

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

IN THE MATTER OF: MICHAEL RUSSO

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File No. C0500357

NOTICE OF HEARING

TO THE RESPONDENT:

MICHAEL A. RUSSO
(CRD# 2353710)
19015 S. Jodi Road, Unit F
Mokena, Illinois 60448

C/o CHICAGO INVESTMENT ADVISORY GROUP
(CRD# 142810)
Attn: Michael Russo
19015 S. Jodi Road, Unit F
Mokena, Illinois 60448

C/o J.W. COLE
(CRD# 124583)
6928 W. Linebaugh
Tampa, Florida 33625

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 April 14, 2009 at the hour of 10:00 a.m. or as soon as possible thereafter, before James L. Kopecky 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 prohibiting Michael A. Russo, from offering, advising the sale of, and selling securities in the State of Illinois, and/or prohibiting Michael A. Russo, from engaging in the business of rendering investment advice; and/or revoking Michael A. Russo's registration as an investment advisor representative; 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:

COUNT I-FRAUD OR DECEIT
815 ILCS 5/12.F Respondents engaged in practices in connection
with the sale of securities that worked a fraud or deceit
on the purchaser thereof

1. American General Securities, Inc., (“AGSI”) is a Securities Broker-Dealer registered as a Securities Dealer in the State of Illinois from July 27, 1983 to the present.
2. Chicago Investment Advisory Council, Inc. (“CIAC”) is registered as an investment adviser in the State of Illinois, with a last known address of 40W320 La Fox Rd., St. Charles, Illinois 60175.
3. Respondent Michael A. Russo (“Russo”) is an individual whose last known address is 21334 Sage Brush Lane, Mokena, Illinois 60448. At all relevant times, Respondent Russo was registered as an investment adviser representative with CIAC in the State of Illinois. Respondent Russo is currently registered as an investment adviser representative with Chicago Investment Advisory Group in the State of Illinois.
4. At all relevant times, Respondent Russo was registered as a salesperson with AGSI in the State of Illinois. Respondent Russo was registered in Illinois as a salesperson with AGSI from October 1, 2002 until September 4, 2007.
5. VS and ES are residents of Illinois.
6. On or about December 27, 2002, VS and ES opened a securities account with AGSI. VS and ES were 61 years old and 59 years old, respectively. Investor VS is retired and Investor ES is a homemaker.
7. VS and ES’s initial account application indicated that VS and ES’s annual income was under \$50,000.00 and net worth was between \$500,001.00 and \$1,000,000.00, which included the value of their residence.
8. VS and ES’s initial account opening application dated December 31, 2002, indicated that their risk tolerance was moderate and investment objectives were income, growth and growth/income.
9. That on or about December 31, 2002, Respondent Russo solicited VS and ES to purchase the Bonus Five, an equity-indexed annuity in the amount of \$50,000.00, with surrender date of January 6, 2042.
10. In January 2004, Respondent Russo recommended that VS and ES transfer their funds from AGSI and participate in CIAC’s Active Asset Management Program (AAMP).

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11. Respondent Russo told VS and ES that AAMP investment program was safe and suitable for them and that there would be low to no risk with AAMP.
12. On January 30, 2004, Respondent Russo had VS and ES complete a third account application indicating their investment objects as growth and speculation.
13. According to Respondents, the AAMP was suitable for VS and ES because the program was a measured risk with a limited amount of capital and 100 percent liquidity.
14. Prior to the recommendation, VS and ES held four MFS mutual funds in their securities account with AGSI. Two of the funds were invested in conservative stock, one in growth stocks and one in high yield bonds.
15. On or about February 6, 2004, VS and ES transferred to an account with CIAC, approximately \$150,677.00 from the money market accounts they held at AGSI. These assets were put into the newly opened CIAC AAMP account.
16. Respondent Russo acted as portfolio manager of AAMP and made all investment decisions for VS and ES's AAMP account, throughout the period of its operation in or about January 2004 through October 2004.
17. Respondent Russo began trading in VS and ES's AAMP account, including purchasing and selling equity securities outright and on margin without stop/loss limits in place.
18. According to Respondent Russo, loss limits on AAMP accounts of between 5 percent and 10 percent are set on a case-by-case basis and that a loss limit of 10% was set for VS and ES's AAMP account and that AAMP was suitable for the VS and ES because it was a measured risk with limited amount of capital.
19. That AAMP is comprised of in and out trading whose investments exposed VS and ES to significant risk.
20. Between the periods of February 6, 2004 through June 14, 2004, Respondent Russo executed 212 trades in VS and ES's AAMP account.
21. In or around May 2004, VS and ES complained to Respondent Russo regarding the high volume of trading being conducted in their CIAC AMMP account. According to VS and ES, Respondent Russo told them that he knew what he was doing and to be patient.
22. That on or about May 20, 2004, Respondent Russo solicited VS and ES to purchase Legacy Bonus II, an equity-indexed annuity in the amount of \$27,244.25, with surrender date of June 3, 2056, from VS and ES's account with MFS Investment Management, account number ***6845.
23. According to VS and ES, Respondent Russo continue to trade in VS and ES's CIAC AAMP account until on or about June 8, 2004, when VS and ES demanded that

