

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: RWR Ralph W. Russell, individually, and dba)
RWR Capital Partners, LLC and RWR Capital Management, LLC;) File. 0700041
RWR Capital Partners, LLC; and RWR Capital Management, LLC.)

THIRD AMENDED NOTICE OF HEARING

TO RESPONDENT:

Ralph W. Russell
2487 Legacy Drive
Aurora, IL 60504

RWR Capital Partners, LLC
47 E. Chicago Ave., Suite 336
Naperville, IL 60540

RWR Capital Management, LLC
47 E. Chicago Ave., Suite 336
Naperville, IL 60540

RWR Capital Management, LLC
55 S. Main St., Suite 339B
Naperville, IL 60583

RWR Capital Management, LLC
RWR Capital Partners, LLC
C/o Ralph W. Russell
2487 Legacy Drive
Aurora, IL 60504

C/o John F. Gibbons, Esq.
Kimberly M. DeShano, Esq.
Greenberg Traurig LLP
77 W. Wacker Drive, Suite 2500
Chicago, IL 60601

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You are hereby notified, in accordance with Sections 11.E and F of the Illinois Securities Law of 1953 [815 ILCS 5/11.E and F] (“Act”) and 14 Ill. Adm. Code 130, subpart K, a public hearing will be held at the Secretary of State’s office at the Office of the Inspector General, 535 Plainfield Road—Suite D, Willowbrook, Illinois 60527, on the 27th day of January, 2009 at the hour of 11:00 a.m., or as soon thereafter as possible before Soula Spyropoulos, or such other hearing officer as the Secretary of State may designate.

At this hearing, the Illinois Securities Department of the Office of the Secretary of State shall seek entry of an order granting any or all of the following relief:

1. Prohibition of Respondents Ralph Russell, RWR Capital Management, LLC, and RWR Capital Partners, LLC (collectively, “Respondents”), from offering or selling securities in or from the State of Illinois, in accordance with Sections 11.E(2) and 11.F(1) of the Act.
2. Prohibition of the Respondents from acting as investment advisers or investment adviser representatives, in accordance with Sections 11.E(3) and 11.F(1) of the Act.
3. Imposition of a fine not to exceed \$10,000 against each of the Respondents for each violation of the Act described below, and order of public censure, and charging as costs of investigation all reasonable expenses, including attorney’s fees and witness fees, in accordance with Section 11.E(4) of the Act.

The grounds for this proposed action are as follows:

NATURE OF CASE

From October 2004 to October 2007, Respondent Ralph W. Russell, and his company, Respondent RWR Capital Management, LLC, defrauded Illinois investors. Russell and Capital Management recommended investment in nonexistent investment funds and sold investors unregistered shares of the bogus funds. Russell and Capital management converted a portion of the investors’ monies into a Ponzi scheme in which monies they paid to investors and represented as investment profits, were, in fact, monies the Respondents took from other investors. Russell and Capital Management took the balance of the investment monies for their own personal use.

Respondents Russell and RWR Capital Management, LLC, also failed to disclose to investors that, from at least about October 2004 through at least as late as May 4, 2007, Russell was operating as an unregistered investment adviser representative; that Capital Management was acting as an unregistered investment adviser business; and that Russell, RWR Capital Management, LLC, and the investment fund they created, Respondent RWR Capital Partners, LLC, were selling unregistered securities, all in violation of Illinois law.

RESPONDENTS
COMMON FACTS

1. Respondent Ralph W. Russell is an individual whose residential address is 2487 Legacy Drive, Aurora, Illinois.
2. From its organization on September 13, 2004, through its dissolution on February 28, 2006, Respondent Russell operated as the sole manager of Respondent RWR Capital Management, LLC (“Capital Management”), and continued to operate it as his d/b/a until at least October 31, 2007.
3. Between September 13, 2004, and October 31, 2007 (the “Period”), Respondent Russell conducted his investment advisory business through Respondent Capital Management. Respondents Russell and Capital Management held themselves out on their website and in seminars as engaging in the business of advising others regarding the value of securities and the advisability of investing in, purchasing, and selling securities.
4. During the Period, Respondent Russell, individually, and on behalf of and in concert with Respondent Capital Management managed the portfolio of an investment fund for compensation, Respondent RWR Capital Partners, LLC (“Partners Fund”), and sold unregistered shares of Partners Fund to residents of the State of Illinois, including LR.
5. During the Period, Respondent Russell, individually, and on behalf of and in concert with Respondent Capital Management solicited Investor Money from various Illinois resident investors, including their advisory clients, JH, DM and PO, for placement in several other purported “Funds” and other “Investments.” The Investor Money thus solicited was not placed in any substantive investment. Instead, Russell and Capital Management converted the Investor Money to make payments they owed to other investors, or for their own use and benefit.

