

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

IN THE MATTER OF: DANIEL C. LACEY

FILE NO. 0600495

NOTICE OF HEARING

TO THE RESPONDENT: Daniel C. Lacey
(CRD#:4312702)
8701 Sameul Bishop Drive
Austin, Texas 78736

C/o FSC Securities Corporation
2300 Windy Ridge Parkway Suite 1100
Atlanta, Georgia 30339

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 the 11th day of April, 2007 at the hour of 10:00 a.m. or as soon as possible thereafter, before James L. Kopecky Esq., 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 revoking Daniel C. Lacey's (the "Respondent") registration as a salesperson in the State of Illinois 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:

1. That at all relevant times, the Respondent was registered with the Secretary of State as a salesperson in the State of Illinois pursuant to Section 8 of the Act.

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2. That on July 21, 2006 NASD entered Order ACCEPTING OFFER OF SETTLEMENT submitted by the Respondent (Order) regarding DISCIPLINARY PROCEEDING NO. E062004000201, which sanctioned the Respondent as follows:
 - a. fined \$2,500; and
 - b. suspended from association from any NASD member in any capacity for a period of ten business days.
3. That the Order found:
 - a. The Respondent recommended that customer M. S. switch from a Certificate of Deposit paying 6.57% annual interest that was also collateral for a bank loan, into a variable annuity paying interest at half the rate of the CD. Because she followed the Respondent's advice, M. S. incurred a significant surrender charge and received no tax advantages. The Respondent earned over \$800 in commissions.
 - b. In January 2002, customer M. S. met the Respondent at an investment workshop directed to persons with impaired hearing. The Respondent knew that M.S. was deaf and that her investment experience was very limited. In May 2002, M. S. sought investment advice from the Respondent. She told him that her investment objective was retirement, that she was 54 years old, and that she wanted to retire at age 62. She also told the Respondent that her budget was very tight and that she needed liquidity.
 - c. During a meeting with the Respondent in May 2002, M. S. gave him documents relating to her assets and liabilities. From these documents, the Respondent knew that M. S.'s cash and investments were limited to the following:
 - (i) annual income of \$21,000, with net income of \$17,082;
 - (ii) a savings account with an approximate balance of \$1,487;
 - (iii) a checking account with an approximate balance of \$657;
 - (iv) a bank certificate of deposit, with an approximate value of \$17,200, with an annual interest rate of 6.57%, and with a maturity date of June 2005; and

- (v) a retirement savings plan with her employer with an approximate value of \$20,500,
- d. From the customer's documentation, the Respondent knew that M.S. had the following obligations and liabilities:
 - (i) rent of approximately \$500 per month;
 - (ii) a car loan which required monthly payments of \$346;
 - (iii) credit card debt of approximately \$1,685; and
 - (iv) a bank installment loan in the amount of approximately \$10,500 on which M. S. was required to make a monthly payment of \$310. The installment loan was secured by a pledge of the CD described in the preceding paragraph.
- e. In August 2002, despite knowing that the customer would have to incur an early surrender charge of \$417, the Respondent recommended that M.S. liquidate her CD, and invest all the proceeds (\$17,004) in an Ailmerica Variable Annuity. The Respondent also recommended that the customer allocate the entire premium to the fixed account, which paid only 3% and which charged an annual fee of \$30.
- f. The Respondent also falsely represented to the customer (whose marginal tax bracket was 15%) that it was advantageous from a taxation standpoint to exchange (with a surrender charge) a CD with an interest rate of 6.57% for a tax-deferred investment with an interest rate of 3%. The Respondent also falsely represented to Ailmerica, in writing, that this transaction was unsolicited. He earned a commission of \$842 on the variable annuity sale.
- g. As a result of the CD liquidation and the corresponding reduction in current income, M. S. soon had difficulty paying her installment loan and credit card obligations as well as her health care and other expenses. Consequently, M. S. redeemed her Allmerica Variable Annuity in early 2004 incurring an early surrender charge of 8%, or approximately \$1,279.
- h. The Respondent failed to have reasonable grounds for believing that his recommendation and resulting variable annuity transaction were suitable for M. S. based on her financial situation and needs.

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- i. Based on the foregoing, the Respondent violated NASD Conduct Rules 2110 and 2310.
4. That Section 8.E(1)(j) of the Act provides, inter alia, that the registration of a salesperson may be revoked if the Secretary of State finds that such salesperson has been suspended by any self-regulatory organization registered under the Federal 1934 Act or the Federal 1974 Act arising from any fraudulent or deceptive act or a practice in violation of any rule, regulation or standard duly promulgated by the self-regulatory organization.
5. That NASD is a self-regulatory organization as specified in Section 8.E(1)(j) of the Act.
6. That by virtue of the foregoing, the Respondent's registration as a salesperson in the State of Illinois is subject to revocation pursuant to Section 8.E(1)(j) of the Act.

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 represented 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.

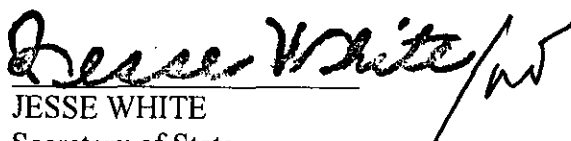
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A copy of the Rules, promulgated under the Act and pertaining to hearings held by the Office of the Secretary of State, Securities Department, is included with this Notice.

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

Dated: This 21st day of February 2007.


JESSE WHITE
Secretary of State
State of Illinois

Attorney for the Secretary of State:

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Illinois Securities Department
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Hearing Officer:

James L. Kopecky
321 North Clark Street
Chicago, Illinois 60610