

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

\_\_\_\_\_) )  
**IN THE MATTER OF: DAVID FERST** ) **FILE NO. 0600249**  
\_\_\_\_\_) )

**CONSENT ORDER OF WITHDRAWAL**

TO THE RESPONDENT: David Ferst (CRD #:206921)  
318 W. Pleasant Hill Boulevard  
Palatine, Illinois 60067

WHEREAS, Respondent on the 16<sup>th</sup> day of November, 2006 executed a certain Stipulation to Enter Consent Order of Withdrawal (the "Stipulation"), which hereby is incorporated by reference herein.

WHEREAS, by means of the Stipulation, Respondent has admitted to the jurisdiction of the Secretary of State and service of the Notice of Hearing of the Secretary of State, Securities Department, dated May 18, 2006 in this proceeding (the "Notice") and Respondent has consented to the entry of this Consent Order of Withdrawal ("Consent Order").

WHEREAS, by means of the Stipulation, the Respondent acknowledged, without admitting or denying the truth thereof, that the following allegations contained in the Notice of Hearing shall be adopted as the Secretary of State's Findings of Fact:

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, until April 21, 2006.
2. That on April 5, 2006, NASD entered a Letter Of Acceptance, Waiver And Consent (AWC) submitted by the Respondent regarding FILE NO. E8A2004075201 which imposed the following sanctions upon the Respondent:
  - a. fined \$5,000; and
  - b. one-year suspension from association with any member of NASD in any capacity.

3. That the AWC found: a. On December 10, 2002, the Respondent received two checks for the following amounts, \$1,003.71 and \$500.60, from LT, a member of the public, who desired to use the funds to invest in a College America 529 account for MT, which was going to be serviced by the Respondent. On that date LT also completed and signed an account application. The Respondent failed to follow these instructions, in that he held the checks and the application until processing them on or about July 14, 2003. Such conduct violated NASD Conduct Rule 2110. b. On or around January 9, 2004, the Respondent received two checks in the amount of \$2,000 each from MB&HG, members of the public, who desired to use the funds to purchase two Variable Universal Life ("VUL") insurance policies, which were going to be serviced by the Respondent. On that date the Respondent also received two checks from MB&HG for the amount of \$1,155.63 and \$825.14 for the purchase of disability insurance policies. MB&HG also completed and signed disability insurance applications, and partially completed the applications for their intended VUL insurance policies. The Respondent failed to follow these instructions, in that he held the checks and the applications until his registration with the Member (Respondent's employing dealer) was terminated on June 24, 2004, in violation of NASD Conduct Rule 2110 by the Respondent. The uncashed checks and applications were located inside MB&HG's file by another employee of the Member when he was reviewing the Respondent's customers' files after his registration with the Member was terminated in June 2004. The checks were then returned to MB&HG. c. On or about July 11, 2003, the Respondent received two cashier's checks in the amount of \$445.86 each, from KP, a member of the public, who desired to use the funds to invest in a College America 529 plan account, which was going to be serviced by the Respondent. On or about December 23, 2003, the Respondent received two additional checks from KP for the amounts of \$300 and \$700, with instructions that the funds be invested in her College America 529 account. The Respondent failed to follow these instructions, in that he held the checks until his registration with the Member was terminated on June 24, 2004, in violation of NASD Conduct Rule 2110 by the Respondent. The uncashed checks and applications were located inside KP's file on July 5, 2004, by another employee of the Member when he was reviewing the Respondent's customers' files after his registration with the Member was terminated in June 2004. The two cashier's checks were then processed and used to fund an initial purchase of KP's 529 plan accounts, and the other two checks were returned to the issuer to be reissued. The Member compensated KP for the delay in depositing the checks by making an additional \$250 into KP's 529 plan accounts.
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

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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. That Section 8.E (3) of the Act provides inter alia, withdrawal of an application for registration or withdrawal from registration as a salesperson, becomes effective 30 days after receipt of an application to withdraw or within such shorter period of time as the Secretary of State may determine. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the Secretary of State may nevertheless institute a revocation or suspension proceeding within 2 years after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

WHEREAS, by means of the Stipulation Respondent has acknowledged, without admitting or denying the averments, that the following shall be adopted as the Secretary of State's Conclusion of Law:

Respondent David Ferst's registration as a salesperson in the State of Illinois is subject to revocation pursuant to Sections 8.E(3) and 8.E(1)(j) of the Act.

WHEREAS, by means of the Stipulation Respondent has acknowledged and agreed that he shall cause to have his registration as a salesperson in the State of Illinois withdrawn within three (3) days from the entry of this Consent Order and will not re-apply for registration for a period of two (2) years from the entry of this Consent Order

WHEREAS, by means of the Stipulation Respondent has acknowledged and agreed that he shall be levied costs incurred during the investigation of this matter in the amount of Seven Hundred Fifty dollars (\$750.00). Said amount is to be paid by certified or cashier's check, made payable to the Office of the Secretary of State, Securities Audit and Enforcement Fund.

WHEREAS, by means of the Stipulation Respondent has acknowledged and agreed that he has submitted with the Stipulation a certified or cashier's check in the amount of Seven Hundred Fifty dollars (\$750.00) to cover costs incurred during the investigation of this matter. Said check has been made payable to the Office of the Secretary of State, Securities Audit and Enforcement Fund.

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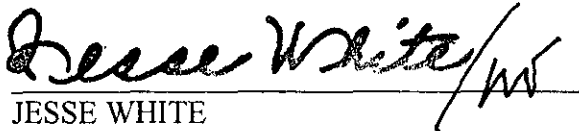
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WHEREAS, the Secretary of State, by and through his duly authorized representative, has determined that the matter related to the aforesaid formal hearing may be dismissed without further proceedings.

NOW THEREFORE IT SHALL BE AND IS HEREBY ORDERED THAT:

1. The Respondent shall cause to have his registration as a salesperson in the State of Illinois withdrawn within three (3) days from the entry of this Consent Order and will not re-apply for registration for a period of two (2) years from the entry of this Consent Order.
2. The Respondent is levied costs of investigation in this matter in the amount of Seven Hundred Fifty dollars (\$750.00), payable to the Office of the Secretary of State, Securities Audit and Enforcement Fund, and on November 16, 2006 has submitted Seven Hundred Fifty dollars (\$750.00) in payment thereof.
3. The formal hearing scheduled on this matter is hereby dismissed without further proceedings.

ENTERED This 17<sup>th</sup> day of November 2006.



JESSE WHITE  
Secretary of State  
State of Illinois