

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

IN THE MATTER OF:)

Arthur Lin (CRD#4437111),)

Gloria Lin.)

File Number: 1000096

CONSENT ORDER OF PROHIBITION AND REVOCATION

TO THE RESPONDENT:

Arthur Lin
c/o his attorney
Peter B. Shaeffer, Esq.
30 North LaSalle St., Ste. 2140
Chicago, IL 60602

Arthur Lin
4975 Lichfield Drive
Barrington, Illinois 60010

Arthur Lin
900 N. Arlington Heights Road
Itasca, Illinois 60143

WHEREAS, Respondent Arthur Lin, on the 6th day of December, 2011 executed a certain Stipulation to Enter Consent Order of Prohibition and Revocation (“the Stipulation”), which hereby is incorporated by reference herein.

WHEREAS, by means of the Stipulation, Arthur Lin has admitted to the jurisdiction of the Secretary of State and service of the Notice of Hearing of the Secretary of State, Securities Department, dated July 22, 2010 in this proceeding (the “Notice”) and has consented to the entry of this Consent Order of Prohibition and Revocation (“Consent Order”).

WHEREAS, by means of the Stipulation, Arthur Lin has acknowledged, without admitting or denying the truth thereof, that the following shall be adopted as the Secretary of State’s Findings of Fact:

BACKGROUND

1. Respondent **Arthur Lin** is an individual with last known addresses of 900 N. Arlington Heights Road, Itasca, Illinois 60143 and 4975 Lichfield Drive, Barrington, Illinois 60010.
2. LPL Financial Corporation (“LPL”) is a securities broker-dealer and federally covered investment adviser located at One Beacon Street, 22nd Floor, Boston, Massachusetts 02108-3106.
3. At all relevant times, Arthur Lin was registered with the Secretary of State of the State of Illinois as an investment adviser representative and securities salesperson with LPL.
4. Marcin Malarz (“Malarz”) is an individual with last known addresses of 5301 Keystone Drive, Rolling Meadows, IL 60008 and 1313 E. Westleigh Road, Lake Forest, IL 60045.
5. In September of 2006, Malarz formed Malarz Equity Investments, LLC (“MEI”), an entity with a last known address of 5301 Keystone Court, Rolling Meadows, IL 60008. MEI was a company that purported to purchase apartment buildings and convert the apartment buildings into condominiums. Malarz was a manager and co-founder of MEI.
6. On September 8, 2006, an attorney filed MEI’s Articles of Organization with the Office of the Secretary of State of Illinois, Department of Business Services. In the Articles of Organization, Arthur Lin was also listed as a manager of MEI. On October 12, 2006, Malarz amended the Articles of Organization for MEI and removed Arthur Lin as a manager of MEI.
7. While serving as an investment adviser representative and securities salesperson for LPL, Arthur Lin sold MEI’s promissory notes to several Illinois investors, including several of his LPL customers.
8. Respondent **Gloria Lin** is the wife of Arthur Lin and has a last known address of 4975 Lichfield Drive, Barrington, Illinois 60010. At all relevant times, Gloria Lin provided income tax preparation services to individuals at two different locations in Downers Grove, Illinois. Gloria Lin is listed as a co-founder of MEI in the company’s offering documents.

COUNT 1

FRAUD IN THE OFFER AND SALE OF SECURITIES
Failure to Disclose Conflicts of Interest by Arthur and Gloria Lin

9. Investor A is an Illinois resident and a tax client of Gloria Lin. While providing tax preparation services to Investor A, Gloria Lin informed Investor A that her husband, Arthur Lin, offered investment advisory services. Gloria Lin then recommended Arthur Lin’s services to her.

10. In June of 2008, Investor A consulted Arthur Lin, and moved her investment assets to LPL so that Arthur Lin could provide her with investment advice.
11. In September of 2008, Arthur Lin advised Investor A to liquidate a substantial amount of her investments with LPL and invest those funds in MEI. In advising Investor A, Arthur Lin told Investor A that the stock market is doing poorly, and an investment in MEI would be a safe place to invest her money.
12. What Arthur Lin omitted to tell Investor A was that he had been a manager of MEI.
13. In addition, Arthur Lin also failed to inform Investor A that Malarz used company funds to pay substantial amounts of money to Arthur's wife, Gloria Lin. Between December 4, 2006 and March 15, 2008, Malarz made payments totaling at least \$382,000 to Gloria Lin from MEI's bank account with Chase Bank.

