

STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT

\_\_\_\_\_  
IN THE MATTER OF: MICHAEL L. NIEMCZYK )  
MICHAEL L. NIEMCZYK & ASSOCIATES, INC. )  
\_\_\_\_\_ )

FILE NO. 0700291

CONSENT ORDER OF FINE

TO THE RESPONDENTS: Michael L. Niemczyk  
(CRD#:3097183)  
843 WEDGWOOD Court  
Lindenhurst, Illinois 60046

Michael L. Niemczyk & Associates, Inc.  
(CRD#: 124000)  
1800 Nations Drive, Suite 207  
Gurnee, Illinois 60031

c/o Mitchell B. Goldberg  
Michael Wise  
Lawrence, Kamin, Saunders, & Uhlenhop, LLC  
300 South Wacker Drive, Suite 500  
Chicago, Illinois 60606

WHEREAS, the Respondents on the 4<sup>th</sup> day of May 2010 executed a certain Stipulation to Enter Consent Order of Fine (the "Stipulation"), which hereby is incorporated by reference herein.

WHEREAS, by means of the Stipulation, the Respondents have admitted to the jurisdiction of the Secretary of State and service of the Notice of Hearing of the Secretary of State, Securities Department dated November 19, 2009 in this proceeding (the "Notice") and the Respondents have consented to the entry of this Consent Order of Fine ("Consent Order").

WHEREAS, by means of the Stipulation, the Respondents acknowledged, without admitting or denying the truth thereof, that the following allegations contained in the Notice of Hearing shall be adopted as the Secretary of State's Findings of Fact:

Consent Order of Fine

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1. That at all relevant times, Respondent Michael L. Niemczyk & Associates, (“Niemczyk & Associates”) is and was registered with the Secretary of State as an investment adviser representative in the State of Illinois pursuant to Section 8 of the Act.
2. That at all relevant times, Respondent Michael L. Niemczyk (“Niemczyk”) is and was the owner, Designated Illinois Principal, and investment adviser representative of Respondent Niemczyk & Associates, pursuant to Section 8 of the Act.
3. That on October 27, 2008, the State of Wisconsin, DEPARTMENT OF FINANCIAL INSTITUTIONS DIVISION OF SECURITIES entered Order Of Denial Of INVESTMENT ADVISER LICENSE APPLICATION in File No. S-08027-LX styled “Michael Niemczyk Associates, Inc.”
4. Paragraph 18 of the PETITION FOR ORDER (which was attached to the Order) provided that “The firm’s failure to complete the required application despite repeated staff requests for information provided a basis, pursuant to § 551.34(1)(a), Wis. Stats., for the denial of its license application.”
5. That the Order further provided “NOTICE: Under sec. 551.61(2), Wis. Stats., within thirty (30) days after any Order has become effective without a hearing, any interested party may file a written request with the Administrator of the Division of Securities for a hearing in respect to any matters determined by the Order. A request for hearing shall be in the form of a petition for hearing and shall, under section SEC 8.01, Wis. Adm. Code, plainly admit or deny each specific allegation, finding, or conclusion in the Order and incorporated papers (unless the petitioner lacks sufficient knowledge or information to permit an admission or denial, in which case the petition shall so state, and such statement shall have the effect of a denial), and shall state all affirmative defenses.”
6. That the Respondent failed to make such a written request for a hearing within the specified time frame.
7. That at the time of the initiation of this matter, Respondent Niemczyk & Associates failed and refused to timely report the October 27, 2008 Wisconsin Order of Denial to the Secretary of State.

WHEREAS, by means of the Stipulation, the Respondents acknowledged, without admitting or denying the truth thereof, that the Secretary of State has adopted the following additional Finding of Fact:

8. That on or about January 6, 2010, Respondents submitted an amended U-4 and Form ADV to report the October 27, 2008 Wisconsin Order and Denial.

9. That Section 11.E(4) of the Act provides that in addition to any other sanction or remedy contained in this subsection E, the Secretary of State, after finding that any provision of this Act has been violated, may impose a fine as provided by rule, regulation or order not to exceed \$10,000, for each violation of this Act, may issue an order of public censure against the violator, and may charge as costs of investigation all reasonable expenses, including attorney's fees and witness fees.

WHEREAS, by means of the Stipulation the Respondents have acknowledged, without admitting or denying the averments, that the following shall be adopted as the Secretary of State's Conclusions of Law:

- 1) The Respondents violated Section 12.D of the Act;
- 2) The Respondents' respective registrations, as investment adviser and investment adviser representative in the State of Illinois, are subject to suspension or revocation pursuant to Section 8.E(1)(g) of the Act; and
- 3) The Respondents are subject to a fine, jointly and severally, pursuant to Sections 12. D and 11(E) (4) of the Act.

WHEREAS, by means of the Stipulation, Respondents have acknowledged and agreed that they shall be FINED One Thousand Two Hundred Fifty Dollars (\$1,250.00), to be paid by certified or cashier's check, made payable to the Secretary of State, Securities Audit and Enforcement Fund.

WHEREAS, by means of the Stipulation, the Respondents have acknowledged and agreed that they shall be levied the costs incurred during the investigation of this matter in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250.00), to be paid by certified or cashier's check made payable to the Office of the Secretary of State, Securities Audit and Enforcement Fund.

WHEREAS, by means of the Stipulation the Respondents have acknowledged and agreed that they have submitted with the Stipulation a certified or cashier's check in the amount of Two Thousand Five Hundred dollars (\$2,500.00) Said sum is allocated as follows: One Thousand Two Hundred Fifty Dollars (\$1,250.00), as FINE for violation of the Act; and One Thousand Two Hundred Fifty Dollars (\$1,250.00), to cover the costs incurred during the investigation of this matter. Said check has been made payable to the Office of the Secretary of State, Securities Audit and Enforcement Fund.

WHEREAS, the Secretary of State, by and through his duly authorized representative, has determined that the matter related to the aforesaid formal hearing may be dismissed without further proceedings.

NOW THEREFORE IT SHALL BE AND IS HEREBY ORDERED THAT:

1. The Respondents are FINED in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250.00), payable to the Office of the Secretary of State, Securities Audit and Enforcement Fund, and on, May 5, 2010 have submitted One Thousand Two Hundred Fifty Dollars (\$1,250.00), in payment thereof.
2. The Respondents are levied costs of investigation in this matter in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250.00), payable to the Office of the Secretary of State, Securities Audit and Enforcement Fund, and on May 5, 2010 have submitted One Thousand Two Hundred Fifty Dollars (\$1,250.00), in payment thereof.
3. The formal hearing scheduled on this matter is hereby dismissed without further proceedings.

ENTERED: This 5<sup>th</sup> day of May 2010.

  
JESSE WHITE  
Secretary of State of Illinois

Samuel f. Freiman  
Enforcement Attorney  
Office of the Secretary of State  
Illinois Securities Department  
69 West Washington Street, Suite 1220  
Chicago, Illinois 60602  
Telephone: (312)793-3988

Daniel A. Tunick  
Enforcement Attorney  
Illinois Securities Department  
Office of Secretary of State  
69 West Washington St.- Suite 1220  
Chicago, IL 60602  
Telephone: 312.793.4433  
Facsimile: 312.793.1202