby notifies Foster Rogers WMG, Rogers, and Foster, (collectively, the "Respondents") of its intent to seek an order, pursuant to S.C. Code Ann. § 35-1-412, revoking Rogers' and Foster's registrations as investment adviser representatives, and Foster Rogers WMG's registration as an investment adviser.

## **OVERVIEW**

1. This matter involves the Respondents' (1) failure to properly update material information on their regulatory filings within a reasonable amount of time; (2) filing an annual amendment attesting that all information therein was true and correct, even though it contained incorrect information; and (3) filing an updated address for Foster Rogers WMG, despite said address not being a physical business location.
2. Such actions by the Respondents violate the Act, and pursuant to S.C. Code Ann. § 35-1-412, form the basis for (i) revoking Respondent Foster Rogers WMG's investment adviser registration, (ii) revoking Respondents Rogers' and Foster's investment adviser representative registrations, (iii) issuing against each Respondent a permanent bar prohibiting him or it from engaging in securities business in the State of South Carolina, and (iv) imposing a civil penalty and other sanctions, as appropriate, upon each Respondent.

## **JURISDICTION**

3. The Securities Commissioner of the State of South Carolina (the "Commissioner") has jurisdiction over this matter pursuant to S.C. Code Ann. § 35-1-601(a).

## **RESPONDENTS**

4. Respondent Foster Rogers WMG is a South Carolina limited liability company, currently registered as an investment adviser firm in South Carolina, with a last known address of 1910 East SE Loop 323, Suite 120, Tyler, TX 75701.
5. Respondent Rogers, is a co-owner, investment adviser representative, and registered agent of Foster Rogers WMG, with a last known address of 1411 S. College Avenue, Tyler, Texas 75701.

6. Respondent Foster, a resident of South Carolina, is a co-owner and an investment adviser representative of Foster Rogers WMG, with a last known address of 520 Folly Road #184, Charleston, SC 29402.

#### **RESPONDENTS' ACTIVITY**

7. On or about May 15, 2007, Respondent Foster Rogers WMG became registered with the Division as an investment adviser.
8. On or about May 16, 2007, Respondent Foster became registered with the Division as an investment adviser representative of Foster Rogers WMG.
9. On or about March 23, 2010, Respondent Rogers became registered with the Division as an investment adviser representative of Foster Rogers WMG.
10. On March 19, 2012, Foster Rogers WMG filed its annual amendment on the CRD/IARD system attesting that all information therein was true and correct. The amendment indicated that the business address was 53 Broad Street, Suite 202, Charleston, SC 29401.
11. On March 23, 2012, Foster Rogers WMG updated its ADV Part 2A on the CRD/IARD system. The 53 Broad Street, Suite 202 office was still indicated as the business address.
12. On or about November 27, 2012, the Division contacted Rogers by phone to inform him of the Division's intent to conduct an inspection of Foster Rogers WMG at the firm's office location, which, in filings required by the Division, was listed as 53 Broad Street, Suite 202, Charleston, SC 29401.
13. Rogers indicated to the Division that he had moved to Texas and that there were no books or records at the Broad Street office location.
14. On November 29, 2012, after Rogers was contacted by the Division, the CRD/IARD system was updated indicating a new business and Chief Compliance Officer address of

1910 East SE Loop 323, Suite 120, Tyler, TX 75701. The update also indicated the Chief Compliance Officer had been changed from Foster to Rogers.

15. On or about November 30, 2012, the Division contacted Stephen Johnson, who had previously been associated with Foster Rogers WMG. According to Mr. Johnson the lease for the office space at 53 Broad Street, Suite 202 was in his name until August 31, 2011, and the Respondents should not have had access to the office suite after that date.
16. On December 7, 2012, Foster Rogers WMG updated its ADV Part 2A on the CRD/IARD system, whereby the 1910 East SE Loop 323, Suite 120, Tyler, Texas 75701 address was indicated as the business address.
17. On January 30, 2013, the Division contacted Rogers by phone, and Rogers indicated that Foster made the changes to the CRD/IARD system on March 19, 2012, and March 23, 2012.
18. Rogers also indicated that the 1910 East SE Loop 323, Suite 120, Tyler, TX 75701 office address was not a physical office, but rather a UPS mailbox store which is only used as a mailing address.

### **COUNTS 1-3**

#### **(Providing false or misleading information to the Division)**

19. Each allegation of this Notice of Intent is hereby repeated and re-alleged as if set forth verbatim.
20. Pursuant to S.C. Code Ann. § 35-1-505, it is unlawful for a person to make a statement to the Division that is false or misleading in a material respect.
21. The Respondents filed the annual amendment for Foster Rogers WMG and listed 53 Broad Street, Suite 202, Charleston, SC 29401 as the office address, despite the Respondents no longer having access to that office space.