COUNTS I Through III

COUNT I

Fraud against Investor JH

Deceit, Untrue Statements, Omissions of Material Facts, Scheme or Artifice

Violations by Respondents Russell and RWR Capital Management, LLC, each individually, and each d/b/a as RWR Capital Income Fund

6. In Late 2006 Investor JH engaged the business of Respondents Russell and Capital Management to make recommendations and advise her on the value of securities the advisability of investing in, purchasing, or selling securities; and to manage her investments. Respondents Russell and Capital management continued to provide Investor JH these services through November 8, 2007.

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7. In about October 2006, JH contacted Russell to hire his advisory services in managing her investments. Among other things, Russell told her his fees were to be paid quarterly, and would be a percentage of the assets under management.
8. On October 10, 2006, Respondents Russell and Capital Management sent JH a letter reviewing JH's portfolio and making suggestions regarding several Third-Party investment funds, and an insurance annuity product.
9. On February 5, 2007, Respondent Russell emailed JH, "I would like you to invest \$30,000 from your rollover into a income strategy I manage which will pay 12% for two months."
10. On about February 6, 2007, Respondents Russell and Capital Management sold \$30,000 Income Fund to JH (1st JH Transaction). At Russell's direction JH wired the funds from her Schwab account to Capital Management's bank account to pay for 1st JH Transaction.
11. On June 1, 2007 Respondents Russell and Capital Management confirmed to JH that her balance in RWR Capital Income Fund ("Income Fund") was \$31,124.
12. The Income Fund Respondents Russell and Capital Management recommended to JH constituted an Investment Fund, and therefore a Security as the term "security" is defined in Section 2.1 of the Act.
13. The activities described at Paragraphs 7 through 12 above, constitute the activities of an investment adviser as that term is defined at Section 2.11 of the Act.
14. On subsequent dates Respondents Russell and Capital Management sold JH varying amounts of Income Fund, and at Russell's direction JH wire transferred funds from her Schwab account to Capital Management's bank account in payment.
15. On September 10, 2007, Respondents Russell and Capital Management confirmed to JH that her balance in Income Fund was \$92,750.76.
16. Around September 2007, Respondents Russell and Capital Management proposed to JH that he would pay 15% monthly interest on funds invested with him, backed by the production generated by his life settlements business. Production records would be provided, and capital returned within 30 days of written request ("15%+ Investment").
17. On subsequent dates Respondents Russell and Capital Management sold JH varying amounts of 15%+ Investment, and at Russell's direction JH wire transferred funds from her Schwab account to Capital Management's bank account in payment.
18. On October 31, 2007, Respondents Russell and Capital Management confirmed to JH, her balances in money earning fixed returns: "The total earning 12% is

\$94,126.42. The total earning 15% is \$411,978.40. The total earning 20% is \$412,094.39.”

19. The 15%+ Investment Respondents Russell and Capital Management recommended to JH constituted an Investment Contract, or a Certificate of Interest or Participation in a Profit Sharing Agreement, and therefore a Security as the term “security” is defined in Sections 2.1 of the Act.
20. Respondents Russell and Capital Management never invested any of the money JH gave them to invest in the Income Fund or in the 15%+ Investment, in the Income Fund, in the 15%+ Investment, or in any substantive investment.
21. At the time Respondent Russell represented to JH that the fictitious Income Fund was an investment fund Russell managed, Respondents Russell and Capital Management knew the Fund was not a bona fide investment fund, or capable of generating the promised 12% return.
22. At the time Respondent Russell recommended JH invest in the 15%+ Investment Russell knew it was not bona fide, not capable of generating the promised rates of return, and not backed by Russell’s life settlements production.
23. Respondents Russell and Capital Management failed and refused to disclose to JH that they never invested JH’s investment monies in any substantive investment.
24. Respondent Russell had no reasonable basis for recommending JH invest in the purported Income Fund, or in the purported 15%+ Investment.
25. Instead of using JH’s investment money for investments as promised, Respondents Russell and Capital Management converted her money, to pay money they owed other investors, and for Russell’s and Capital Management’s own personal use and benefit, such as:
 - (a) To pay Respondent Capital Management’s Analysis Charge (bank charge), as on September 17, 2007.
 - (b) To make a VISA purchase, as on September 24, 2007.
 - (c) To deposit in Respondent Russell’s personal checking account, as on September 24 and September 28, 2007.
 - (d) To make purported principal repayments to another investor, as on September 25, 2007; September 28, 2007; October 17, 2007; and October 22, 2007.