Material Misrepresentations and Omissions Regarding Pending Litigation and Maximum Amount of Money to be Raised by the Offering

14. In the process of soliciting an investment in MEI from Investor A, Arthur Lin provided Investor A with a document called a Summary Information Memorandum ("SIM") which described MEI's investment offering.
15. The SIM that Arthur Lin provided to Investor A stated that:
 - a. **The investment will yield simple interest at 12%;**
 - b. **Malarz personally guaranteed principal and interest payments to investors;**
 - c. **There is no pending litigation against MEI;**
 - d. **The offering would be capped at \$3 million;**
 - e. **Investments would be used to purchase apartment buildings and convert those apartment buildings into condominiums.**
16. Although the SIM stated that there was no pending litigation against MEI, the SIM failed to mention the fact that Malarz was named as a defendant in more than one civil action at the time that Arthur Lin solicited an investment in MEI from Investor A.
17. One of the civil actions against Malarz involved a foreclosure action initiated on October 11, 2007. As a result of this action, a judgment of foreclosure was entered against Malarz and others on February 27, 2008, and the property in question was subsequently sold at a Sheriff's auction.
18. Arthur Lin failed to disclose to Investor A that Malarz was involved in pending litigation, and had an outstanding judgment against him.
19. MEI's SIM also misrepresented that the investment offering of promissory notes would be capped at \$3 million. At the time that Arthur Lin solicited the investment from

Investor A, Arthur Lin had already sold well over \$3 million of MEI's promissory notes. In the time that he was selling promissory notes on behalf of MEI, Arthur Lin sold \$6.3 million worth of promissory notes to MEI investors.

20. Arthur Lin never informed Investor A that he had already sold over \$3 million of MEI's promissory notes even though the SIM that he provided to Investor A said that the offering would be capped at \$3 million.
21. The misrepresentations and omissions of material fact made in regard to the pending litigation against Malarz and the \$3 million cap on investments in MEI address the solvency and financial condition of MEI and Malarz and their ability to make principal and interest payments to investors.
22. Additionally, these misrepresentations and omissions of material fact obfuscate the true risks of investing in MEI, and make Malarz's personal guarantee to make principal and interest payments to investors misleading.

Material Misrepresentations and Omissions Regarding the Misuse of Proceeds from Sale of Promissory Notes

23. In addition to misrepresentations and omissions of material fact that were made that address the solvency and financial condition of MEI and Malarz, the SIM also made misrepresentations and omissions of material facts regarding the use of the proceeds from the sale of promissory notes. MEI's SIM states:

The company intends to raise up to \$3,000,000 from Investors which will be used to purchase several apartment buildings, likely five or six, in the suburban Chicagoland area which the Company intends to convert to condominium ownership by the Company and to sell to condominium unit purchasers.

24. What the SIM omitted to state was that a substantial amount of investor funds would be used to pay back previous investors of MEI's promissory notes.
25. Additionally, Arthur Lin failed to inform Investor A that Malarz used investor funds to pay back previous investors of MEI.
26. In the end, as a result of Arthur Lin's fraudulent conduct, Investor A purchased a \$100,000.00 MEI promissory note on September 29, 2008.
27. Investor A's \$100,000 investment was deposited into MEI's checking account at Fifth Third Bank on September 29, 2008. The balance of MEI's Fifth Third Bank checking account after Investor A's investment was deposited into that account was \$100,147.

