

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: JAMES W. JONEN

FILE NO. 0300861

ORDER OF REVOCATION

TO THE RESPONDENT: James W. Jonen
(CRD#: 704727)
1625 Pebble Beach Drive
Hoffman Estates, Illinois 60194

WHEREAS, the above-captioned matter came on to be heard on March 3, 2004, pursuant to the Notice of Hearing dated January 14, 2004, FILED BY Petitioner Secretary of State, and the record of the matter under the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act") has been reviewed by the Secretary of State or his duly authorized representative.

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions are deemed to be proper and are hereby concurred with by the Secretary of State.

WHEREAS, the proposed Findings of fact, Conclusions of Law and Recommendations of the Hearing Officer Soula J. Spyropoulos, Esq. in the above-captioned matter have been read and examined.

WHEREAS, the proposed Findings of Fact of the Hearing Officer are correct and are hereby adopted as the Findings of Fact of the Secretary of State:

1. Section 130.1102 of Subpart K of the Rules and Regulations of the Illinois Securities Law of 1953 [the "Rules and Regulations"] states that each respondent shall be given a Notice of Hearing at least 45 days before the first date set for any hearing under the Act. Proper notice is given by depositing a Notice of Hearing with the United States Postal Service [the U.S.P.S.], either by certified or registered mail, return receipt requested, or by the personal service of the Notice of Hearing to the last known address of the Respondent.

The evidence as per Department Exhibit 1 shows that the Department deposited the Notice with the U.S.P.S. by certified mail, return receipt requested, to Respondent's last known address on January 14, 2004. Thus, the Department

gave Respondent the Notice on January 14, 2004. The Notice marks as the first date set for hearing the date of March 3, 2004, a date over forty-five (45) days after Respondent was first given the Notice on January 14, 2004. Further, Respondent personally executed the return receipt of the certified mailing of the Notice on January 17, 2004 (again) a date over forth-five (45) days before the first date set for heaing. Therefore, the service of the Notice of the first date set for hearing on the File upon Respondent by the Department was proper.

2. Section 11.F(1) of the ACT provides that the Secretary of State shall not undertake any action or impose a fine against a registered salsespersion of securities within the State of Illinois for a violation of the Act without first providing the salesperson an opportunity for hearing upon not less than 10 days notice given by personal service or registered mail or certified mail, return receipt requested, to the person concerned.

As per Exhibit 1, Respondent was properly notified of his opportunity to be heard on the File via the Department's timely provision thereto of the Notice. As discussed in Paragraph 1 above, the Department served the Notice upon Respondent on January 14, 2004, a date well over 10 days before the Respondent's first scheduled opportunity to be heard on March 3, 2004.

Therefore, because the Department gave proper notice of the scheduled hearing date to Respondent, the Department has personal jurisdiction over Respondent.

3. Respondent personally appeared at the hearing. Respondent did not have witnesses or counsel present with him. After being duly sworn, Respondent alone testified on his own behalf, presenting therewith his Exhibit 1, which was thereupon received and admitted into evidence.
4. The Department offered exhibits, identified above, each of which was received and admitted into evidence, a proper record of all proceedings having been made and preserved as required. To prove the authenticity of the documentation as per Department Exhibit 4 Michael Fox offered his sworn testimony, which testimony was also received and admitted into evidence.
5. No outstanding petitions, motions, or objections exist as to this proceeding.
6. At all material and relevant times Respondent was registered with the Secretary of State as a salesperson pursuant to Section 8 of the Act until March 14, 2002.
7. On December 27, 2002, without admitting or denying the findings alleged by NASD as per the Complaint, Respondent consented to NASD's entry of the Letter of AWC executed thereby. The Letter of AWC, entered as an order on January 16, 2003, bars Respondent from association with any NASD member firm in all capacities.

The Letter of AWC finds: in or about February 2001, Respondent received a commission check from State Street Management and Research made payable to the Member, the check having been mistakenly sent to Respondent's office, which is located in Respondent's home; Respondent, without authority to endorse checks made payable to the Member, endorsed the check to himself and deposited same into his personal investment account; thereafter, between February 2001 and January 2002, Respondent similarly endorsed and deposited forty-two (42) misdirected commission checks totaling in the amount of \$20,559.99 from State Street into his personal investment account, Respondent's actions constituting separate and distinct violations of NASD Conduct Rule 2110.

WHEREAS, the proposed Conclusions of Law made by the Hearing Officer are correct and are hereby adopted as the Conclusions of Law of the Secretary of State:

1. The Secretary of State has jurisdiction over the subject matter hereof pursuant to the Act.
2. Section 8.E(1)(j) of the Act provides, *inter alia*, that the registration of salespeople registered within the State of Illinois may be revoked if the Secretary of State finds that such have been suspended by any self-regulatory organization registered under the Federal 1934 Act or the Federal 1974 Act arising from any fraudulent or deceptive act or a practice in violation of any rule, regulation, or standard duly promulgated by the self-regulatory organization.

Section 8.E(3) of the Act provides, *inter alia*, that withdrawal of an application for registration or withdrawal from registration as a salesperson becomes effective thirty (30) days after receipt of an application to withdraw or within such shorter period of time as the Secretary of State may determine. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the Secretary of State may nevertheless institute a revocation or suspension proceeding within two (2) years after withdrawal became effective and enter a revocation or a suspension order as of the last date on which registration was effective.

3. Until March 14, 2002, Respondent had been a registered salesperson of securities in the State of Illinois. Respondent has since had entered against him an order, the Letter of AWC, that, because of Respondent's having [on many occasions from February 2001 through January 2002] endorsed Member commission checks and deposited same into his personal investment account without authorization, bars him from associating with any NASD member firm in all capacities. Respondent's actions were, thus, in contravention of, or violate, Conduct Rule 2110 of NASD, a self-regulatory organization registered under the Federal 1934 Act.

Therefore, the sanction against Respondent per the order clearly arose from fraudulent or deceptive acts or practices in violation of rules, regulations, or

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standards duly promulgated by a self-regulatory organization, the NASD, registered under the Federal 1934 Act.

Further, because Respondent withdrew his registration, or his application for registration, as a salesperson of securities in the State of Illinois on March 14, 2002, a date less than two (2) years before the date on which the Department instituted revocation proceedings and delivered the Notice as against Respondent, which date is January 14, 2004, the Secretary of State may enter a revocation or suspension order as of the last order on which Respondent's registration was effective: March 14, 2002.

4. Under and by virtue of the foregoing, Respondent's registration as a salesperson of securities in the State of Illinois is subject to revocation, effective March 14, 2002, pursuant to Sections 8.E(1)(j) and 8.E(3) of the Act.

WHEREAS, the Hearing Officer recommended that the Secretary of State should revoke the Respondent's registration as a salesperson in the State of Illinois, and the Secretary of State adopts in its entirety the Recommendation made by the Hearing Officer.

NOW THEREFORE, IT SHALL BE AND IS HEREBY ORDERED:

1. That James W. Jonen's registration as a salesperson in the State of Illinois is revoked, effective March 14, 2002, pursuant to the authority provided under Sections 8.E(1)(j) and 8.E(3) of the Act.
2. That this matter is concluded without further proceedings.

ENTERED: This 5th day of April, 2004.



JESSE WHITE
Secretary of State
State of Illinois

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This is a final order subject to administrative review pursuant to the Administrative Review Law [735 ILCS 5/3-101 et seq.] and the Rules and Regulations of the Act (14 Ill. Admin. Code, Ch. 1 Sec. 130.1123). Any action for judicial review must be commenced within thirty-five (35) days from the date a copy of this Order is served upon the party seeking review.