22. The Respondents updated the ADV Part 2A for Foster Rogers WMG, which indicated that 53 Broad Street, Suite 202, Charleston, SC 29401 was the office address, despite the Respondents no longer having access to that office space.
23. After being contacted by the Division, the Respondents updated the business address for Foster Rogers WMG to 1910 East SE Loop 323, Suite 120, Tyler, TX 75701, which is a UPS mailbox store and not the physical business address.
24. These filings were false and misleading and constitute violations of the Act.

**COUNT 4**  
**(Impeding an audit or inspection)**

25. Each allegation of this Notice of Intent is hereby repeated and re-alleged as if set forth verbatim.
26. Pursuant to S.C. Code Ann. § 35-1-411(d), the records of an investment adviser are subject to reasonable periodic, special, or other audits or inspections by a representative of the Securities Commissioner.
27. Pursuant to S.C. Code Ann. § 35-1-412(d)(8), the Respondents may be disciplined if they refuse to allow or otherwise impede an audit or inspection.
28. Due to the Respondents' failure to provide an accurate address at which books and records are maintained, the Division was impeded from conducting an audit or inspection, which constitutes a violation of the Act.

**REQUEST FOR AN ORDER REVOKING RESPONDENTS' REGISTRATIONS**

29. Pursuant to S.C. Code Ann. § 35-1-412(b), if the Securities Commissioner finds that the order is in the public interest and S.C. Code Ann. § 35-1-412(d) authorizes the action, an order under the Act may revoke, suspend, condition, or limit the registration of a registrant.

30. Pursuant to S.C. Code Ann. § 35-1-412(c), if the Securities Commissioner finds that the order is in the public interest and S.C. Code Ann. § 35-1-412(d)(1) through (6), (8), (9), (10), or (12) and (13) authorizes the action, an order under the Act may censure, impose a bar, and/or impose a civil penalty in an amount not to exceed \$10,000 for each violation on a registrant.

31. Pursuant to S.C. Code Ann. § 35-1-412(d), a person may be disciplined under S.C. Code Ann. § 35-1-412(a) through (c) if the person: ...

(2) willfully violated or willfully failed to comply with [the Act] or a rule adopted or order issued under [the Act]...

(8) refuses to allow or otherwise impedes the Securities Commissioner from conducting an audit or inspection under Section 35-1-411(d).

NOW THEREFORE, the Division requests that the Commissioner grant the following relief against the Respondents:

- a. Pursuant to S.C. Code Ann. § 35-1-412(b), revoke Foster's investment adviser representative registration;
- b. Pursuant to S.C. Code Ann. § 35-1-412(b), revoke Rogers' investment adviser representative registration;
- c. Pursuant to S.C. Code Ann. § 35-1-412(b), revoke Foster Rogers WMG's investment adviser registration;
- d. Pursuant to S.C. Code Ann. § 35-1-412(c), permanently bar Foster from conducting securities business in or from the State of South Carolina;
- e. Pursuant to S.C. Code Ann. § 35-1-412(c), permanently bar Rogers from conducting securities business in or from the State of South Carolina;

- f. Pursuant to S.C. Code Ann. § 35-1-412(c), permanently bar Foster Rogers WMG from conducting securities business in or from the State of South Carolina;
- g. Pursuant to S.C. Code Ann. § 35-1-412(c), order Foster to pay a civil penalty in an amount not exceeding ten thousand and no/100 (\$10,000.00) dollars for each violation of the Act and each violation of any rule or order promulgated by the Commissioner committed by or on behalf of him;
- h. Pursuant to S.C. Code Ann. § 35-1-412(c), order Rogers to pay a civil penalty in an amount not exceeding ten thousand and no/100 (\$10,000.00) dollars for each violation of the Act and each violation of any rule or order promulgated by the Commissioner committed by or on behalf of him;
- i. Pursuant to S.C. Code Ann. § 35-1-412(c), order Foster Rogers WMG to pay a civil penalty in an amount not exceeding ten thousand and no/100 (\$10,000.00) dollars for each violation of the Act and each violation of any rule or order promulgated by the Commissioner committed by or on behalf of it; and
- j. Order any other relief that the Commissioner deems appropriate.

**NOTICE AND OPPORTUNITY FOR A HEARING**

NOTICE is hereby given that the Respondents shall have thirty (30) days from the date of receipt of this Notice of Intent to file an answer and, if desired, a request for a hearing on the matters contained herein. Such answer and, if desired, request for a hearing should be filed with Thresechia Navarro, Securities Division, Post Office Box 11549, Columbia, South Carolina, 29211-1549. In the written Answer, the Respondents shall admit or deny each factual allegation in this Notice of Intent, shall set forth specific facts, laws, and/or affirmative defenses upon

which the Respondents rely and, if desired, make a request for a hearing. A Respondent without knowledge or information sufficient to form a belief as to the truth of an allegation shall so state.

In the event an answer and written notice requesting a hearing is not received within the above-stated thirty (30) day period of time, an order revoking the Respondents' investment adviser and investment adviser representative registrations, and imposing permanent bars and penalties may be entered in this proceeding with no further notice.

Executed and entered, this the 2 day of April, 2013.

SOUTH CAROLINA OFFICE OF THE  
ATTORNEY GENERAL

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