VIOLATIONS

26. Each of the actions and omissions by Respondents Russell and Capital Management, individually, and on behalf of and in concert with each other, described in this count--
- (1) Each misrepresentation by Respondents Russell and Capital Management that the monies Investor JH designated to be invested in the fictitious Income Fund, were invested in that fund.
 - (2) Each misrepresentation by Respondents Russell and Capital Management to Investor JH that the fictitious Income Fund was a bona fide Investment Fund, and capable of generating a 12% return.
 - (3) Each misrepresentation by Respondents Russell and Capital Management to Investor JH that the 15%+ Investment was bona fide, and capable of producing the promised rates of return,
 - (4) Each misrepresentation by Respondents Russell and Capital Management to Investor JH that the 15%+ Investment was bona fide, and was backed by Russell's Life Settlements production.
 - (5) Each use by Respondent Russell of monies Investor JH designated to be invested in the fictitious Income Fund, to pay Russell's personal expenses.
 - (6) Each use by Respondents Russell and Capital Management of monies Investor JH designated to be invested in the fictitious Income Fund, to repay Principal amounts due to another investor;
 - (7) Each use by Respondent Russell of monies Investor JH designated to be invested in the fictitious Income Fund, to write checks to Russell's wife;
 - (8) Each use by Respondent Russell of monies Investor JH designated to be invested in the fictitious 15%+ Investment, for Russell's personal expenses.
 - (9) Each use by Respondents Russell and Capital Management of the monies Investor JH designated to be invested in the fictitious 15%+ Investment, to pay Capital Management's office rent;
--- was:
 - (a) A transaction, practice, or course of business in which Respondents Russell and Capital Management engaged in connection with the sale or purchase of securities that worked or tended to work a fraud or deceit upon Investor JH, each in violation of Section 12.F of the Act.
 - (b) A way used by Respondents Russell and Capital Management to obtain money from Investor JH 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 not misleading, in the light of the circumstances in which the statements were made by Respondents, each in violation of Section 12.G of the Act.
 - (c) A device, scheme, or artifice used by Respondents Russell and Capital Management in connection with the sale or purchase of

- securities, that worked or tended to work a fraud or deceit upon Investor JH, each in violation of Section 12.I of the Act.
- (d) A device, scheme, or artifice used by Respondents Russell and Capital Management to defraud their investment advisory client JH, each in violation of Section 12.J(1) of the Act.
 - (e) A transaction, practice, or course of business engaged in by Respondents Russell and Capital Management, that operated as a fraud or deceit upon their investment advisory client JH, each in violation of Section 12.J(2) of the Act.
 - (f) An act, practice, or course of business engaged in by Respondents Russell and Capital Management, upon their investment advisory client JH, that was fraudulent, deceptive, and manipulative, each in violation of Section 12.J(3) of the Act.

COUNT II

Fraud against Investor DM:

Deceit, Untrue Statements, Omissions of Material Facts, Scheme or Artifice

Violations by Respondents Russell; RWT Capital Management, LLC (investment adviser), each individually; and each d/b/a RWR Capital Management, LLC (investment fund) and RWR Capital Income Fund

- 6. Paragraphs 1 through 5 of Count I are hereby adopted and realleged as Paragraph 6 of this Count II.
- 7. In July 2006, Investor DM engaged Respondents Russell and Capital Management to make recommendations and advise him on the value of securities; the advisability of investing in, purchasing, or selling securities; and to manage his investments, Respondents Russell and Capital Management continued to provide Investor DM these services until at least as late as January 16, 2007.
- 8. In about July 2006, DM engaged Respondent Russell to be his investment adviser and manage his Schwab account.
- 9. Russell said he “charged $\frac{3}{4}$ of 1% of everything invested,” as his advisory fee. DM agreed and gave Respondent Russell power of attorney over the Schwab account.
- 10. In September DM retired and deposited additional funds from his 401k Plan into the Schwab account Russell was managing.
- 11. Russell recommended DM invest the additional funds in “a Fund I have started here” called RWR Capital Management (“Management Fund”), which Russell told DM was an eligible investment for a qualified IRA Plan.

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12. The Management Fund Respondents Russell and Capital Management recommended to DM constituted an Investment Fund, and therefore a Security as the term “security” is defined in Section 2.1 of the Act.
13. The activities described at Paragraphs 7 through 12 above, constitute the activities of an investment adviser as that term is defined at Section 2.11 of the Act.
14. On about September 29, 2006 Respondents Russell and Capital Management sold DM \$70,000 RWR Capital Management Fund (“Management Fund”). At Russell’s direction DM made out a check in the amount of \$70,000 to RWR Capital Management, noting in the memo section, “IRA” (the “DM Transaction”). After the check failed to clear, DM gave Russell a replacement check on October 5, 2006.
15. After the DM Transaction, Respondents Russell and Capital Management sent DM a confirmation that, “Your \$70,000 invested in RWR Capital Income fund has earned \$713.31 in the past month,” at an “annual fixed rate of 12%.”
16. Respondents Russell and Capital Management never invested any of the money DM gave them to invest in the Management Fund, in Management Fund, in Income Fund, or in any substantive investment.
17. At the time Respondent Russell represented to DM that the Management Fund was an investment fund Russell managed, Respondents Russell and Capital Management knew no such fund existed.
18. Respondents Russell and Capital Management failed and refused to disclose to Investor DM that they never invested DM’s investment money in any substantive investment.
19. Respondent Russell had no reasonable basis for recommending DM invest in the purported Management Fund.
20. Instead of using DM’s money for investment as promised, Respondents Russell and Capital Management converted his money, to pay money they owed other investors, and for Russell’s and Capital Management’s own personal use and benefit, such as:
 - (a) To cover Respondent Capital Management’s bank account overdraft, as on October 5, 2006.
 - (b) To make a debit card purchase as on October 5, 2006.
 - (c) To pay Respondent Capital Management’s bank overdraft charges as on October 5 and October 6, 2006.

