

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: KEVIN J. McPHEE

FILE NO. 1000250

NOTICE OF HEARING

TO THE RESPONDENT: Kevin J. McPhee (CRD#: 2316848)
65 Hidden Ridge Drive
Syosset, New York 11791

Kevin J. McPhee (CRD#: 2316848)
C/o American Capital Partners, LLC
205 Oser Avenue
Hauppauge, New York 11788

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 23rd day of November, 2010 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 Kevin J. McPhee'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.
2. That on May 4, 2010 FINRA entered a letter of acceptance, Waiver And Consent (AWC) submitted by the Respondent regarding File No. 2009016763601 Which sanctioned the Respondent as follows:
 - a. fined \$7,500;
 - b. suspension of five months from association with any member of FINRA,

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in all capacities; and

c. restitution to customer RW in the total amount of \$17,654.44, plus interest.

3. That the AWC found:

FACTS AND VIOLATIVE CONDUCT

a. Between September 18, 2008 and October 2, 2008, Respondent, while registered with a FINRA member firm, Andrew Garrett, executed eight trades in customer RW's individual account without RW's prior knowledge, authorization or consent. By effecting these unauthorized transactions, Respondent violated NASD Conduct Rule 2110 and Interpretative Material ("IM") 2310-2.

b. From March 2006 through at least June 2008, while registered with FINRA member firm, Andrew Garrett, Respondent communicated with customer RW via an outside e-mail account, without the knowledge or consent of Andrew Garrett. By operating an outside e-mail account without the firm's knowledge and consent, Respondent prevented Andrew Garrett from reviewing his e-mails pursuant to NASD Conduct Rule 3010(d). Based on the foregoing, Respondent violated NASD Conduct Rule 2110.

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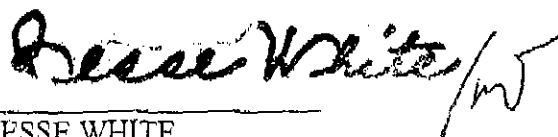
Furthermore, you may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate. A failure to so appear shall constitute default, unless any Respondent has upon due notice moved for and obtained a continuance.

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 below.

<http://www.cyberdriveillinois.com/departments/securities/lawrules.html>

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

Dated: This 27th day of September, 2010.



JESSE WHITE
Secretary of State
State of Illinois

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