

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

IN THE MATTER OF:)
)
ROBERT M. SMART and)
SMART PLANNING COMPANY)
D/B/A SMART FINANCIAL PLANNERS,) No. 0600664
their partners, officers and directors, agents, employees,)
affiliates, successors and assigns.)

TEMPORARY ORDER OF PROHIBITION

**TO RESPONDENTS: Robert M. Smart and Smart Planning Company
C/o Robert Smart #13192-040
FCI Terre Haute
Federal Correctional Institution
P.O. Box 33
Terre Haute, Indiana 47808**

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 Robert M. Smart or Robert Smart (hereinafter "Smart" or collectively with Smart Planning Company, "Respondents") has a last known address of Robert Smart #13192-040, FCI Terre Haute, Federal Correctional Institution, P.O. Box 33, Terre Haute, Indiana 47808
2. Respondent Smart Planning Company, at times d/b/a Smart Financial Planners (hereinafter "SPC" or collectively with Smart, "Respondents") has a last known address of Robert Smart #13192-040, FCI Terre Haute, Federal Correctional Institution, P.O. Box 33, Terre Haute, Indiana 47808.
3. Smart is/was the sole shareholder, director and officer of SPC.
- 4 Between March 2006 and May 2006 Respondents offered to at least one Illinois resident ("Investor") the opportunity to invest \$170,000 with Respondents who would place the money into "equipment leasing" contracts.
7. The Respondents told the Investor that the Investor would receive \$1,500 per month over an unspecified period of time.

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- 8 In March 2006 and May 2006 Investor wired Respondents an amount totaling totaling \$170,000 (the "Investments") payable to "Legacy Capital" in exchange for Respondents' promise to pay the Investor \$1,500 per month
- 9 Respondents assured the Investor they would use the investments for the business purpose of purchasing "equipment leasing" contracts with profits to be used to pay the amounts due to the Investor
10. The activities described above in paragraphs 6-10 constitute the offer and sale of an investment contract 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

- 11 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.
- 12 Respondents 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.
13. 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
14. 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.
16. By virtue of the foregoing Respondents have violated Sections 12.A and 12 D of the Act

FRAUD IN SALE OF SECURITIES

- 17 Respondents did not purchase "equipment leasing" contracts according to the promises made to the Investor, but instead placed the Investments into their own accounts, and converted them to their own use and benefit
- 18 Respondents failed and refused to notify the Investor that they were converting the Investment to their own use and benefit, instead of using it for business purposes, to purchase "equipment leasing" contracts.

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19. 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"
20. 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".
21. Section 12.I of the Act provides, *inter alia*, that it shall be a violation 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".
22. By virtue of the foregoing, Respondents violated Sections 12.F, 12.G and 12.I of the Act and will violate them again if they make further offers, or if they make any sales of investment contracts or other securities in the State of Illinois
23. The aforementioned findings are based upon credible evidence.
24. 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.
25. The entry of this Temporary Order of Prohibition prohibiting Respondents Robert M. Smart and Smart Planning Company, at times d/b/a Smart Financial Planners, or their partners, officers and directors, 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, Respondents **Robert M. Smart, and Smart Planning Company, at times d/b/a Smart Financial Planners** their 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 Respondents 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 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

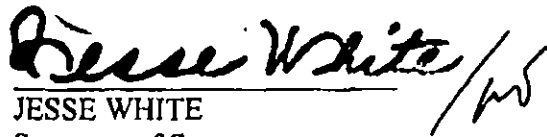
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will extend the effectiveness of this Temporary Order of Prohibition for sixty (60) days from the date the hearing request is received by the Department.

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 19th day of September 2008.

A handwritten signature in black ink that reads "Jesse White" followed by a stylized flourish or initials.

JESSE WHITE
Secretary of State
State of Illinois

Attorney for the Secretary of State:

James J. Tierney
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