

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

IN THE MATTER OF: THEODORE S. ALVIA

)
)
FILE NO. 0300937

ORDER OF REVOCATION

TO THE RESPONDENT: Theodore S. Alvia
(CRD #: 3086395)
21 Castlebar Court
South Elgin, Illinois 60177

WHEREAS, the above-captioned matter came on to be heard on May 12, 2004, pursuant to the Notice of Hearing dated January 29, 2004, FILED BY Petitioner Secretary of State, and the record of the matter under the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act") has been reviewed by the Secretary of State or his duly authorized representative.

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions are deemed to be proper and are hereby concurred with by the Secretary of State.

WHEREAS, the proposed Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer, Soula J. Spyropoulos, Esq. in the above-captioned matter have been read and examined.

WHEREAS, the proposed Findings of Fact of the Hearing Officer are correct and are hereby adopted as the Findings of Fact of the Secretary of State:

1. Section 130.1102 of Subpart K of the Rules and Regulations of the Illinois Securities Law of 1953 (the "Rules and Regulations") states that each respondent shall be given a Notice of Hearing at least 45 days before the first date set for any hearing under the Act. Proper notice is given by depositing a Notice of Hearing with the United States Postal Service (the "U.S.P.S."), either by certified or registered mail, return

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receipt requested, or by the personal service of the Notice of Hearing to the last known address of the respondent.

Section 11.F(1) of the Act provides that the Secretary of State shall not undertake any action or impose a fine against a registered salesperson of securities within the State of Illinois for a violation of the Act without first providing the salesperson an opportunity for hearing upon not less than 10 days' notice given by personal service or registered mail or certified mail, return receipt requested, to the person concerned.

Actions arising out of or founded upon the offer or sale of any securities in violation of the Act may be commenced against a person who has executed the consent to service of process by the service of process upon the Secretary of State. The filing of an application for registration under the Act, or the offer, sale, or delivery of securities in the State of Illinois, whether effected by mail or otherwise, by any person shall be equivalent to and shall constitute an appointment of the Secretary of State by the person to be the true and lawful attorney for the person upon whom may be served all lawful process or pleading in any action or proceeding against the person, arising out of the offer or sale of the securities. Service of process or pleadings upon the Secretary of State shall be made by serving a copy upon the Secretary of State or upon any employee in his or her office designated by the Secretary of State to accept such service for him or her, provided notice of such and a copy of the process are, within ten (10) days thereafter, sent by registered mail or certified mail, return receipt requested, by the plaintiff to the defendant. (Section 10(A), (B) of the Act.)

As per Exhibit 1, on January 29, 2004, the Department deposited the Notice with the U.S.P.S. by certified mail, return receipt requested, to Respondent's last known address. Thus, the Department gave Respondent the Notice on January 29, 2004. The date the Department gave the Notice is a date occurring more than ten (10) days before the first date set for administrative hearing on the File (March 17, 2004), and is a date occurring more than forty-five (45) days before the same hearing date. Hence, the Department's service of the Notice was proper under both the Act and the Rules and Regulations.

On February 25, 2004, the Department again deposited the Notice with the U.S.P.S. for the certified mailing thereof, return receipt requested, to Respondent's last known address. Thus, the Department gave Respondent the Notice again on February 25, 2004, which date, though not occurring more than forty-five (45) days before the first date set for hearing, is a

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date occurring more than ten (10) days before the hearing date. Hence, under the Act, the service of the Notice on February 25, 2004 is proper.

The Department again gave Respondent more than ten (10) days notice of the first date set for hearing via their service of the Notice, on February 27, 2004, upon the Secretary of State. Because the allegations of the Notice on the File arise out of Respondent's sale of securities in violation of the Act, and because Respondent has filed an application for registration with the State of Illinois under the Act, Respondent is deemed to have appointed the Secretary of State to be the true and lawful attorney for Respondent upon whom may be served the Notice in the File arising out of the sale of the securities. Because, on February 27, 2004, (1.) the service of the Notice upon the Secretary of State was made by serving a copy thereof upon an employee thereof in their office designated by the Secretary of State to accept such service for same; (2.) notice of the service of the Notice and a copy of the Notice were, on February 27, 2004, the same date of the service (and, hence, obviously within ten [10] days of the service), sent by certified U.S.P.S. mail, return receipt requested, by the Secretary of State to Respondent; and (3.) the date of February 27, 2004 is a date occurring more than ten (10) days before the then-scheduled hearing date of March 17, 2004, service of the Notice upon Respondent via the service thereof upon, or the indexing thereof with, the Secretary of State was proper under the Act.