- (d) To deposit in Respondents Russell's personal checking account, as on October 10 and October 11, 2006.

VIOLATIONS

21. Each of the actions and omissions by Respondents Russell and Capital Management, individually, and on behalf of and in concert with each other, described in this count--
- a. Each misrepresentation by Respondents Russell and Capital Management that the monies Investor DM designated to be invested in the fictitious Management Fund, were invested in that fund.
 - b. Each misrepresentation by Respondents Russell and Capital Management to Investor DM that the fictitious Management Fund was a bona fide Investment Fund, and capable of generating a return.
 - c. Each use by Respondent Russell of monies Investor DM designated to be invested in the fictitious Management Fund, to pay Russell's personal expenses.
 - d. Each use by Respondents Russell and Capital Management of monies Investor DM designated to be invested in the fictitious Management Fund, to repay Principal amounts due to another investor;
 - e. Each use by Respondent Russell of monies Investor DM designated to be invested in the fictitious Management Fund, to write checks to Russell's wife;

--- was:

- (a) A transaction, practice, or course of business in which Respondents Russell and Capital Management engaged in connection with the sale or purchase of securities that worked or tended to work a fraud or deceit upon Investor DM, each in violation of Section 12.F of the Act.
- (b) A way used by Respondents Russell and Capital Management to obtain money from Investor DM 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 not misleading, in the light of the circumstances in which the statements were made by Respondents, each in violation of Section 12.G of the Act.
- (c) A device, scheme, or artifice used by Respondents Russell and Capital Management in connection with the sale or purchase of securities, that worked or tended to work a fraud

or deceit upon Investor DM, each in violation of Section 12.I of the Act.

- (d) A device, scheme, or artifice used by Respondents Russell and Capital Management to defraud their investment advisory client, Investor DM, each in violation of Section 12.J(1) of the Act.
- (e) A transaction, practice, or course of business engaged in by Respondents Russell and Capital Management, that operated as a fraud or deceit upon their investment advisory client, Investor DM, each in violation of Section 12.J(2) of the Act.
- (f) An act, practice, or course of business engaged in by Respondents Russell and Capital Management, upon their investment advisory client, Investor DM, that was fraudulent, deceptive, and manipulative, each in violation of Section 12.J(3) of the Act.

COUNT III

Fraud against Investor PO:

Deceit, Untrue Statements, Omissions of Material Facts, Scheme or Artifice

Violations by Respondents Russell and RWR Capital Management, LLC, each individually, and each d/b/a RWR Capital Income Fund

- 6. Paragraphs 1 through 5 of Count I are hereby adopted and realleged as Paragraph 6 of this Count III.
- 7. Some time in 2006, Investor PO engaged the business of Respondents Russell and Capital Management to make recommendations and advise her on the value of securities; the advisability of investing in, purchasing, or selling securities; and to manage her investments. Respondent Russell and Capital Management continued to provide Investor PO these services until at least as late as January 16, 2007
- 8. In about November 2006, PO wanted to invest for her retirement and she had a 401k rollover, so she contacted Russell to discuss his advisory services. Among other things, Russell told her his fees would be a percentage of the assets under management.
- 9. Russell recommended PO invest in RWR Capital Income Fund, which Russell represented was an investment fund he managed that would give PO an annual return of 12% ("Income Fund").
- 10. The Income Fund Respondents Russell and Capital Management recommended to PO constituted an Investment Fund, and therefore a Security as the term "security" is defined in Section 2.1 of the Act.