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Respondents stop trading in their account and to closeout their AAMP account with CIAC.

24. That on or about June 17, 2004, Respondent CIAC issued to VS and ES a check in the amount of \$135,360.37, representing the remaining balance in VS and ES's AAMP account with CIAC.
25. That on or about June 21, 2004, Respondent Russo further solicited VS and ES to purchase Legacy Bonus II, an equity-indexed annuity in the amount of \$20,970.88, with surrender date of June 21, 2056, from VS and ES account with AGSI.
26. That Respondent's activities described above involve the offer or sale of stock and/or investment contract, and thus are securities, under section 2.1 and 2.5 of the Act.
27. That Section 12.F of the Act provides, *inter alia*, that it shall be a violation of the provisions of the Act for any person to "engage in any transaction, practice, or course of business in connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof."
28. That Section 130.853 of the Rules and Regulations under the Illinois Securities Law of 1953 provides, *inter alia*, that effecting or causing to be effected by or for any client's account, any transactions of purchase or sale which are excessive in size or frequency or unsuitable in view of the financial resources and character of the account, shall constitute an act, practice, or course of business on the part of the registered investment advisor or its representative effecting such transactions or causing the transactions to be effected that is fraudulent, deceptive or manipulative.
29. That VS and ES's participation in CIAC's AAMP was a considerable departure from the investors' previous investments through AGSI.
30. That Respondent Russo mislead VS and ES into believing that their investments through the CIAC's Active Asset Management Program would be as conservative or more conservative than their previous investments through AGSI.
31. That Respondent Russo convinced VS and ES to switch their investment from AGSI to Respondents' AAMP.
32. That given their financial situation, investment objectives and needs, Respondents did not have reasonable grounds to believe that his recommendations and the transactions were suitable for the VS and ES.
33. The facts alleged in paragraphs 1 through 32 above, allege facts showing conduct by the Respondents that violate Section 12.F of the Act. In particular: Respondents recommendation of VS and ES to participate in the Respondents' Active Asset Management Program was unsuitable for the investors. Additionally, Respondents conducted churning in VS and ES's AAMP account by excessively trading in their

account, executing more than 212 trades between February 12, 2004 and June 14, 2004, resulting in a turnover ratio of 6.6 for the account, in furtherance of Respondents' scheme to defraud the investors.

**COUNT II-- OBTAINING MONEY BY UNTRUE
STATEMENTS AND MISLEADING FACTS**
**815 ILCS 5/12.G--Respondents obtained Complainants' money
by making untrue statement of material fact
and omission to state a material fact**

- 1-32. The Illinois Securities Department re-alleges and incorporates paragraphs 1 through 32 of Count I as paragraphs 1 through 32 of this Count II.
33. That Section 12.G of the Act provides, *inter alia*, that it shall be a violation of the provisions 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."
34. The facts alleged in paragraphs 1 through 33 above, allege facts showing conduct by the Respondent Russo that violate Section 12.G of the Act. In particular: Respondent Russo misled VS and ES into believing that their investments through CIAC's Active Asset Management Program were more conservative than their previous investments with AGSI and convinced VS and ES to switch their investment from AGSI to CIAC's AAMP.