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28. The day after Investor A's \$100,000 investment was deposited into MEI's bank account, Malarz immediately made \$46,098.00 worth of payments to previous investors of MEI. These payments include:
 - a. \$7,600.00 to Investor B on 9/30/08
 - b. \$15,050.00 to Investor C on 9/30/08
 - c. \$5,675.00 to Investor D on 9/30/08
 - d. \$14,000.00 to Investor E on 9/30/08
 - e. \$3,773.00 to Investor F on 9/30/08
29. These payments were made to previous investors despite the fact that Arthur Lin told Investor A that her money would be used to finance the conversion of apartment buildings into condominiums.
30. To date, despite the terms of the promissory note she purchased on September 29, 2008, Investor A has never received from MEI even one of the payments promised to her. Furthermore, Investor A never received any principal or interest payments from Malarz even though Malarz personally guaranteed that these payments would be made.
31. Section 12.A of the Act provides that it shall be a violation for any person to offer or sell any security except in accordance with the provisions of the Act.
32. Section 12.F of the Act provides that it shall be a violation of the provisions of this Act for any person to engage in any transaction, practice or course of business in connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof.
33. Section 12.G of the Act provides that it shall be a violation of the provisions of this Act for any person to obtain money or property through the sale of securities by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.
34. Section 12.H of the Act states that it shall be a violation of the provisions of this Act for any person to sign or circulate any statement, prospectus, or other paper or document required by any provision of this Act or pertaining to any security knowing or having reasonable grounds to know any material representation therein contained to be false or untrue.
35. Section 12.I of the Act provides that it shall be a violation of the provisions of this Act for any person to employ any device, scheme or artifice to defraud in connection with the sale or purchase of any security, directly or indirectly.
36. Section 8.E(1)(b) of the Act provides, *inter alia*, that the registration of a salesperson or investment adviser representative may be suspended or revoked if the Secretary of State finds that the salesperson or investment adviser representative has engaged in any

unethical practice in connection with any security, the offer or sale of securities or in any fraudulent business practice.

37. Section 8.E(1)(g) of the Act provides, *inter alia*, that the registration of a salesperson or investment adviser representative may be suspended or revoked if the Secretary of State finds that the salesperson or investment adviser representative has violated any of the provisions of this Act.

COUNT 2

MAKING FALSE STATEMENTS TO THE SECRETARY OF STATE

38. Pursuant to the Illinois Securities Law of 1953 [815 ILCS 5/1 *et. seq.*] (the “Act”) and the Rules and Regulations promulgated under the Act, securities salespersons are required, through their broker-dealer, to file an application for registration with the Secretary of State by filing a U-4 form through the CRD system. The U-4 form must be amended within ten (10) business days when the salesperson experiences a change that renders any information contained in the initial application for registration inaccurate.
39. Arthur Lin completed his first U-4 form as an employee of LPL Financial Corporation on September 29, 2006. On this U-4 form he answered the following question:

“Are you currently engaged in any other business either as a proprietor, partner, officer, director, employee, trustee, agent or otherwise? (Please exclude non *investment-related* activity that is exclusively charitable, civic, religious or fraternal and is recognized as tax exempt.) If YES, please provide the following details: the name of the other business, whether the business is *investment-related*, the address of the other business, the nature of the other business, your position, title, or relationship with the other business, the start date of your relationship, the approximate number of hours/month you devote to the other business, the number of hours you devote to the other business during securities trading hours, and briefly describe your duties relating to the other business.”

40. In answering this question, Arthur Lin stated that he was involved in outside business activity, but failed to disclose that he was a manager for MEI or was otherwise involved with MEI.
41. Arthur Lin amended his U-4 seven times between September 29, 2006 and February 22, 2010. In each amendment to his U-4 form, Arthur Lin failed to disclose that he was involved with MEI.
42. Section 12.E of the Act provides, *inter alia*, that it shall be a violation of the Act for any person to make or cause to be made in any application, report, or document filed under

this Act or any rule or regulation made by the Secretary of State pursuant to this Act, any statement which was false or misleading with respect to any material fact.

43. Section 8.E(1)(h) of the Act provides, *inter alia*, that the registration of a salesperson or investment adviser representative may be suspended or revoked if the Secretary of State finds that such salesperson or investment adviser representative has made any material misrepresentation to the Secretary of State in connection with any information deemed necessary by the Secretary of State to determine a salesperson's or investment adviser representative's business repute or qualifications.
44. Section 8.E(1)(g) of the Act provides, *inter alia*, that the registration of a salesperson or investment adviser representative may be suspended or revoked if the Secretary of State finds that the salesperson or investment adviser representative has violated any of the provisions of this Act.

