

STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT

IN THE MATTER OF: TIMOTHY CERNY

FILE NO. 1200055

**NOTICE OF HEARING**

TO THE RESPONDENT:

Timothy Cerny  
(CRD#: 2233044)  
3441 N. Wisconsin St.  
Racine, WI 53402

Timothy Cerny  
(CRD#: 2233044)  
c/o M&I Financial Advisors, Inc. .  
111 E. Kilbourn Ave., Ste. 200  
Milwaukee, WI 53202

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 69 West Washington Street, Suite 1220, Chicago, Illinois 60602, on the 25th day of April 2012 at the hour of 10:00 a.m. or as soon as possible thereafter, before James L. Kopecky, 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 Timothy Cerny'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 to the present.

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2. That on January 30, 2012 the FINRA entered a Letter of Acceptance, Waiver and Consent ("AWC" or "Decision") submitted by the Respondent regarding File No. 2008015078604, which sanctioned the Respondent as follows: 10 business days suspension from association with any FINRA member in any capacity, and a Fine of \$20,000.
3. That the Decision found:

### FACTS AND VIOLATIVE CONDUCT

#### A. Customer EM

While registered with Chase, Cerny had a customer EM, who was 66 years old, retired, and had limited investment experience. EM was a conservative investor whose primary investment objective was income with a secondary objective of growth. EM had all of her retirement funds invested in fixed annuities. In May 2007, Cerny recommended that EM reinvest all of her retirement funds, totaling \$53,366.01, in the First Trust Income Allocation UIT. Given EM's investment experience and risk tolerance, and the fact that this investment represented almost all of EM's net worth, Cerny's recommendation was not suitable. EM sold the UIT at a loss.

At the time that Cerny recommended the UITs to EM, he did not have reasonable grounds to believe that the recommendation was suitable for EM given her limited investment experience and risk tolerance and the fact that it constituted almost all of her net worth. Cerny's conduct constitutes a violation of NASD Conduct Rules 2310 and 2110.

#### B. Customer BZ

While registered with Chase, Cerny had a customer, BZ, who had two CDs with Chase Bank that were maturing. According to BZ's account documentation, BZ was a moderate investor with limited investment experience, a primary investment objective of income and a secondary objective of growth. However, the customer profile for BZ indicated that BZ was not willing to accept much risk. In June 2007, based upon Cerny's recommendation, BZ invested the proceeds of his CDs totaling \$32,000 in the First Trust Income Allocation UIT and the Claymore Defined Portfolio Strategic Income UIT. Given BZ's risk tolerance and investment experience, Cerny's recommendation was not suitable. BZ sold one UIT and redeemed the other at maturity, both at a loss.

At the time that Cerny recommended the UITs to BZ, he did not have reasonable grounds to believe that the recommendations were suitable for BZ given his risk tolerance and investment experience. Cerny's conduct constitutes a violation of NASD Conduct Rules 2310 and 2110.

C. Customer AR

While registered with Chase, Cerny had a customer, AR, who had two CDs with Chase Bank that were maturing. According to AR's account documentation, AR was a conservative investor with "good" investment experience, a primary investment objective of income and a secondary objective of growth. In early 2007, based upon Cerny's recommendation, AR invested the proceeds of one of the CDs totaling \$32,000 in the Claymore Defined Portfolio Strategic Income UIT. Given AR's risk tolerance, Cerny's recommendation was not suitable. AR's investment in the UIT matured at a loss.

At the time that Cerny recommended the UIT to AR, he did not have reasonable grounds to believe that the recommendation was suitable for AR given his risk tolerance. Cerny's conduct constitutes a violation of NASD Conduct Rules 2310 and 2110.

D. Customer CW

While registered with Chase, Cerny had a customer, CW, who was 79 years old. CW had a large balance in her Chase Bank savings account as a result of the sale of her home. According to CW's account documentation, CW was willing to accept moderate risk, had "good" investment experience, a primary investment objective of growth and a secondary objective of income. However, the customer profile for CW indicated that she was only willing to accept low to moderate risk, and that income and growth were of equal importance. In December 2006, based upon Cerny's recommendation, CW invested the entire amount in the savings account totaling \$120,000 in the Claymore Equity and Income Closed End UIT and the Claymore Defined Portfolio Strategic Income UIT. Given CW's risk tolerance and the concentration of the investment in UITs alone, Cerny's recommendation was not suitable. CW's investment in the UITs matured at a loss.

At the time that Cerny recommended the UITs to CW, he did not have reasonable grounds to believe that the recommendation was suitable for CW given her risk tolerance and the concentration level of the recommendation. Cerny's conduct constitutes a violation of NASD Conduct Rules 2310 and 2110.

4. That Section 8.E (1)(j) of the Act provides, inter alia, that the registration of a salesperson and investment adviser representative may be revoked if the Secretary of State finds that such salesperson or investment adviser representative 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 FINRA is a self-regulatory organization as specified in Section 8.E(1)(j) of the Act.

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6. That by virtue of the foregoing, the Respondent's registration as a salesperson in the State of Illinois is subject to revocation pursuant to Sections 8.E(1)(j) of the Act.

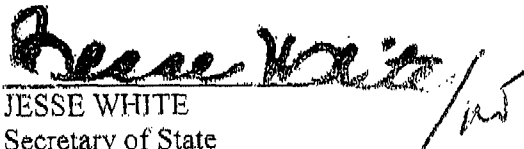
You are further notified that you are required pursuant to Section 130.1104 of the Rules and Regulations (14 ILL. Adm. Code 130)(the "Rules"), to file an answer to the allegations outlined above within thirty (30) days of the receipt of this Notice. A failure to file an answer within the prescribed time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

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 8th day of March, 2012.

  
JESSE WHITE  
Secretary of State  
State of Illinois

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Hearing Officer:  
James L. Kopecky