

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

IN THE MATTER OF:)	
)	
MICHAEL MACIS)	Case No. 1100449
(CRD #26333223))	
)	
)	

NOTICE OF HEARING

**TO RESPONDENT: MICHAEL A. MACIS
 11540 JENY GLEN DR.
 MOKENA, IL 60448**

You are hereby notified that, pursuant to Section 11.F of the Illinois Securities Law of 1953 (815 ILCS 5/1, *et seq.*) (the "Act") and 14 Ill. Adm. Code 130, Subpart K (the "Rules"), a public hearing is scheduled to be held at 69 W. Washington Street, Suite 1220, Chicago, Illinois 60602, **on the 23rd day of May, 2012**, at 10:00 a.m., or as soon thereafter as counsel may be heard, before **Soula J. Spyropoulos, Esq.**, or another duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order shall be entered Finding Respondents **MICHAEL MACIS** in violation of the Act and 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 of \$10,000.00 per violation pursuant to Section 11.F of the Act, for each and every violation, payable within ten (10) business days of the entry of the Order.

The grounds for such proposed action are as follows:

1. Michael Macis was, until July of 2011, an investment advisor representative for NY Life Securities LLC. ("NY Life") and Eagle Strategies, LLC. Macis is also a resident of Illinois and registered with the Illinois Secretary of State as an Investment Advisor Representative with a last known address of 11540 Jeny Glen Drive in Mokena, Illinois.

Notice of Hearing

-2-

2. Macis was also an insurance agent affiliated with NY Life Insurance Company.
3. On or about July 11, 2011, Macis' employment with NY Life and Eagle Strategies was terminated due to, among other activities, his improper conduct in contacting customers after business hours. Macis's relationship with NY Life Insurance Company was also severed at this time.
4. In late July of 2011 Macis became a representative for a new advisory firm, Broker's International Financial Services, Inc., however, that relationship was terminated in November of 2011, soon after the reasons for which Macis' relationship with NY Life and Eagle Strategies were made known, and it was discovered that Macis had not disclosed certain customer complaints.
5. The "CRD," or Central Registration Depository, is a cooperative venture by the State securities regulators and the industry's self regulatory organization that provides information for every registered broker-dealer, salesperson of securities, investment advisor, and investment advisor representatives.
6. The CRD profiles for each registered entity and individual includes disclosure reports detailing customer complaints, civil and criminal actions, and regulatory actions made against the respective registrant.
7. The purpose of the disclosures is, in part, to provide the public and the industry, including prospective employers, information about the professional history and conduct of the particular registrant so that a prospective customer may make a fully informed decision on whether to retain the registrant for securities services, or, for broker-dealers and Investment advisors, whether to employ them as a representative.
8. However, months before Macis' relationship with NY Life was terminated, NY Life received a detailed complaint (the "Complaint") against Macis and NY Life from a senior citizen for whom Macis provided investment advice and insurance services as a representative for NY Life. This complaint was filed with NY Life on May 6, 2011.
9. This Investor, a resident of Illinois that, at the time of the activities described herein, was 80 years old, legally blind, and sought investment advice and certain insurance recommendations for herself and her business (the "Investor").
10. Investor held, prior to meeting Macis, stock, unit trusts, and a variable annuity, values in excess of \$650,000.00. These assets made up almost all of Investor's non-property assets. Customer was seeking to obtain life insurance policies that would benefit her business, her daughters and her aunt, for whom she assisted caring for.
11. In January and March of 2009 Macis recommended that the Investor purchase three fixed annuities issued by NY Life. A year later Macis would recommend that Investor purchase two additional fixed annuities.