COUNT 3

OFFER AND SALE OF UNREGISTERED SECURITIES

45. Section 5 of the Act provides, *inter alia*, that all securities except those exempt under Section 3 or those offered or sold in transactions exempt under Section 4 "shall be registered either by coordination or qualification prior ... to their offer or sale" in the State of Illinois.
46. Arthur Lin failed to file with the Secretary of State an application for registration of the securities described above as required by the Act and, as a result, the securities were not registered pursuant to Section 5 of the Act prior to their offer or sale in the State of Illinois.
47. Additionally, Gloria Lin, who was listed as a co-founder of MEI in its offering documents, failed to file with the Secretary of State an application for registration of the securities described above as required by the Act and, as a result, the securities were not registered pursuant to Section 5 of the Act prior to their offer or sale in the State of Illinois.
48. Section 12.A of the Act provides that it shall be a violation for any person to offer or sell any security except in accordance with the provisions of the Act.
49. Section 12.D of the Act provides, *inter alia*, that it shall be a violation for any person to fail to file with the Secretary of State any application, report or document required to be filed under the provisions of the Act or any rule or regulation made by the Secretary of State pursuant to the Act.
50. Section 8.E(1)(g) of the Act provides, *inter alia*, that the registration of a salesperson or investment adviser representative may be suspended or revoked if the Secretary of State finds that the salesperson or investment adviser representative has violated any of the provisions of this Act.

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WHEREAS, by means of the Stipulation, Arthur Lin has acknowledged, without admitting or denying the truth thereof, that the following shall be adopted as the Secretary of State's Conclusions of Law:

1. The activities described above constitute the offer and sale of a security as those terms are defined in Sections 2.1, 2.5, and 2.5a of the Illinois Securities Law of 1953 [815 ILCS 5/1 *et. seq.*] (the "Act").
2. Respondent Arthur Lin violated Sections 12.A, 12.D, 12.E, 12.F, 12.G, 12.H and 12.I of the Act.
3. Respondent Arthur Lin is subject to an Order prohibiting him from offering or selling any securities in or from the State of Illinois pursuant to Section 11.E(2) of the Act.
4. Respondent Arthur Lin's registration as an investment adviser representative and securities salesperson are subject to revocation pursuant to Sections 8.E(1)(b), 8.E(1)(g) and 8.E(1)(h) of the Act.

WHEREAS, by means of the Stipulation, Arthur Lin has acknowledged that he shall be permanently prohibited from offering or selling any securities in or from the State of Illinois.

WHEREAS, by means of the Stipulation, Arthur Lin has acknowledged that he shall be permanently prohibited from engaging in the business of an investment adviser in or from the State of Illinois.

WHEREAS, by means of the Stipulation, Arthur Lin has acknowledged that his registration as an investment adviser representative and securities salesperson in the State of Illinois shall be revoked.

WHEREAS, by means of the Stipulation, Arthur Lin has acknowledged that:

- a. he and Gloria Lin shall be jointly and severally liable to pay the amount of \$43,500 in restitution to certain investors according to the terms submitted to the Illinois Securities Department, which shall provide that payment of the amount required shall be made to the registry of the Clerk of the United States District Court for the Northern District of Illinois pursuant to the Final Judgments entered against Arthur Lin and Gloria Lin in the action brought by the Securities and Exchange Commission against Arthur Lin as a Defendant and Gloria Lin as a Relief Defendant ("Final Judgments"); and
- b. he and Gloria Lin shall be ordered in the Final Judgments entered in the action brought by the Securities and Exchange Commission to pay, jointly and severally, an additional amount of \$114,740 pursuant to the terms of the Final Judgments.

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NOW THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent Arthur Lin is **PROHIBITED** from offering or selling securities in or from the State of Illinois.
2. Respondent Arthur Lin is **PROHIBITED** from engaging in the business of an investment adviser in or from the State of Illinois.
3. Respondent Arthur Lin's registration as an investment adviser representative and securities salesperson in the State of Illinois is **REVOKED**.
4. Arthur Lin and Gloria Lin are jointly and severally liable to pay the amount of \$43,500 in restitution to certain investors according to terms submitted to the Illinois Securities Department, which payment shall be made to the registry of the Clerk of the Clerk of the United States District Court for the Northern District of Illinois pursuant to the Final Judgments entered against Arthur Lin and Gloria Lin in the action brought by the Securities and Exchange Commission against Arthur Lin as a Defendant and Gloria Lin as a Relief Defendant.
5. The Notice of Hearing dated July 22, 2010, as it relates to Respondent Arthur Lin, is dismissed without further proceedings.

Entered: This 24th day of January, 2012.



JESSE WHITE
Secretary of State
State of Illinois

NOTICE: Failure to comply with the terms of this Order shall be a violation of Section 12.D of the Act. Any person or entity who fails to comply with the terms of this Order of the Secretary of State, having knowledge of the existence of the Order shall be guilty of a Class 4 Felony.

Attorney for the Secretary of State:

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