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11. The activities described at Paragraphs 7 through 10 above, constitute the activities of an investment adviser as that term is defined at Section 2.11 of the Act.
12. On two occasions, November 8, 2006 and September 28, 2007, Respondents Russell and Capital Management sold PO shares of Income Fund, each in the amount of \$50,000 (the "Transactions").
13. At Russell's direction, PO paid for the first Transaction with a cashier's check made out to, "RWR Capital Management," and had the funds for the second Transaction transferred to Capital Management's bank account.
14. Respondents Russell and Capital Management never invested any of the money PO gave them to invest in the Management Fund, in that Fund, in the Income Fund, or in any substantive investment.
15. At the time Respondent Russell represented to PO that the Management Fund was in investment fund Russell managed, Respondents Russell and Capital Management knew no such fund existed.
16. Respondents Russell and Capital Management failed and refused to disclose to PO that they never invested PO's investment money in any substantive investment.
17. Respondent Russell had no reasonable basis for recommending PO to invest in the purported Management Fund.
18. Instead of investing PO's money as promised, Respondents Russell and Capital Management converted her money, to pay money they owed other investors, and for Russell and Capital Management's own personal use and benefit, such as:
 - (a) To pay for Respondent Capital management bank account overdraft charges, as on November 8, 2006.
 - (b) To deposit in Respondent Russell's personal checking account, as on November 9, 2007.
 - (c) As a purported 2006 third-quarter interest payment to other investors, as on November 20, 2006.
 - (d) To make personal credit card purchases for Respondent Russell, as on December 4, 2006.
 - (e) To pay for Respondent Capital management's office rent, as on December 5, 2006.

VIOLATIONS

19. Each of the actions and omissions by Respondents Russell and Capital Management, individually, and on behalf of and in concert with each other, described in this count--

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- (1) Each misrepresentation by Respondents Russell and Capital Management that the monies Investor PO designated to be invested in the fictitious Income Fund, were invested in that fund.
- (2) Each misrepresentation by Respondents Russell and Capital Management to Investor PO that the fictitious Income Fund was a bona fide Investment Fund, and capable of generating a 12% return.
- (3) Each use by Respondent Russell of monies Investor PO designated to be invested in the fictitious Income Fund, to pay Russell's personal expenses.
- (4) Each use by Respondents Russell and Capital Management of monies Investor PO designated to be invested in the fictitious Income Fund, to repay Principal amounts due to another investor;
- (5) Each use by Respondent Russell of monies Investor PO designated to be invested in the fictitious Income Fund, to write checks to Russell's wife;
- (6) Each use by Respondents Russell and Capital Management of the monies Investor PO designated to be invested in the fictitious Income Fund, to pay Capital Management's office rent;

--- was:

- (a) A transaction, practice, or course of business in which Respondents Russell and Capital Management engaged in connection with the sale or purchase of securities that worked or tended to work a fraud or deceit upon Investor PO, each in violation of Section 12.F of the Act.
- (b) A way used by Respondents Russell and Capital Management to obtain money from Investor PO 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 not misleading, in the light of the circumstances in which the statements were made by Respondents, each in violation of Section 12.G of the Act.
- (c) A device, scheme, or artifice used by Respondents Russell and Capital Management in connection with the sale or purchase of securities, that worked or tended to work a fraud or deceit upon Investor PO, each in violation of Section 12.I of the Act.
- (d) A device, scheme, or artifice used by Respondents Russell and Capital Management to defraud their investment advisory client, Investor PO, each in violation of Section 12.J(1) of the Act.
- (e) A transaction, practice, or course of business engaged in by Respondents Russell and Capital Management, that operated as a fraud or deceit upon their investment advisory client, Investor PO, each in violation of Section 12.J(2) of the Act.

- (f) An act, practice, or course of business engaged in by Respondents Russell and Capital Management, upon their investment advisory client, Investor PO, that was fraudulent, deceptive, and manipulative, each in violation of Section 12.J(3) of the Act.

COUNT IV

Unregistered Investment Advisers

And Investment Adviser Representative

Violations by Respondents Russell and RWR Capital Management, LLC,

- 6. Paragraphs 1 through 5 of Count I are hereby adopted and realleged as Paragraph 6 of this Count IV.
- 7. From about September 13, 2004 through at least October 31, 2007, Respondents Russell and Capital Management, individually, and on behalf of and in concert with each other, acted as, and held themselves out as, investment advisers in the State of Illinois without being registered with the Illinois Secretary of State as investment advisers.
- 8. Section 8.A of the Act provides, *inter alia*, that except as otherwise provided in this subsection A, every investment adviser and investment adviser representative shall be registered as such with the Secretary of State.
- 9. Section 8.D of the Act provides, that a person who wishes to register as an investment adviser in the State of Illinois must file an application with the Secretary, executed, verified, or authenticated by or on behalf of the applicant.
- 10. Section 8.D-5 provides, that a person who wishes to register as an investment adviser in the State of Illinois must cause a registered investment adviser to file an application with the Secretary of State, which the investment adviser representative is required to provide to the investment adviser, executed, verified, or authenticated by the applicant.
- 11. From at least April 11, 2006, through at least as late as October 1, 2007, Respondents Russell and Capital Management held Russell out on their website as making recommendations and rendering investment advice regarding securities.
- 12. On April 11, 2006, Respondents Russell and Capital Management advertised:
 - (a) “Investment advice that’s right on the money!”
 - (b) Services including “Mutual Fund/Stock Recommendations” and “Innovative investment programs.”

