

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

IN THE MATTER OF: ROGER L. OVERBY)
_____)

FILE NO. 0600099

SUMMARY ORDER OF DENIAL

TO THE RESPONDENT: Roger L. Overby
(CRD #: 1919255)
3304 Latania Drive
Tampa, Florida 33618

C/o Gunnallen Financial, Inc.
5002 W. Waters
Tampa, Florida 33634

WHEREAS, on February 7, 2006, Gunnallen Financial, Inc., a registered dealer, filed a Form U-4 application for registration of Roger L. Overby (the "Respondent") as a salesperson in the State of Illinois;

WHEREAS, pursuant to the authority granted under Section 11.F of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act"), the Secretary of State has determined that the Respondent's application for registration as a salesperson in the State of Illinois is subject to a Summary Order of Denial;

WHEREAS, the Secretary of State finds that the grounds for such Summary Order of Denial are as follows:

1. That on May 14, 2003 an Exchange Hearing Panel of the New York Stock Exchange Inc. (NYSE) accepted a Stipulation of Facts and Consent to Penalty entered into between the Exchange's Division of Enforcement and the Respondent (Decision) in File No 03-91 which imposed the following sanctions:
 - a. censure ; and
 - b. barred for a period of nine months from membership, allied membership, approved person status, and from employment or association in any capacity with any Exchange member or member organization.

2. That the Decision found:
- a. From 1996 through 2000, the Respondent engaged in outside business activities, and received compensation in connection with these activities, without the knowledge or approval of his two member firm employers during that time period. He also solicited customers of his member firm employers, and other individuals, to invest in outside businesses without disclosing to some customers his involvement in and connection with the outside businesses. He made misstatements and failed to disclose facts to his member firm employers concerning his outside business activities.

Relationship with/ Compensation from outside Business

- b. Exchange Rule 346(b) provides, in pertinent part, that: "[w]ithout making a written request and receiving prior written consent of his ... member organization employer, no ... employee of a ...member organization shall at any time be engaged in any other business; or be employed or compensated by any other person...."
- c. In the summer of 1996, while employed at Merrill Lynch, the Respondent engaged in business activities with a private medical technology corporation (the "Corporation"), without Merrill Lynch's knowledge or approval.
- d. In September 1996 and again in January 1999, without the knowledge or approval of his member firm employers, the Respondent entered into consulting agreements with the Corporation, pursuant to which he performed services for the Corporation and received as compensation a total of \$290,000 and stock options, which he exercised.
- e. In the summer of 1997, while employed at Prudential but without Prudential's knowledge or approval, the Respondent assisted the Corporation in entering an agreement with an OTC listed company. In July 1999, following that company's purchase of a controlling interest in the Corporation pursuant to this agreement, he became a shareholder representative for Corporation shareholders without Prudential's knowledge or approval.
- f. In 1998, without Prudential's knowledge or approval, the Respondent loaned an affiliated company of the Corporation \$100,000 in exchange for a small ownership

interest. Thereafter, he became a member of the Board of Directors of that affiliate.

Solicitation of Firm Customers

Misstatements/ Failures to Disclose Involvement with Outside Business

- g. In 1996 and 1997, while employed at Merrill Lynch, the Respondent solicited Merrill Lynch customers to invest in the Corporation outside their accounts at Merrill Lynch. Several of these customers made investments in the Corporation, which did not appear in their Merrill Lynch account statements. He also solicited various individuals who were not Merrill Lynch customers to invest in the Corporation. He solicited these investments without the knowledge or approval of Merrill Lynch.
- h. The Respondent failed to disclose to some of the Corporation investors information about his relationship with the Corporation, including information concerning his first consulting agreement and the monetary compensation and stock options he received from the Corporation.
- i. In February 1997, the Respondent signed a Merrill Lynch Compliance Disclosure Form, which asked if he had any outside employment, business interests or investments. He answered "no" to this question, which was not true.
- j. In June 1997, the Respondent completed an application for employment at Prudential, which asked about involvement with outside businesses. He failed to disclose such involvement.
- k. In May 1999, the Respondent filled out a form at Prudential requesting approval to solicit Prudential customers to purchase stock of the company purchasing a controlling interest in the Corporation. He stated to Prudential on that form that he did not have any affiliation with that company, which was not true.
- l. After May 1999, the Respondent solicited and obtained investments in the company purchasing a controlling interest in the Corporation from various Prudential customers. He failed to disclose to some of these investors information about his relationship with that company, including his participation in, and compensation for, takeover negotiations between that company and the Corporation.

Summary Order of Denial

4

- m. In December 1999, when the company declared bankruptcy, its investors realized significant losses.
 - n. By virtue of the foregoing, the respondent:
 - (i) violated exchange rule 346(h) by engaging in outside business activities without employer consent;
 - (ii) solicited customers to invest in outside business without disclosing his involvement in such business; and
 - (iii) failed to disclose involvement in outside business to employer.
3. That Section 8.E(1)(j) of the Act provides, inter alia, that the registration of a salesperson may be denied 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.
4. That the NASD is a self-regulatory organization as specified in Section 8.E(1)(j) of the Act.
5. That by virtue of the foregoing, the Respondent's registration as a salesperson in the State of Illinois is subject to denial pursuant to Section 8.E(1)(j) of the Act.

NOW IT IS HEREBY ORDERED THAT:

The Respondent's application for registration as a salesperson in the State of Illinois is **DENIED**, subject to the further Order of the Secretary of State.

A public hearing will be set within thirty (30) days of the Respondent's filing a written request for hearing with the Secretary of State at 69 west Washington Street, Suite 1220, Chicago, Illinois 60602. Said hearing will be held at the aforesaid address before a Hearing Officer duly designated by the Secretary of State. A copy of the Rules under the Act pertaining to contested cases is attached to this Order.

YOUR FAILURE TO REQUEST A HEARING WITHIN THIRTY (30) DAYS AFTER RECEIPT OF THIS ORDER SHALL CONSTITUTE AN ADMISSION OF ANY FACTS ALLEGED HEREIN AND SHALL CONSTITUTE A SUFFICIENT BASIS TO MAKE THIS ORDER FINAL.

You are further notified that if you request a hearing that you may be represented by legal counsel, may present evidence; may cross-examine witnesses and otherwise


Summary Order of Denial

5

participate. Failure to so appear shall constitute default, unless any Respondent has upon due notice moved for and obtained a continuance.

Delivery of this Order or any subsequent notice to the designated representative of any Respondent constitutes service upon such Respondent,

ENTERED: This 14th day of April 2006.


JESSE WHITE
Secretary of State
State of Illinois

Attorney for the Secretary of State:
Daniel A. Tunick
Office of the Secretary of State
Illinois Securities Department
69 West Washington Street, Suite 1220
Chicago, Illinois 60602
Telephone: (312) 793-3384