

**STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT**

IN THE MATTER OF: THOMAS M. ROHRER

FILE NO. 0300834

ORDER OF REVOCATION

TO THE RESPONDENT: Thomas M. Rohrer
 (CRD #: 858539)
 1334 Woodview Lane
 Glenview, Illinois 60025

WHEREAS, the above-captioned matter came on to be heard on June 16, 2004, pursuant to the Notice of Hearing dated January 21, 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,

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or by the personal service of the Notice of Hearing to the last known address of the respondent.

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 salesperson 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.

Actions arising out of or founded upon the offer or sale of any securities in violation of the Act may be commenced against a person who has executed the consent to service of process by the service of process upon the Secretary of State. The filing of an application for registration under the Act, or the offer, sale, or delivery of securities in the State of Illinois, whether effected by mail or otherwise, by any person shall be equivalent to and shall constitute an appointment of the Secretary of State by the person to be the true and lawful attorney for the person upon whom may be served all lawful process or pleading in any action or proceeding against the person, arising out of the offer or sale of the securities. Service of process or pleadings upon the Secretary of State shall be made by serving a copy upon the Secretary of State or upon any employee in his or her office designated by the Secretary of State to accept such service for him or her, provided notice of such and a copy of the process are, within ten (10) days thereafter, sent by registered mail or certified mail, return receipt requested, by the plaintiff to the defendant. (Section 10(A), (B) of the Act.)

As per Exhibit 1, on January 21, 2004, the Department deposited the Notice with the U.S.P.S. by certified mail, return receipt requested, to Respondent's last known address. Thus, the Department gave Respondent the Notice on January 21, 2004. Though the date of January 21, 2004 is a date occurring more than ten (10) days before the then scheduled hearing date of March 3, 2004, it is a date occurring less than forty-five (45) days before the same hearing date. The Department, thus, prepared and deposited the March 8th Order with the U.S.P.S. by certified mail, return receipt requested, to Respondent's last known address. Hence, the March 8th Order was given on March 8, 2004; and, via the same Order, the first date set for hearing on the File was continued from March 3, 2004 and scheduled to occur on April 14, 2004, a date occurring not only more than ten (10) days after the Department deposited or served the March 8th Order, which Order provided due notice of the then-scheduled April 14th hearing date, but also more than forty-five (45) days after Respondent was given the Notice (on January 21, 2004). Therefore, the service of the Notice and of the March 8th Order upon Respondent of the first date set for hearing on

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the File was proper and in accordance with the Rules and Regulations and the Act.

On April 14, 2004, and again on April 15, 2004, the Department deposited with the U.S.P.S. by certified mail, return receipt requested, to Respondent's last known address the April 14th Order, which Order continued hearing on the File to occur on June 16, 2004. Thus, the Department gave Respondent notice of the June 16th hearing date on April 14, 2004 and on April 15, 2004. Further, on April 20, 2004, the Secretary of State accepted service from the Department of the April 14th Order, and, pursuant to the Act, deposited same with the U.S.P.S. by certified mail, return receipt requested, to Respondent's last known address. Hence, the Secretary of State gave Respondent notice of the June 16th hearing date on April 20, 2004, as well. The service of the April 14, 2004 having been given on April 14, 2004, on April 15, 2004, and on April 20, 2004, any of which dates is a date occurring more than ten (10) days before the hearing date of June 16, 2004, the services were proper and in accordance with the requirements of the Act.

Therefore, Respondent was properly notified of his opportunity to be heard on the File via the Department's timely provision thereto of the Notice and of the Orders of Continuance. Because the Department gave Respondent proper notice of the scheduled hearing dates, and of the actual hearing date of June 16, 2004, the Department has personal jurisdiction over Respondent.

2. Respondent failed to appear, whether personally or through counsel, at the hearing.
3. 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.
4. At the hearing, the Department presented the Hearing Officer with their motion for Respondent to be deemed to have admitted to the allegations of the Notice, which motion was based upon Section 130.1104(b) of the Rules and Regulations, and with their motion for a finding of default against Respondent, which motion is based upon Section 130.1109 of the Rules and Regulations. After hearing there on, the Hearing Officer ruled in favor of the Department on both motions.