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13. On about April 11, 2006, enforcement attorney Dan Tunick directly informed Respondent Russell in a telephone conversation that Russell was required to remove all language from the Website, advertising the services of a securities salesperson, investment adviser, or investment adviser representative, because he was not registered by the State of Illinois to perform these services in Illinois. Russell agreed to remove such advertising from the Website.
14. On October 1, 2007 Respondents Russell's and Capital Management's website continued to advertise Russell's services, stating on its home page "Investment Advice That's Right On The Money!" -- under "Services," that Respondent Russell's services include, "Mutual Fund/Stock Recommendations" and "innovative investment programs," -- and under "Contact" inviting Illinois residents and others to, "contact me to arrange a time to talk with you about your investment goals and options."
15. On April 11, 2006, and continuing through October 1, 2007, Respondents Russell's and Capital Management's website contained no language that its offer of "Investment Advice That's Right On The Money!" -- "Mutual Fund/Stock Recommendations" and "innovative investment programs," -- and invitation to, "contact me to arrange a time to talk with you about your investment goals and options," were void in the State of Illinois, each therefore constitutes a general solicitation in the State of Illinois.
16. Between July 2006 through at least October 31, 2007, Respondents Russell and Capital Management, for compensation, made recommendations and rendered investment advice regarding securities to Investors JH, DM and PO, as described above in Counts I through III.
17. The acts of Respondents Russell and Capital Management as described in Paragraph 12, constituted acting as investment advisers, as the term "investment adviser" is defined in Section 2.11 of the Act.
18. Between July 2006 through at least October 31, 2007 Respondents Russell and Capital Management never filed an application with the Secretary of State as investment advisers, they were not and never became registered with the Secretary of State as investment advisers in the State of Illinois.
19. Each occasion on which Respondent Russell acted as an investment adviser without complying with the investment adviser registration requirements of Section 8 of the Act, was a separate violation of Section 12.A of the Act.
20. Each occasion on which Respondent Capital Management acted as an investment adviser without complying with the investment adviser registration requirements of Section 8 of the Act, was a separate violation of Section 12.A of the Act.

21. Each day Respondent Russell failed to file an application with the Secretary of State to register as an investment adviser as required by section 8 of the Act, was a separate violation of Section 12.D of the Act
22. Each day Respondent Capital Management failed to file an application with the Secretary of State to register as an investment adviser as required by section 8 of the Act, was a separate violation of Section 12.D of the Act.
23. Between July 2006 through at least October 31, 2007 Respondents Russell and Capital Management never filed an application with the Secretary of State on behalf of Russell as an investment adviser representative, he was not and never became registered with the Secretary of State as an investment adviser representative in the State of Illinois.
24. Each occasion on which Respondent Russell acted as an investment adviser representative on behalf of Respondent Capital Management without complying with the investment adviser representative registration requirements of Section 8 of the Act, was a separate violation of Section 12.A of the Act, by Respondent Russell.
25. Each occasion on which Respondent Russell acted as an investment adviser on behalf of Respondent Capital Management without complying with the investment adviser representative registration requirements of Section 8 of the Act, was a separate violation of Section 12.A of the Act, by Respondent Capital Management.
26. Each day Respondent Russell failed to file an application with the Secretary of State to register as an investment adviser representative as required by section 8 of the Act, was a separate violation of Section 12.D of the Act
27. Each day Respondent Capital Management failed to file an application with the Secretary of State on behalf of Russell to register as an investment adviser as required by section 8 of the Act, was a separate violation of Section 12.D of the Act.

COUNT V

Offer & Sale of Unregistered Securities

Violations by Respondents Russell and RWR Capital Management, LLC,
and RWR Capital Partners, LLC

6. Paragraphs 1 through 5 of Count I are hereby adopted and realleged as Paragraph 6 of this Count V.
7. Between September 23, 2004 and the present, Respondents Russell, Capital Management, and Capital Partners individually, and on behalf of and in concert with each other offered and/or sold investment fund shares issued by Respondent Capital Partners to one or more residents of the State of Illinois, including LR.