Notice of Hearing

-3-

12. Macis had recommended that the fixed annuities be financed by liquidating all the securities Investor held, including Investor's Dean Witter, Discover Co. and Allstate stock, 10,526 units of Investor's Target Focus Trust (4 Aug 07 Term), and a Transamerica Oneflex annuity that Investor held.
13. The Unit Investment Trust was settled at \$102,196.78 and the proceeds were used to purchase the first fixed annuity on January 14, 2009.
14. The Transamerica annuity Investor held was valued at \$348,368.60 and subject to a surrender charge in excess of \$5,200.00 when Macis advised its liquidation. The proceeds on this transaction were used to purchase the second fixed annuity on January 14, 2009.
15. Macis sold a third fixed annuity to Investor two months later, in March of 2009, for \$100,000.00, financed by liquidating Investors stock.
16. In March and May of the following year, when Investor was seeking advice from Macis as to obtaining insurance for the benefit of her business and relatives, Macis recommended Investor purchase two more Fixed annuities for \$65,000.00 and \$56,000.000, respectively, financed by liquidating the last of Investor's stock.
17. All together Macis obtained in excess of \$22,000.000 in commissions for the sale of the Fixed Annuities to Investor.
18. Macis filled out all the applications to purchase the five fixed annuities, however, Macis never disclosed on those applications that the policies were being funded by the liquidation of Investor's securities and Variable Annuity. In fact, Macis specifically marked "No" on each application wherein it is asked if the respective policy is being funded by the liquidation of an existing security or annuity.
19. Furthermore, Macis stated, on the applications, that Investor intended on keeping the annuities for twenty-years.
20. In reality, Investor was seeking life insurance coverage for the benefit of her business and relatives in the near-future, not in twenty years.
21. NY Life's policies and procedures require its representatives to disclose that an annuity is being funded from the proceeds of the liquidation of securities and other annuities as part of NY Life's compliance policies and procedures. NY Life's policies and procedures also require that any surrender charges incurred on an annuity of other security be taken into account prior to incurring them so that there exists a reasonable basis for the representative's recommendation.

22. Macis' affirmative act in not disclosing, on the annuity applications, that he recommended Investor liquidate her securities and existing annuity to finance the purchase of the new annuities and to state that Investor intended to hold the annuities for twenty years was done for the purpose of avoiding any additional scrutiny by NY Life's compliance procedures as they relate to the sale of annuities.
23. Lastly, as to the Fixed Annuities Macis sold Investor, Macis misnamed the owners and annuitants on the fourth annuity. Investor attempted to correct Macis' mistake by contacting him and NY Life over the course of a few weeks, and when Macis' mistake was not corrected Investor had the annuity surrendered.

The Life Insurance Policies

24. During the same period of time that Macis recommended the purchase of the fourth and fifth annuities, Investor was seeking to obtain life insurance policies.
25. In particular, Investor sought a "key person" insurance policy for the benefit of Investor's business and for Investor's relatives.
26. Investor was concerned about being able to make premium payments on any life insurance policies, however, Macis continually informed Investor "not to worry" and that he "knew people" so that he could have the monthly premium payments changed to an affordable amount.
27. The first life insurance policy Macis offered to Investor, in April of 2009, provided \$125,000.00 in coverage. The policy was for the benefit of Investor's daughter. Investor, initially, made the almost \$600.00 per month premium payments on this policy.
28. However, in November of 2010, Investor wanted to cancel this policy because she would rather use the money spent on the premium payments for a different purpose, and, as described below, Macis had sold a new policy.
29. Macis, rather than cancel that policy, made the No Lapse Guarantee Rider (CBPR) inactive; reducing the monthly premium to approximately \$150.00. Investor was not told of Macis' activity, nor would Investor discover that the CBPR was made inactive until February 2011 when Investor received a mailing from NY Life.
30. Regarding Investor's attempt to secure her business with a key-person life insurance policy, in the Fall of 2009 Macis informed Investor that he could sell a \$500,000.00 insurance policy that, once the policy was in place, he could have the premiums reduced from approximately \$2,200.00 per month to approximately \$1,300.00 per month; the amount Investor was capable of paying.

31. In November of 2009 Macis sold the policy to Investor.
32. Investor would later discover that Macis had also sold a No Lapse Guarantee Rider (CBPR Rider) that Macis had caused to become inactive so that Investor's monthly premiums would be reduced from the approximately \$2,200.00 per month to \$1,380.00.
33. Macis never explained to Investor how he was going to have her premium payments reduced, nor that his method would cause the CBPR to become inactive and subject the first two insurance policies to potentially lapsing.
34. The third and final life insurance policy Macis sold Investor, on March 23, 2010, was a \$385,000.00 policy that was to name Investor's business as the owner and beneficiary.
35. Macis, however, named Investor the owner and an employee of Investor's business as the beneficiary. Macis failed to correct his misstatements on the policy.
36. Investor is not the first NY Life customer for which Macis had manipulated the CBPR rider on an insurance policy to reduce a premium payment in response to a customer's concerns regarding payments of high premiums. In May of 2011 a complaint against Macis was received by NY Life wherein an insurance customer had notified Macis that he wanted his life insurance policy cancelled because he could not afford the premium payments. Macis told this customer that, rather than cancel, Macis could remove the CBPR to reduce the customer's monthly payment. When the customer was appraised, by a letter from NY Life, that his policy had been cancelled due to non-payment of the premium that Customer complained.