Even though the Department's service of the Notice (on January 29, 2004, on February 25, 2004, and on February 27, 2004) upon Respondent was proper, the services or mailings were, per the return receipts associated therewith, unclaimed by Respondent or received by the Secretary of State's Index Department and not Respondent himself. Hence, the Department, via the entry of the March 17th Order of Continuance ("Continuance") rescheduled the hearing date for the File, the hearing to occur, per the Order of Continuance, on May 12, 2004.

On March 17, 2004, and again on March 18, 2004, the Department deposited the March 17th Order of Continuance with the U.S.P.S. by certified mail, return receipt requested, to Respondent's last known address. Thus, the Department gave Respondent the March 17th Order of Continuance on March 17, 2004 and on March 18, 2004. The dates of March 17, 2004 and March 18, 2004 being dates occurring more than ten (10) days before the scheduled hearing date of May 12, 2004, Respondent was provided adequate notice of his opportunity to be heard with respect to the allegations as per the Notice. Notably, on March 23, 2004, Respondent himself executed the return receipt associated with the service or mailing of the March 17th

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Order of Continuance on March 17, 2004. Hence, the service of the March 17th Order of Continuance was proper under the Act. Further, the dates of March 17, 2004, March 18, 2004, and March 23, 2004 being dates occurring more than forty-five (45) days before the scheduled hearing date of May 12, 2004 (which date may be deemed to be a newly-scheduled first date set for administrative hearing on the File), the Department's service of the March 17th Order of Continuance upon Respondent was proper under the Rules and Regulations.

Further, on March 23, 2004, the Department again provided Respondent adequate notice of his opportunity to be heard on the File via their service of the March 17th Order of Continuance upon the Secretary of State. Because, on March 23, 2004, (1.) the service of the Notice upon the Secretary of State was made by serving a copy thereof upon an employee thereof in their office designated by the Secretary of State to accept such service for same; (2.) notice of the service of the Notice and a copy of the Notice were, on March 23, 2004, the same date of the service, sent by certified, U.S.P.S. mail, return receipt requested, by the Secretary of State to Respondent; and (3.) the date of March 23, 2004 is a date occurring more than ten (10) days before the then-scheduled hearing date of May 12, 2004, service of the Notice upon Respondent via the service thereof upon, or the indexing thereof with, the Secretary of State was proper under the Act. Further, as the date of March 23, 2004 is a date occurring more than forty-five (45) days before the then scheduled hearing date of May 12, 2004, the Department's service of the Notice upon Respondent via their serving the Secretary of State was proper under the Rules and Regulations.

Therefore, Respondent was properly notified of his opportunity to be heard on the File via the Department's timely provision thereto of the Notice of Hearing and of the March 17th Order of Continuance. Because the Department gave Respondent proper notice of the scheduled hearing dates, the Department has personal jurisdiction over Respondent.

2. Respondent failed to appear, whether personally or through counsel, at the hearing.
3. The Department offered exhibits, identified above, each of which was received and admitted into evidence, a proper record of all proceedings having been made and preserved as required.
4. As of the date hereof, no outstanding petitions, motions, or objections exist as to the File or the proceeding.

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5. At all material and relevant times Respondent was registered with the Secretary of State as a salesperson pursuant to Section 8 of the Act until February 1, 2002.
6. On September 11, 2003, NASD entered the Decision regarding the Complaint, which bars Respondent from association in any capacity with any member of NASD.