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8. Until at least April 11, 2006, Respondents Russell and Capital Management, and Partners Fund (“Respondents”), offered shares of Partners Fund for sale by means of general advertising on their website (“Website”) in the State of Illinois.
9. The Website advertised that: “RWR Capital Partners, LLC, is the hedge fund operated by Ralph Russell. This Fund is open only to accredited investors.”
10. A hedge fund is an Investment Fund, and therefore a “security” as that term is defined in Section 2.1 of the Act.
11. The reference by Respondents on the Website that “this Fund is open only to accredited investors,” was an offer to sell shares of the Fund, as the term “offer” is defined in Section 2.5a of the Act
12. The Website did not indicate the Offer to Sell shares of Partners Fund was void in the State of Illinois.
13. Securities are required to be registered with the Secretary of State prior to their offer or sale in the State of Illinois, in accordance with Sections 5, 6, or 7 of the Act, except those identified in Section 2a of the Act, and those exempt under Sections 3 or 4 of the Act.
14. Section 4.H of the Act defines “accredited investors,” and exempts any transaction involving the offer of a security to such investors from the registration requirements of Sections 5, 6 and 7, “provided that such security is not offered or sold by means of any general advertising or general solicitation in this State.”
15. Between September 23, 2004 and the present, Respondents never filed an application with the Secretary of State to register these securities prior to their offer and sale in the State of Illinois, and the securities never became registered.
16. On about April 11, 2006, enforcement attorney Dan Tunick directly informed Respondent Russell in a telephone conversation that Russell was required to remove all language from the Website, advertising the services of a securities salesperson, investment adviser, or investment adviser representative, because he was not registered by the State of Illinois to perform these services in Illinois. Russell agreed to remove such advertising from the Website.
17. From April 11, 2006 through at least as late as October 1, 2007, Respondents failed and refused to remove the advertising from the Website, or to add the language: Offer void in the State of Illinois.
18. Each occasion on which the Respondents offered to sell shares of Partners Fund without registering the shares with the State of Illinois was a separate offer to sell a

security that was not registered as required by the provisions of Sections 5, 6 and 7, and each offer not so registered was a separate violation of Section 12.A of the Act.

19. Each occasion on which the Respondents offered to sell shares of Partners Fund without registering the shares with the State of Illinois was a separate failure to file with the Secretary of State any application, report or document required to be filed under the provisions of Section 7 of the Act, and each failure was a separate violation of Section 12.D of the Act.

COUNT VI

Sale of Unregistered Securities to JH

Violations by Respondents Russell and RWR Capital Management, LLC, each individually, and each d/b/a as RWR Capital Income Fund

19. Paragraphs 1 through 18 of Count I are hereby adopted and realleged as Paragraph 19 of this Count VI.
20. That Section 5 of the Act provides, *inter alia*, that all securities except those set forth under Section 2a of this Act, or those exempt under Section 3 of this Act or those offered or sold in transactions exempt under Section 4 of this Act, or face amount certificates required to be registered under Section 6 of this Act, or investment fund shares required to be registered under Section 7 of this Act, shall be registered either by coordination or by qualification, prior to their offer or sale in this State.
21. That Section 7 of the Act provides, *inter alia*, that all investment fund shares except those set forth under Section 2a of the Act, or those exempt under Section 3 of the Act or those offered or sold in transactions exempt under Section 4 of the Act, or face amount certificates required to be registered under Section 6 of the Act, shall be registered either by coordination or by qualification, prior to their offer or sale in the State of Illinois.
22. The offer and sale of Income Fund by Respondents Russell and Capital Management to Investor JH constituted the Offer and Sale of an Investment Fund, and therefore a Security as the terms "security," "offer," and "sale" are defined in Section 2.1, 2.5 and 2.5a of the Act.
23. That the investment fund shares issued by Income Fund to JH were not and are not registered under Section 5 or Section 7 of the Act, and there are also no filings under Section 2a or Section 6 of the Act.
24. The offer and sale of the 15%+ Investment by Respondents Russell and Capital Management to Investor JH constituted the Offer and Sale of an Investment Contract, or a Certificate of Interest or Participation in a Profit Sharing Agreement,

and therefore a Security as the terms “security,” “offer” and “sale” are defined in Sections 2.1, 2.5 and 2.5a of the Act.

25. That the 15%+ Investment offered and sold by Ralph Russell to JH was not and is not registered under Section 5 or Section 7 of the Act, and there are also no filings under Section 2a or Section 6 of the Act.
26. Each occasion on which Respondents Russell and Capital Management sold shares of Income Fund to JH without complying with the registration requirements of Section 5 or Section 7 of the Act, was a separate violation of Section 12.A of the Act
27. Each occasion on which Respondents Russell and Capital Management sold shares of Income Fund to JH without complying with the registration requirements of Section 5 or Section 7 of the Act, was a separate violation of Section 12.D of the Act
28. Each occasion on which Respondents Russell and Capital Management sold shares of the 15%+ Investment to JH without complying with the registration requirements of Sections 5, 6, or 7 of the Act, was a separate violation of Section 12.A of the Act
29. Each occasion on which Respondents Russell and Capital Management sold shares of 15%+ Investment to JH without complying with the registration requirements of Sections 5, 6, or 7 of the Act, was a separate violation of Section 12.D of the Act

