

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

\_\_\_\_\_) )  
**IN THE MATTER OF: MICHAEL R. SMITH** )  
\_\_\_\_\_) )

**FILE NO. 0500366**

**NOTICE OF HEARING**

**TO THE RESPONDENT:** Michael R. Smith  
(CRD#: 1041552)  
1120 N. Stratford Road  
Arlington Heights, Illinois 60004

You are hereby notified that pursuant to Section 11.E 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 6<sup>th</sup> day of October, 2005, 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 Michael R. Smith's (the "Respondent"), registration as a salesperson as an investment advisor representative 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 and as an investment advisor representative in the State of Illinois pursuant to Section 8 of the Act until April 20, 2004.
2. That on May 24, 2005 NASD entered a Letter of Acceptance, Waiver and Consent (AWC) submitted by the Respondent File No. C8A050044 which imposed the following sanctions:

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- a. \$7,500 fine; and
  - b. six month suspension from association in any capacity, with any member of the NASD.
3. That the AWC found that in August 2003, the Respondent affixed the signature of JB, who is a member of the public, to letter that requested American Funds to liquidate an account within a profit sharing plan, of which JB was the trustee, without JB's knowledge or consent, and submitted the letters to American Funds, in violation of NASD Conduct Rule 2110. He submitted the letters so the attorney for JB's father's estate could use the redemption proceeds to pay estate taxes owed.
  4. That Section 8.E(1)(j) of the Act provides, inter alia, that the registration of a salesperson and investment advisor representative may be revoked if the Secretary of State finds that such salesperson or investment advisor representative 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 Section 8.E(3) of the Act provides, inter alia, withdrawal of an application for registration or withdrawal from registration as a salesperson or investment advisor representative, 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.
  7. That by virtue of the foregoing, the Respondent's registration as a salesperson and as an investment advisor representative in the State of Illinois is subject to revocation pursuant to Sections 8.E(1)(j) and 8.E(3) 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

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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.

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 24<sup>th</sup> day of August 2005.

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

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