Macis' strange behavior leads to his termination

37. Macis' relationship with NY Life and Eagle would ultimately be terminated, but not due to his manipulation of riders on customers' insurance policies.
38. Several customers, including Investor, had complained of Macis contacting them by telephone after business hours and speaking unintelligently.
39. Moreover, Macis was observed by several co-workers acting strange at the office; they were so concerned by Macis' behavior that they reported it to their supervisor.
40. Macis' conduct in contacting the customers, and his appearance at the NY Life office in his condition, was in violation of NY Life's policies and procedures.

Notice of Hearing

-6-

41. Macis' recommendation that Investor liquidate her securities to fund the fixed annuities constitutes the activities of an investment advisor as defined under Section 2.11 of the Illinois Securities Law of 1953 (the "Act").
42. Section 12.A of the Act states in pertinent part that it shall be a violation of the Act for any person to offer or sell any security except in accordance with the provisions of the Act.
43. Section 12. F. of the Act states in pertinent part that it is a violation of the 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.
44. Section 12.J of the Act provides, *inter alia*, that it shall be a violation of the Act for any person, when acting as an investment advisor, by any means or instrumentality, directly or indirectly: (1) [t]o employ any device, scheme, or artifice to defraud any client or prospective client; (2) [t]o engage in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client; or (3) [t]o engage in any act, practice or course of business which is fraudulent, deceptive, or manipulative.
45. Section 130.853 of the Rules and Regulations Under the Illinois Securities Law of 1953 states in pertinent part that effecting or causing to be effected by or for any client's account, any transactions of purchase or sale which are excessive in size or frequency or unsuitable in view of the financial resources and character of the account, shall constitute an act, practice, or course of business that is fraudulent, deceptive or manipulative.
46. Macis' recommendation that Investor liquidate all of Investor's securities to fund five fixed annuities was without a reasonable basis in light of Investor's age and investment objectives, and therefore, constitutes a violation of Sections 12. A. F. and J.
47. Macis' failure to disclose, on the applications for the fixed annuities, that they were funded by the liquidation of Investor's securities and variable annuity, constitutes violations of Sections 12. A, F. and J for each of the five annuities sold.
48. Section 8. E. (1)(b) of the Act provides in pertinent part that, subject to the provisions of sub-section F of the Act, the registration of an investment advisor or investment advisor representative may be denied, suspended or revoked if that advisor has engaged in any unethical practice in connection with any security, the offer and sale of securities or in any fraudulent business practice.
49. Macis' recommendation that Investor sell all her securities to purchase the five annuities, as well as his misstatements and manipulation of the CBPR riders

Notice of Hearing

-7-

regarding the life insurance policies constitutes unethical practices in connection with securities as well as fraudulent business practices and therefore, are multiple violations of Section 8.E.(1)(b) of the Act.

50. Macis' conduct in contacting customers outside of business hours, in direct violation of NY Life's policies and procedures, and in a questionable condition of health constitutes violations of Section 8.E.(1)(b) of the Act.

51. Section 11.F(1) states that the Secretary of State shall not deny, suspend or revoke the registration of securities, suspend or revoke the registration of a dealer, salesperson, investment adviser, or investment adviser representative, prohibit or suspend the offer or sale of any securities, prohibit or suspend any person from offering or selling any securities in this State, prohibit or suspend a dealer or salesperson from engaging in the business of selling or offering for sale securities, prohibit or suspend a person from acting as an investment adviser or federal covered investment adviser, or investment adviser representative, impose any fine for violation of this Act, issue an order of public censure, or enter into an agreed settlement except after 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 or persons concerned. Such notice shall state the date and time and place of the hearing and shall contain a brief statement of the proposed action of the Secretary of State and the grounds for the proposed action. A failure to appear at the hearing or otherwise respond to the allegations set forth in the notice of hearing shall constitute an admission of any facts alleged therein and shall constitute sufficient basis to enter an order.

WHEREFORE the Illinois Securities Department requests the Hearing Officer to enter a recommendation that finds:

1. Respondent Michael Macis in violation of the Illinois Securities Act as described above;
2. Respondent Michael Macis' registrations to offer and sell securities in Illinois and to provide investment advice be revoked and he be permanently prohibited from offering and selling securities in or from Illinois pursuant to Section 8.E.1.b.
3. Respondent Michael Macis be fined \$10,000.00 per violation of the Act, for an amount not less than \$300,000.00 in total, and be liable for the costs of this investigation and administrative hearing pursuant to Section 11.F 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.

Notice of Hearing

-8-

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.

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

Dated: This 6th day of March, 2012.

A handwritten signature in black ink that reads "Jesse White" with a stylized flourish at the end.

JESSE WHITE
Secretary of State
State of Illinois

Attorney for the Secretary of State:

Jason Chronopoulos
69 West Washington
Suite 1220
Chicago, Illinois
60602