

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: BRIAN A. KERNS

)
) FILE NO. 0400272
)

CORRECTED NOTICE OF HEARING

TO THE RESPONDENT: Brian A. Kerns
(CRD #: 4339980)
607 W. Wrightwood
Chicago, Illinois 60614

You are hereby notified that pursuant to Section 11.F of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act") and 14 Ill. Adm. Code 130, Subpart K, a public hearing will be held at 17 North State Street, Suite 1266, Chicago, Illinois 60602, on the 11th day of August, 2004 at the hour of 10:00 a.m. or as soon as possible thereafter, before James G. Athas, Esq. or such other duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order shall be entered revoking Brian A. Kern's (the "Respondent") registration as a salesperson in the State of Illinois and/or granting such other relief as may be authorized under the Act including but not limited to the imposition of a monetary fine in the maximum amount pursuant to Section 11.E(4) of the Act, payable within ten (10) business days of the entry of the Order.

The grounds for such proposed action are as follows:

1. That at all relevant times, the Respondent was registered with the Secretary of State as a salesperson in the State of Illinois pursuant to Section 8 of the Act until July 9, 2003.
2. That on February 20, 2004, NASD entered a Letter Of Acceptance, Waiver And Consent (AWC) submitted by the Respondent regarding FILE NO. C8A040006 which barred him from association in any capacity with any member of the NASD.

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3. That the AWC found prior to and throughout his association with the Member as a registered representative, the Respondent was simultaneously employed by the Member's banking affiliate. Between about September 2002 and about April 2003, he caused the transfer of Funds totaling \$88,340 from two bank accounts of customers of the Member's banking affiliate without their knowledge and approval to a separate bank account over which he exerted control, and converted the funds to his own personal use, in violation of NASD Conduct Rule 2110.
4. That Section 8.E(1)(j) of the Act provides, inter alia, that the registration of a salesperson may be revoked if the Secretary of State finds that such salesperson has 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.
5. That NASD is a self-regulatory organization as specified in Section 8.E(1)(j) of the Act.
6. That Section 8.E (3) of the Act provides inter alia, withdrawal of an application for registration or withdrawal from registration as a salesperson, becomes effective 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 2 years after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.
7. That by virtue of the foregoing, the Respondent's registration as a salesperson in the State of Illinois is subject to revocation pursuant to Section 8.E(1)(j) of the Act.

You are further notified that you are required pursuant to Section 130.1104 of the Rules and Regulations (14 ILL. Adm. Code 130) (the "Rules"), to file an answer to the allegations outlined above within thirty (30) days of the receipt of this Notice. A failure to file an answer within the prescribed time shall be construed as an admission of the allegations contained in the Notice of Hearing.

Furthermore, you may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate. A failure to so appear shall constitute default, unless any Respondent has upon due notice moved for and obtained a continuance.

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A copy of the Rules, promulgated under the Act and pertaining to hearings held by the Office of the Secretary of State, Securities Department, is included with this Notice.

Delivery of Notice to the designated representative of any Respondent constitutes service upon such Respondent.

Dated: This 24th day of June 2004.

A handwritten signature in black ink, appearing to read "Jesse White", with a stylized flourish extending to the right.

JESSE WHITE
Secretary of State
State of Illinois

Attorney for the Secretary of State:
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Hearing Officer:
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