

STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT

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IN THE MATTER OF: BRADLEY E. KIRK )  
\_\_\_\_\_) )

FILE NO. 0300941

**ORDER OF REVOCATION**

**TO THE RESPONDENT:** Bradley E. Kirk  
(CRD#: 4332339)  
429 Revere Drive  
Crystal Lake, Illinois 61104

WHEREAS, the above-captioned matter came on to be heard on March 3, 2004, pursuant to the Notice of Hearing dated January 16, 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 receipt requested, or by the personal service of the Notice of Hearing to the last known address of the Respondent.

The evidence as per Department Exhibit 1 shows that the Department deposited the Notice with the U.S.P.S. by certified mail, return receipt requested, to Respondent's last known address on January 16, 2004. Thus, the Department

gave Respondent the Notice on January 16, 2004. The Notice marks as the first date set for hearing the date of March 3, 2004, a date over forty-five (45) days after Respondent was first given the Notice on January 16, 2004. Therefore, the service of the Notice of the first date set for hearing on the File upon Respondent by the Department was proper.

2. 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.

As per the same Department Exhibit 1, Respondent was properly notified of his opportunity to be heard on the File via the Department's timely provision thereto of the Notice. As discussed in Paragraph 1 above, the Department served the Notice upon Respondent on January 16, 2004, a date well over 10 days before the Respondent's first scheduled opportunity to be heard on March 3, 2004.

Therefore, because the Department gave proper notice of the scheduled hearing date to Respondent, the Department has personal jurisdiction over Respondent.

3. Respondent did not appear at the hearing.
4. The Department offered exhibits, each of which was received and admitted into evidence, a proper record of all proceedings having been made and preserved as required.
5. No outstanding petitions, motions, or objections exist on the File.
6. 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 January 22, 2003.
7. On September 16, 2003, without admitting or denying the findings alleged by NASD as per the Complaint, Respondent consented to NASD's entry of the Letter of AWC executed thereby. The Letter of AWC, entered as an order on September 30, 2003, suspended Respondent from associating with any NASD member firm in all capacities for a period of nine (9) months, and fined Respondent in the amount of \$5,000.00 [Five Thousand & 00/100 Dollars].

The Letter of AWC finds that, in or about August 2001, Respondent forged the signatures of four customers to be applied on at least four disability income policy applications without the customers' knowledge or consent; and that Respondent then submitted the applications to State Farm Insurance Companies, an affiliate of State Farm (his employer), for processing, paying the initial 12-month premium for each respective policy out of his personal business checking account, again

without the customers' knowledge or consent, Respondent's actions, practices, and course of conduct constituting a violation of NASD Conduct Rule 2110.

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 January 22, 2003, Respondent had been a registered salesperson of securities in the State of Illinois. Respondent has since had entered against him an order, the Letter of AWC, that, because of Respondent's having forged the signatures of four customers to be applied on at least four disability income policy applications without the customers' knowledge or consent, and having then submitted the applications to State Farm Insurance Companies, an affiliate of State Farm (his employer), for processing, paying the initial 12-month premium for each respective policy out of his personal business checking account, suspends him from associating with any NASD member firm in all capacities for a period of nine months and fines him in the amount of \$5,000.00. Respondent's actions were, thus, in contravention of, or violate, Conduct Rule 2110 of NASD, a self-regulatory organization registered under the Federal 1934 Act.

Therefore, the sanction against Respondent per the order clearly arose from fraudulent or deceptive acts or practices in violation of rules, regulations, or standards 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 January 22,

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2003, a date less than two (2) years before the date on which the Department instituted revocation proceedings and delivered the Notice as against Respondent, which date is January 16, 2004, the Secretary of State may enter a revocation or suspension order as of the last order on which Respondent's registration was effective: January 22, 2003.


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, effective January 22, 2003, 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 Bradley E. Kirk's registration as a salesperson in the State of Illinois is revoked, effective January 22, 2003, 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.

ENTERED: This 5<sup>th</sup> day of April, 2004.

  
JESSE WHITE  
Secretary of State  
State of Illinois

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.