

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: **ERIC ANTHONY FOSTER**

)
)
) **File No. 0800557**
)
)

CONSENT ORDER OF CENSURE, HEIGHTENED SUPERVISION AND FINE

TO THE RESPONDENT: ERIC ANTHONY FOSTER
CRD #3267556
51 WEST GATE ROAD
SUFFREN, NEW YORK 10901

WHEREAS, Respondent, Eric Anthony Foster on the 21st day of December 2011 executed a certain Stipulation to Enter Consent Order of Censure and Fine (the "Stipulation"), which hereby is incorporated by reference herein.

WHEREAS, by means of the Stipulation, Respondent 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 March 28, 2011 in this proceeding (the "Notice") and Respondent consented to the entry of this Consent Order ("Consent Order").

WHEREAS, by means of the Stipulation, Respondent Eric Anthony Foster acknowledged that the following allegations contained in the Notice shall be, and are, adopted as the Secretary of State's Findings of Fact:

1. The Maxim Group, LLC, CRD #120708 ("Maxim") at all relevant times herein was registered as a securities dealer with the Illinois Securities Department.
2. Respondent Eric Anthony Foster ("Foster") at all relevant times herein was registered in the State of Illinois as a salesperson for Maxim.
3. Between February 2003 and October 2008 ("Timeframe") Foster represented the Maxim trading account of two Illinois Investors, husband and wife, ("Investors").
4. Both Investors were retired and over the age of 70 years.

5. Rather than represent the Investors in a reasonable and proper manner during the Timeframe, Foster took advantage of the age and trading inexperience of the Investors to earn excessive income for himself and Maxim, all the while reducing the Investors' account balance to zero.

TURNOVER RATION

6. Foster created a portfolio "turnover" ratio between 2003 and 2007 of over 25 (annualized at 5.3) with annual "turnovers" as follows:

2003: 1.3
2004: 6.4
2005: 7.1 (cash account)
2005: .36 (margin account)
2006: 1.6
2007: 2.0

COST/EQUITY RATIO

7. Additionally, during the Timeframe, Maxim and Foster caused a Cost/Equity ratio in Investors' account of 1.38 (equivalent to 25% annualized) with annual cost/equity ratios as follows:

2003: .06
2004: .32
2005: .33 (cash account)
2005: .63 (margin account)
2006: 1.2
2007: 1.8
2008: 5.8

COST (COMMISSIONS & INTEREST)

8. Although Investors deposited over \$82,000 into their Maxim account during the Timeframe, by October 31, 2008 they had a negative balance, while Maxim and Respondent Foster garnered over \$44,000.00 in commissions and interest charges, with annual commission and interest as follows:

2003: \$671.34
2004: \$14,444.08
2005: \$22,887.20 (cash account)
2005: \$1,137.18 (margin account)
2006: \$2,060.17
2007: \$2,153.76
2008: \$782.94

Consent Order of Censure, Heightened Supervision and Fine

- 3 -

9. The true amount of the commissions was not posted on Investors' statements and because of this the Investors believed that the commissions were much less than the amount actually charged to Investors.
10. As the Maxim salesperson and representative for The Investors, Foster received compensation based, at least in part, on the number of transactions completed in the Investors' account.
11. Section 12.A of the Act provides, *inter alia*, that shall be a violation of the Act for any person, "to offer or sell any security except in accordance with the provisions of this Act".
12. Section 12.F of the Act provides, *inter alia*, that it shall be a violation of the Act for any person, "to engage in any transaction, practice or course of business in
13. connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof".
14. Section 12.G of the Act provides, *inter alia*, that it shall be a violation of the 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".
16. Section 12.I of the Act provides, *inter alia*, that it shall be a violation of the 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".
17. By virtue of the foregoing Respondent Foster has violated sections 12.A, 12.F, 12.G, and 12.I of the Illinois Securities Law of 1953 815 ILCS 5/1 ("the Act").
18. Section 11.E(4) of the Act provides, *inter alia*, that if the Secretary of State, after finding that any provision of the Act has been violated, may impose a fine as provided by rule, regulation or order not to exceed \$10,000.00 for each violation of the Act.

Consent Order of Censure, Heightened Supervision and Fine

- 4 -

NOW THEREFORE IT IS HEREBY ORDERED THAT: pursuant to the authority granted by Section 11.E of the Act:

1. Respondent **Eric Anthony Foster** is hereby Censured.
2. Respondent **Eric Anthony Foster** is to be supervised at a heightened level for a period of 12 months, pursuant to the terms of the attached Heightened Supervision Affidavit/Agreement following the entry of this Order.
3. Respondent **Eric Anthony Foster shall** retake the Series 7 and Series 63 tests within 6 months of the entry of this Order, and to inform the Illinois Securities Department within 7 days of the taking of the tests.
4. Respondent **Eric Anthony Foster** shall pay a fine to the Illinois Securities Department in the amount of \$15,000, within 10 days of the entry of this Order.

Dated: This 21st day of December 2011.



Jesse White
Secretary of State
State of Illinois

Attorney for the Secretary of State:
James J. Tierney
Illinois Securities Department
69 West Washington Street
Suite 1220
Chicago, Illinois 60602
Ph: 312-793-9650