

STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT

IN THE MATTER OF: SCOTT D. SUTHERLAND

FILE NO. 0400468

NOTICE OF HEARING

**TO THE RESPONDENT:**

Scott D. Sutherland  
(CRD #: 1303204)  
348 Pondview Drive  
Palatine, Illinois 60067

c/o Prestwick Securities, Inc.  
5215 Old Orchard Road  
Suite 325  
Skokie, Illinois 60077

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, 12<sup>th</sup> Floor, Chicago, Illinois 60602, on the 3<sup>rd</sup> day of November, 2004 at the hour of 10:00 a.m., or as soon as possible thereafter, before Soula J. Spyropoulos, 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 which would deny Scott D. Sutherland'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 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 on June 23, 2004, Prestwick Securities, Inc., a registered dealer, filed a Form U-4 application for registration of the Respondent as a salesperson in the State of Illinois.

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2. That on August 30, 2004, a Summary Order of Denial (the "Order") was issued by the Secretary of State denying this application. Pursuant to the terms of the Order, the Respondent requested a hearing on September 3, 2004.
3. That on February 18, 2004, an Exchange Hearing 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. 04-23 which imposed the following sanctions:
  - a. censure; and
  - b. three month bar from membership, allied membership, approved person status, and from employment or association in any capacity with any member or member organization.
4. That the AWC as referred to in the preceding paragraph found:
  - a. The Respondent made unauthorized trades in one customer account and failed to follow the instructions in the account of said customer and one additional customer.
  - b. Dr. JL is a physician at Northwestern University Medical School. NL is also a physician. Between late August and December 2000, the Respondent made unauthorized trades, on margin, in the Ls' account, failed to eliminate margin in their account when instructed to do so.
  - c. On August 7, 2000, the Ls met with the Respondent and instructed him to desist from further unauthorized purchases, to stop using margin, and to sell off stocks to eliminate the margin on their account.
  - d. At the end of July 2000, the Ls had a margin balance of \$35,734.57, which was reduced to zero by the end of August 2000. Subsequently, the Respondent made various unauthorized trades, and continued to use margin, beginning in late August and continuing through December 2000, including the purchases of ABC, DE, GHI and JKL, which increased the Ls' margin balance and caused losses of approximately \$73,000.
  - e. SS is the President of the United States division of XYZ, an international marketing information company with 21,000 employees worldwide.

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- f. Between February and March 2000, the Respondent failed to comply with SS's instructions to liquidate a specific security and, subsequently, an instruction to liquidate all the securities in his account.
  - g. Specifically, during the week of February 17<sup>th</sup>, he instructed the Respondent to sell his holdings of 11,000 shares of MNO, which traded on the NASDAQ market, when its price hit a specific price target. When SS returned from vacation the following week, he learned that the Respondent did not sell the stock as instructed, thereby causing a loss of approximately \$9,570. Subsequently, on March 31<sup>st</sup>, SS telephoned the Respondent and instructed him to liquidate his entire portfolio. Despite the instruction to do so, he did not liquidate the positions held in the account, which ultimately caused losses of approximately \$215,802.
  - h. That by virtue of the foregoing, the Respondent engaged in conduct inconsistent with just and equitable principles of trade by (i) effecting unauthorized trades in the accounts of one or more customers of his member firm employer; and (ii) failing to follow the instructions of one or more customers of his member firm employer.
- 5. 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.
  - 6. That the NYSE is a self-regulatory organization as specified in Section 8.E(1)(j) of the Act.
  - 7. 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.

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

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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 17<sup>th</sup> day of September 2004.

  
JESSE WHITE  
Secretary of State  
State of Illinois

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Hearing Officer:  
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