The Decision found, among other things, that Respondent violated NASD Rule 2110 by executing eleven (11) unauthorized transactions in five (5) customer accounts. Specifically, the Decision found that, between November 2001 and January 2002, Respondent executed eleven (11) unauthorized transactions in five (5) customer accounts without the knowledge or consent of the customers, and in the absence of written or oral authorization for Respondent to exercise discretion in the accounts as more fully described:

- (A.) On November 19, 2001, Respondent purchased \$100,000.00 in tax-exempt bonds issued by DuPage County, Illinois for the account of JK, without JK's knowledge or consent;
- (B.) Between December 14, 2001 and February 1, 2002, Respondent:
 - (i) purchased 500 shares of Inktomi stock;
 - (ii) purchased 100 shares of Bank of America Corp. stock;
 - (iii) purchased 100 shares of Citigroup, Inc. stock;
 - (iv) purchased 100 shares of JP Morgan Chase & Co. stock;
 - (v) purchased 100 shares of Lehman Brothers Holdings, Inc. stock;
 - (vi) purchased 100 shares of Morgan Stanley Dean Witter & Co. stock; and
 - (vii) sold 100 shares of Bank of America Corp., for the account of customer RJ, without RJ's knowledge or consent;
- (C.) On January 25, 2002, Respondent purchased a \$39,500.00 variable annuity through Hartford Life Insurance Company

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("Hartford") for customer LD, without LD's knowledge or consent;

- (D.) On January 28, 2002, Respondent purchased a \$47,900.00 variable annuity through Hartford for customer PV, without PV's knowledge or consent;
- (E.) On January 28, 2002, Respondent purchased a \$31,000.00 variable annuity through Hartford for customer FS, without FS's knowledge or consent.

WHEREAS, the proposed Conclusions of Law made by the Hearing Officer are correct and are hereby adopted as the Conclusions of Law of the Secretary of State:

1. The Secretary of State has jurisdiction over the subject matter hereof pursuant to the Act.
2. Section 8.E(1)(j) of the Act provides, *inter alia*, that the registration of salespeople registered within the State of Illinois may be revoked if the Secretary of State finds that such have 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.

Section 8.E(3) of the Act provides, *inter alia*, that withdrawal of an application for registration or withdrawal from registration as a salesperson becomes effective thirty (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 two (2) years after withdrawal became effective and enter a revocation or a suspension order as of the last date on which registration was effective.

3. Until February 1, 2002, Respondent had been a registered salesperson of securities in the State of Illinois.

On September 11, 2003, Respondent had had entered against him the Decision that, because of Respondent's having purchased and sold securities in eleven (11) transactions without the knowledge or consent of several customers, bars him from association in any capacity with any NASD member. Respondent's actions were, thus, in contravention of,

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or violate, Conduct Rule 2110 of NASD, a self-regulatory organization registered under the Federal 1934 Act.

The sanction against Respondent per the Decision clearly arose from fraudulent or deceptive acts or practices in violation of a rule duly promulgated by a self-regulatory organization, the NASD, registered under the Federal 1934 Act.

Further, because Respondent withdrew his registration, or his application for registration, as a salesperson of securities in the State of Illinois on February 1, 2002, a date within two (2) years of the date on which the Department instituted revocation proceedings against Respondent, which date is January 29, 2004, the Secretary of State may enter a revocation or suspension order as of the last date on which Respondent's registration was effective February 1, 2002.


4. Under and by virtue of the foregoing, Respondent's registration as a salesperson of securities in the State of Illinois is subject to revocation pursuant to Sections 8.E(1)(j) and 8.E(3) of the Act.

WHEREAS, the Hearing Officer recommended that the Secretary of State should revoke the Respondent's registration as a salesperson in the State of Illinois, and the Secretary of State adopts in its entirety the Recommendation made by the Hearing Officer.

NOW THEREFORE, IT SHALL BE AND IS HEREBY ORDERED:

1. That Theodore S. Alvia's registration as a salesperson in the State of Illinois is revoked as of February 1, 2002 pursuant to the authority provided under Sections 8.E(1)(j) and 8.E (3) of the Act.
2. That this matter is concluded without further proceedings.

DATED: This 14th day of July 2004.


JESSE WHITE
Secretary of State
State of Illinois

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This is a final order subject to administrative review pursuant to the Administrative Review Law [735 ILCS 5/3-101 et seq.] and the Rules and Regulations of the Act (14 Ill. Admin. Code, Ch. 1 Sec. 130.1123). Any action for judicial review must be commenced within thirty-five (35) days from the date a copy of this Order is served upon the party seeking review.