COUNT VII

Sale of Unregistered Securities to DM

Violations by Respondents Russell; RWT Capital Management, LLC (investment adviser), each individually; and each d/b/a RWR Capital Management, LLC (investment fund) and RWR Capital Income Fund

14. Paragraphs 1 through 13 of Count I are hereby adopted and realleged as Paragraph 14 of this Count VII.
15. That Section 5 of the Act provides, *inter alia*, that all securities except those set forth under Section 2a of this Act, or those exempt under Section 3 of this Act or those offered or sold in transactions exempt under Section 4 of this Act, or face amount certificates required to be registered under Section 6 of this Act, or investment fund shares required to be registered under Section 7 of this Act, shall be registered either by coordination or by qualification, prior to their offer or sale in this State.
16. That Section 7 of the Act provides, *inter alia*, that all investment fund shares except those set forth under Section 2a of the Act, or those exempt under Section 3 of the Act or those offered or sold in transactions exempt under Section 4 of the Act, or

face amount certificates required to be registered under Section 6 of the Act, shall be registered either by coordination or by qualification, prior to their offer or sale in the State of Illinois.

17. The offer and sale of Management Fund by Respondents Russell and Capital Management to Investor DM constituted the Offer and Sale of an Investment Fund, and therefore a Security as the terms “security,” “offer,” and “sale” are defined in Sections 2.1, 2.5 and 2.5a of the Act.
18. That the investment fund shares issued by Management Fund to DM were not and are not registered under Section 5 or Section 7 of the Act, and there are also no filings under Section 2a or Section 6 of the Act.
19. Each occasion on which Respondents Russell and Capital Management sold shares of Management Fund to DM without complying with the registration requirements of Section 5 or Section 7 of the Act, was a separate violation of Section 12.A of the Act
20. Each occasion on which Respondents Russell and Capital Management sold shares of Management Fund to DM without complying with the registration requirements of Section 5 or Section 7 of the Act, was a separate violation of Section 12.D of the Act

COUNT VIII

Sale of Unregistered Securities to PO

Violations by Respondents Russell and RWR Capital Management, LLC,
each individually, and each d/b/a RWR Capital Income Fund

14. Paragraphs 1 through 13 of Count I are hereby adopted and realleged as Paragraph 14 of this Count VIII.
15. That Section 5 of the Act provides, *inter alia*, that all securities except those set forth under Section 2a of this Act, or those exempt under Section 3 of this Act or those offered or sold in transactions exempt under Section 4 of this Act, or face amount certificates required to be registered under Section 6 of this Act, or investment fund shares required to be registered under Section 7 of this Act, shall be registered either by coordination or by qualification, prior to their offer or sale in this State.
16. That Section 7 of the Act provides, *inter alia*, that all investment fund shares except those set forth under Section 2a of the Act, or those exempt under Section 3 of the Act or those offered or sold in transactions exempt under Section 4 of the Act, or face amount certificates required to be registered under Section 6 of the Act, shall be registered either by coordination or by qualification, prior to their offer or sale in the State of Illinois.

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17. The offer and sale of Income Fund by Respondents Russell and Capital Management to Investor PO constituted the Offer and Sale of an Investment Fund, and therefore a Security as the terms "security," "offer," and "sale" are defined in Sections 2.1, 2.5 and 2.5a of the Act.
18. That the investment fund shares issued by Income Fund to PO were not and are not registered under Section 5 or Section 7 of the Act, and there are also no filings under Section 2a or Section 6 of the Act.
19. Each occasion on which Respondents Russell and Capital Management sold shares of Income Fund to PO without complying with the registration requirements of Section 5 or Section 7 of the Act, was a separate violation of Section 12.A of the Act
20. Each occasion on which Respondents Russell and Capital Management sold shares of Income Fund to PO without complying with the registration requirements of Section 5 or Section 7 of the Act, was a separate violation of Section 12.D of the Act

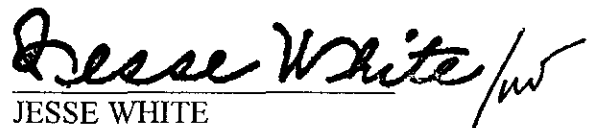
NOTICE: You are further notified that you are required pursuant to Section 130.1104 of the Rules and Regulations (14 Ill. Adm. Code 130) to file an answer to the allegations outlined above within thirty (30) days of receipt of this Notice of Hearing.

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

A copy of the Rules and Regulations promulgated under the Illinois Securities Law and pertaining to hearings held by the Office of the Secretary of State, Illinois Securities Department, are available at the Department's Link at: <http://www.ilga.gov/commission/jcar/admincode/014/01400130sections.html>, or on request.

Delivery of Notice to the designated Representative of any of the respondents constitutes service upon such respondent.

Dated: This 20th day of January 2009.



JESSE WHITE
Secretary of State
State of Illinois

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