

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

IN THE MATTER OF:)
)
)
 KEVIN G. CARNEY, and) No 0800508
 his partners, officers and directors, agents,)
 employees, affiliates, successors and assigns.)
)

TEMPORARY ORDER OF PROHIBITION

**TO RESPONDENT : Kevin G. Carney
1072 Cypress Lane
Elk Grove Village, Illinois 60007**

On information and belief, I, Jesse White, Secretary of State for the State of Illinois, through my designated representative, who has been fully advised in the premises by the staff of the Securities Department, Office of the Secretary of State, herein find:

- 1 Respondent Kevin G. Carney (at times hereinafter "KG" or "Respondent") had at all times relevant herein a last known address of 1072 Cypress Lane, Elk Grove Village, Illinois 60007
2. In September 2007 Respondent KG proposed to at least one Illinois resident ("Investor") that he would pay 20% monthly interest on funds invested with him, backed by the production generated by KG's "day trading" business.
3. KG promised that account information would be provided regularly, and principal and interest would be paid to Investor upon request.
4. Between September 2007 and May 2008 Investor paid various sums of money totaling over \$784,000 to KG in exchange for KG's promise to "day trade" with the funds, and to provide the Investor with 20% interest per month
- 5 The activities described above in paragraphs 2-4 constitute an investment contract, or a certificate of interest, or participation in a profit sharing agreement, and are therefore a security as those terms are defined in Sections 2.1, 2.5 and 2.5a of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act").

FAILURE TO REGISTER SECURITIES

- 6 Section 5 of the Act provides, *inter alia* that all securities except those exempt under Section 3 or those offered and sold under Section 4 shall be registered either by coordination or by qualification prior to their offer or sale in the State of Illinois
- 7 Respondent failed to file with the Secretary of State an application for registration of the securities described above as required by the Act and that as a result the securities were not registered pursuant to Section 5 of the Act prior to their offer and sale in the State of Illinois.
8. Section 12.A of the Act provides *inter alia* that it shall be a violation for any person to offer and sell any security except in accordance with the provisions of the Act.
9. Section 12.D of the Act provides *inter alia* that it shall be a violation for any person to fail to file with the Secretary of State any application, report or document required to be filed under the provisions of the Act or any rule or regulation made by the Secretary of State pursuant to the Act.
11. By virtue of the foregoing Respondent has violated Sections 12 A and 12 D of the Act

FRAUD IN SALE OF SECURITIES

- 12 Respondent failed to pay Investor the principal or interest as promised in the investment contract.
13. Respondent failed and refused to notify Investor of the substantial risk involved in the investment contract, or certificate of interest, or participation in a profit sharing agreement, that could result in the loss of investment money paid by the Investor.
14. 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 connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof.
- 15 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.

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16. By virtue of the foregoing, Respondent violated Sections 12.F and 12.G of the Act and will violate them again if he makes further offers or any sales of securities in the State of Illinois.

FRAUD

17. On September 25, 2008 Respondent KG wrote and signed a letter, and provided Investor with the letter, stating Investor, "has in excess of Over (sic) Two Million Dollars (\$2,000,000.00) with me. These funds would be available within thirty days upon their request "
18. The statements in the letter written by KG and referred to in paragraph 17 are false, and KG knew them to be false at the time he signed the letter.
19. Section 12 H of the Act provides, *inter alia*, that it shall be a violation of the Act for any person, "to sign ..any paper or document...pertaining to any security knowing or having reasonable grounds to know any material representation therein contained to be false or untrue."
20. By virtue of the foregoing Respondent violated Section 12.H of the Act and will violate it again if he makes further offers or sales of securities in the State of Illinois.
21. The aforementioned findings are based upon credible evidence
22. Section 11.F(2) of the Act provides, *inter alia*, that the Secretary of State may temporarily prohibit the offer or sale of securities by any person, without notice and prior hearing, if the Secretary of State shall deem it necessary to prevent an imminent violation of the Act or to prevent losses to investors that will occur as a result of prior violations of the Act.
23. The entry of this Temporary Order of Prohibition prohibiting Respondent, or his agents, affiliates, successors and employees, from offering or selling securities in the State of Illinois is in the public interest and for the protection of the investing public and is consistent with the purposes intended by the provisions of the Act.

NOW THEREFORE IT IS HEREBY ORDERED THAT: pursuant to the authority granted by Section 11 F of the Act, Respondent **Kevin G. Carney**, his partners, officers and directors, agents, employees, affiliates, successors and assigns are **Temporarily Prohibited** from offering or selling securities in or from this State until the further Order of the Secretary of State.

NOTICE is hereby given that Respondent may request a hearing on this matter by transmitting such request in writing to the Director, Illinois Securities Department, 69 West Washington Street, Suite 1220, Chicago, Illinois 60602. Such request must be made within thirty (30) calendar days of the date of entry of the Temporary Order of Prohibition Upon


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receipt of a request for hearing, a hearing will be scheduled as soon as reasonably practicable. A request for hearing will not stop the effectiveness of this Temporary Order of Prohibition and will extend the effectiveness of this Temporary Order of Prohibition for sixty (60) days from the date the hearing request is received by the Department.

FAILURE BY ANY RESPONDENT TO REQUEST A HEARING WITHIN THIRTY (30) CALENDAR DAYS AFTER ENTRY OF THIS TEMPORARY ORDER OF PROHIBITION SHALL CONSTITUTE AN ADMISSION OF ANY FACTS ALLEGED HEREIN AND SHALL CONSTITUTE SUFFICIENT BASIS TO MAKE THIS TEMPORARY ORDER OF PROHIBITION FINAL

Dated: This 28th day of October 2008


JESSE WHITE
Secretary of State
State of Illinois

Attorney for the Secretary of State:

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