As of the date hereof, however, the Hearing Officer is unaware of the existence of any other outstanding petitions, motions, or objections as to the File or the proceeding.

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5. 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 August 20, 2003.
6. On August 7, 2003, NASD entered the Order accepting the Offer of Settlement submitted by Respondent regarding Disciplinary Proceeding or Complaint C8A030012, which Order bars Respondent from association with any NASD member in any capacity. The Order finds:
 - a. From in or about August 1999 through in or about August 2000, Respondent recommended and effected a total of 95 purchases or sales of securities transactions which constituted excessive trading activity with a turnover ratio of 15.84% for the individual retirement account of GC, who is a member of the public, without having a reasonable basis for believing that the recommendations and resultant transactions were suitable for GC, based upon GC's age, net worth, financial situation, investment objectives, and medical condition.
 - b. From on or about April 25, 2000 to on or about August 22, 2000, Respondent, in 21 instances purchased or sold or caused the purchase or sale of various securities for the individual retirement account of GC, without the knowledge or consent of GC, or her daughter KW, a member of the public, who had a power of attorney over GC's assets, and in the absence of written or oral authorization to him to exercise discretion in said account.
 - c. On or about August 29, 2002, NASD staff conducted an on-the-record interview of Respondent. The staff conducted the interview pursuant to and in accordance with NASD Procedural Rule 8210. During the interview Respondent was informed that he was testifying under oath and that he was testifying pursuant to NASD Procedural Rule 8210. Respondent also stated that he understood that his failure to answer truthfully could be deemed a violation of NASD Rules and subject him to disciplinary action.
 - d. During the on-the-record interview, Respondent provided false, misleading, and/or evasive testimony concerning the following:
 - i. That he spoke with KW, the daughter of GC, on the telephone prior to executing trades for the individual retirement account of GC; and,

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- ii. That he sometimes placed long distances telephone calls to KW at her home or office in Montana from his cell phone or his personal telephone to discuss the trades that he placed for GC's retirement account.
- e. Respondent intentionally and/or recklessly made these false and/or misleading statements, in that the Member's telephone records and Respondent's personal telephone records show that no calls were placed to KW's telephone numbers in Montana during the period from on or about April 25, 2000 to on or about August 22, 2000. Based on the foregoing, Respondent violated NASD Conduct Rules 2110 and 2310, and IM-2310-2, and Procedural Rule 8210.

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 August 20, 2003, Respondent had been a registered salesperson of securities in the State of Illinois.

On August 7, 2003, Respondent had had entered against him the Order that, because of Respondent's having recommended an effected unsuitable

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purchases and sales of securities constituting excessive trading activity for the individual retirement account of a customer without the customer's knowledge, consent, or authorization, and having subsequently intentionally and/or recklessly made false and/or misleading statements to NASD in NASD's investigation of Respondent's actions, bars him from associating with any NASD member in any capacity. Respondent's actions were, thus, in contravention of, or violate, Conduct Rules 2110 and 2310, Procedural Rule 8210, and IM2310-2 of NASD, a self-regulatory organization registered under the Federal 1934 Act.

The sanction against Respondent per the order clearly arose from fraudulent or deceptive acts or practices in violation of rules, regulations, or 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 August 20, 2003, a date clearly less than two (2) years before the date on which the Department instituted revocation proceedings against Respondent, which date is January 21, 2004, the Secretary of State may enter a revocation or suspension order as of the last date on which Respondent's registration was effective-August 20, 2004.

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 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 it's entirety the Recommendation made by the Hearing Officer.

NOW THEREFORE, IT SHALL BE AND IS HEREBY ORDERED:

1. That Thomas M. Rohrer's registration as a salesperson in the State of Illinois is revoked pursuant to the authority provided under Sections 8.E(1)(j) and 8.E(3) of the Act as of August 20, 2003 .

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2. That this matter is concluded without further proceedings.

ENTERED: This 2nd day of July 2004.



JESSE WHITE
Secretary of State
State of Illinois

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.