

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

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

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) **File No. 0800557**
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NOTICE OF HEARING

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

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, a public hearing will be held at 69 West Washington Street, Suite 1220, Chicago, Illinois 60602, on the 18th day of May, 2011 at the hour of 10:00 a.m., or as soon thereafter as counsel may be heard, before James Kopecky, or such other duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order should be entered against Eric Anthony Foster (at times hereinafter "Foster") which prohibits Foster from offering or selling securities in the State of Illinois, and granting such other relief as may be authorized under the Act including but not limited to imposition of a monetary fine in the maximum amount pursuant to Section 11 of the Act, payable within ten (10) days of the entry of the Order.

Summary

Eric Anthony Foster (CRD #3267556) was a salesman for The Maxim Group, LLC. (at times herein "Maxim") between 10/2002 and 10/2008. From at least February 2003 to October 2008, Foster represented the investment account assets of two Illinois residents ("Investors"). During the time period that he represented the assets, he committed or participated in violations of the Illinois Securities Act through fraudulent statements and deceptive practices by buying and selling Investors' account assets, stocks, in a deliberate scheme to garner excessive fees for himself rather than to act in the account for the benefit of the Investors. His representations of the Investors' assets were not in the best interests of the Investors and resulted in the loss of all of the Investors' account assets. During this time period, both Foster and his employing firm, Maxim, received thousands of dollars of commissions and other compensation payments for transactions he effected in the name of the Investors and his representation of the Investors' assets. Foster's supervisors knew, or should have known, about the excessive number of account transactions, but failed to implement any procedures to properly supervise Foster to insure that his practices were in compliance with securities and other applicable laws and regulations. Additionally,

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Foster's supervisors were aware of his prior improper trading conduct, and should have implemented enhanced supervisory measures to oversee Foster's activities regarding the Investors' account.

The grounds for such proposed action are as follows:

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.
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

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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

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".

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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.



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 or a Special Appearance pursuant to Section 130.1107 of the Rules, or other responsive pleading within thirty days of the receipt of this notice. Your failure to do so within the prescribed time shall be deemed an admission of the allegations contained in the Notice of Hearing and waives your right to a hearing.

The Rules promulgated under the Act and pertaining to Hearings held by the Office of the Secretary of State, Securities Department may be viewed online at: <http://www.cyberdriveillinois.com/departments/securities/lawrules.html>.

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.

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

Dated this 28th day of March, 2011.

Jesse White
Secretary of State
State of Illinois

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