

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

IN THE MATTER OF: David Lerner)
_____)

FILE NO. 1200420

NOTICE OF HEARING

TO THE RESPONDENT:

David Lerner
CRD# 307120
11 Rosehill Drive
Manchasset, NY 11030

David Lerner Associates, Inc.
477 Jericho TPKE
P.O. Box 9006
Syosset, NY United States 11791-9006

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 24th day of January, 2013 at the hour of 10.00 a.m. or as soon as possible thereafter, before Soula Spyropoulos 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 David Lerner (the "Respondent") registration as an 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 investment advisor representative in the State of Illinois pursuant to Section 8 of the Act

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2. That on October 22, 2012 FINRA entered Order of Offer of Settlement (“AWC” or “Order”) submitted by the Respondent regarding Disciplinary Proceeding No. 2009020741901 which sanctioned the Respondent as follows:
 - a) Suspended from association with any FINRA member in any capacity for 1 year, 11/19/2012 to 11/18/2013;
 - b) Suspended as a supervisor for 2 Years, 11/19/2013 to 11/18/2015; and
 - c) Fined \$250,000.

3. IN VIOLATION OF: Sections 17(a)(1), 17(a)(2) and (a)(3) of the Securities Act of 1933, FINRA Rule 2010, NASD Rule 2210 (d)(1); Lerner’s member firm recommended and sold over \$442 million of a \$2 billion non-traded real estate investment trust (REIT) without performing adequate due diligence in violation of its suitability obligations. Earlier REITS under the same management inappropriately valued the REITS’ shares at a constant artificial price notwithstanding years of market fluctuations, performance declines, increased leverage and excessive return of capital to investors. Lerner’s firm, in its capacity as best efforts underwriter for all of the REITS, continues to solicit thousands of customers to purchase the REIT without performing adequate due diligence to determine that there is a reasonable basis to recommend the security to any customer. Lerner have made false, exaggerated and misleading claims regarding the investment returns, market values, performance and prospects of the closed REITS to over a thousand customers during at least four of his firm’s investment seminars. The firm, through Lerner and other representatives, repeatedly gave seminar presentations to investors using seminar slides that were not fair and balanced and did not provide a sound basis for evaluating the facts in regard to the REITS programs. Lerner made oral presentations regarding the REITS at seminars. These seminar presentations constituted a public appearance and were communications with the public under the FINRA advertising rules. The seminar slides and Lerner’s seminar presentations also omitted numerous material facts and qualifications that caused the communications to be misleading. The seminar slides and Lerner’s seminar presentations contained numerous false, exaggerated, unwarranted or misleading statements and claims regarding the valuations, performance, prospects, risks, and practices of the REIT programs, as well as customer insurance protection through the firm and the prospects for a merger of the closed REITS. To counter negative media attention regarding the firm and the REITS following the filing of the original complaint in this proceeding, Lerner sent letters to all of the firm’s customers Lerner signed these letters, each of which was mailed to over 50,000 customer households. Lerner’s letters to customers omitted material information causing the communication to be misleading. The letters also contained exaggerated, false, and misleading statements regarding the valuations, performance, prospects, risks, and practices of the REIT programs. One of the letters made exaggerated claims regarding FINRA’S No Objections opinion regarding the fairness and reasonableness of the

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underwriting terms and arrangements. The other letter made unwarranted, exaggerated, and misleading claims regarding a potential opportunity for closed REIT shareholders to participate in consolidation, sale, listing on a national exchange, or other event that would allow them to dispose of their illiquid shares. To induce new and existing customers to purchase the REIT, Lerner and the firm made untrue representations of material fact or omissions of material fact regarding the prior performance, steady distribution rates, unchanging valuations, and prospects of the closed REITS and/or the current REIT. Lerner and the firm made the untrue statements as alleged and omitted the material facts as alleged with intent to defraud investors or with recklessness. Lerner and the firm made intentional or reckless misrepresentations and omissions at seminars, in seminar materials, and in letters to customers. The firm's and Lerner's use of the seminars, seminar materials, and letters to customers constituted a fraudulent or deceitful practice or course of business to offer or sell REIT to investors.

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 FINRA is a self-regulatory organization as specified in Section 8.E(1)(j) of the Act.
6. That by virtue of the foregoing, the Respondent's registration as a Salesperson representative 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.

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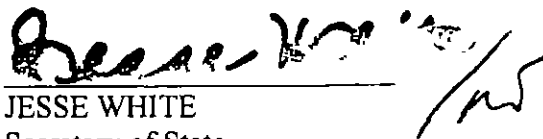
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Furthermore, you may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate. A failure to so appear shall constitute default, unless any Respondent has upon due notice moved for and obtained a continuance.

A copy of the Rules, promulgated under the Act and pertaining to hearings held by the Office of the Secretary of State, Securities Department, can be found at .

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

Dated: This 10th day of December 2012.



JESSE WHITE
Secretary of State
State of Illinois

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Hearing Officer:
James Kopecky