**COUNT III-EMPLOYMENT OF A DEVICE
OR SCHEME TO DEFRAUD**
**815 ILCS 5/12.I Respondent employed a
scheme to defraud in connection with the sale of securities**

- 1-32. The Illinois Secretary of State re-alleges and incorporates paragraph 1 through 32 of Count I as paragraphs 1 through 32 of this Count III.
33. That Section 12.I of the Act provides, *inter alia*, that it shall be a violation of the provisions 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."
34. The facts alleged in paragraphs 1 through 33 above, allege facts showing conduct by the Respondent Russo that violate Section 12.I of the Act. In particular: Respondent Russo intentionally misled VS and ES into believing that their investment through the CIAC's Active Asset Management Program was a more conservative investment than VS and ES

previous investments through AGSI because “it was a measured risk with a limited amount of capital.” Furthermore, Respondent Russo’s conducted churning in VS and ES’s AAMP account in excessively trading in the account, executing more than 212 trades between February 12, 2004 and June 14, 2004, in furtherance of Respondent’s scheme to defraud the investors.

**COUNT IV-EMPLOYMENT OF A DEVICE
OR SCHEME TO DEFRAUD**

**815 ILCS 5/12.J Respondent acting as an investment adviser employed a
scheme to defraud in connection with the sale of securities**

- 1-32. The Illinois Secretary of State re-alleges and incorporates paragraph 1 through 32 of Count I as paragraphs 1 through 32 of this Count IV.
33. That Section 12.J of the Act provides, *inter alia*, that it shall be a violation of the provisions of the Act for any person to “when acting as an investment adviser, investment adviser representative, or federal covered investment adviser, by any means or instrumentality, directly or indirectly: (1) To employ any device, scheme or artifice to defraud any client or prospective client; (2) To engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client; or (3) To engage in any act, practice or course of business which is fraudulent, deceptive, or manipulative.
34. The facts alleged in paragraphs 1 through 33 above, allege facts showing conduct by the Respondent Russo that violate Section 12.J of the Act. In particular: Respondent Russo acting as VS and ES’s investment advisor representative: 1) intentionally misled VS and ES into believing that their investment through CIAC’s Active Asset Management Program was a more conservative investment than VS and ES previous investments through AGSI because “it was a measured risk with a limited amount of capital”; 2) solicited VS and ES to participate in the CIAC’s Active Asset Management Program, claiming it to be a more conservative investment than VS and ES previous investments through AGSI; 3) mislead VS and ES into believing that their investments through the CIAC’s Active Asset Management Program was more conservative than their previous investments with AGSI and convinced VS and ES to switch their investment from AGSI to Respondents’; 4) breach his fiduciary duty to VS and ES in conducting churning in VS and ES’s AAMP account when excessively trading in the account, executing more than 212 trades between February 12, 2004 and June 14, 2004; and 5) breach his fiduciary duty to VS and ES in making unsuitable recommendations in furtherance of a scheme to defraud the investors.

COUNT V-REVOCAION OF REGISTRATION
815 ILCS 5/8(E)(1)(b), (f) and (g)

- 1-28. The Illinois Securities Department re-alleges and incorporates paragraphs 1 through 28 of Count IV as paragraphs 1 through 28 of this Count V.
29. That Section 8.E of the Act provides, *inter alia*, that the registration of a salesperson, investment adviser, or investment adviser representative may be denied, suspended or revoked if the Secretary of State finds that the salesperson, investment adviser, or investment adviser representative:
- a. Has engaged in any unethical practice in connection with any security, the offer or sale of securities or in any fraudulent business practice (815 ILCS 5/8(E)(1)(b));
 - b. Has violated any provisions of this Act (815 ILCS 5/8(E)(1)(g)).
30. Paragraphs 1 through 29, above, allege facts that support the revocation of Respondent Russo's registration as a salesperson and investment adviser representative.

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.

Furthermore, you may be requested 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 included with this Notice.

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

DATED: This ~~10th~~ day of February 2009.

17th



JESSE WHITE
Secretary of State
State of Illinois

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