

STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT

\_\_\_\_\_  
IN THE MATTER OF: RICHARD D. RUSSELL SR. )  
\_\_\_\_\_)

FILE NO. 0300635

ORDER OF REVOCATION

TO THE RESPONDENT:           Richard D. Russell Sr.  
  (CRD#: 1464018)  
  1928 Dorset Drive  
  Wheaton, Illinois 60187

WHEREAS, the above-captioned matter came on to be heard on October 8, 2003, pursuant to the Notice of Hearing dated August 20, 2003, 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 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.

As per Exhibit 1, on August 20, 2003, the Department deposited the Notice of Hearing on the File, the Notice, with the U.S.P.S. by certified mail, return receipt requested, to

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Respondent's last Known address. The Notice was, thus, given on August 20, 2003. The Notice was, thus, given on August 20, 2003. The Notice marks as the first date set for hearing the date of October 8, 2003, a date over 45 days after Respondent was given the Notice. Therefore, the service of the Notice 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 airmail, return receipt requested, to the person concerned.

As per 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 August 20, 2003, a date well over 10 days before the Respondent's scheduled opportunity to be heard on October 8, 2003. Notably, on August 22, 2003, in his then having executed the return receipt of the Department's certified mailing or service of the Notice thereto at his last known address, Respondent acknowledged his having received the Notice, thus showing that Respondent had received well over the requisite 10 days' notice of the scheduled, October 8<sup>th</sup>, hearing date. Therefore, because the Department gave proper notice of the hearing to Respondent, the Department has personal jurisdiction over Respondent.

3. Respondent failed to appear, whether personally or through counsel, at the hearing.
4. The Department offered exhibits, identified above, each of which was received and admitted into evidence, a proper record of all proceedings have been made and preserved as required.
5. No outstanding petitions, motions, or objections exist as to this proceeding.
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 April 24, 2002.
7. On April 21, 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 May 1, 2003, permanently bars Respondent from association with any NASD member firm in all capacities.

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The Letter of AWC finds that on or about February 2002, Respondent converted to his own use customer funds sent thereto for investment purposes, thus violating NASD Conduct Rules 2110 and 2330.

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 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 suspension order as of the last date on which registration was effective.

3. Until April 24, 2002, 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 converted to his own use customer funds sent to him for investment purposes, permanently bars him from associating with any NASD member firm in all capacities. Respondent's actions were, thus, in contravention of, or violative of, Conduct Rules 2110 and 2330 of NASD, a self-regulatory organization registered under the Federal 1934 Act.

Hence, 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 April 24, 2002, a date less than two (2) years before the date on which the Department instituted

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revocation proceedings against Respondent, which date is August 20, 2003, the Secretary of State may enter a revocation or suspension order as of the last date on which Respondent's registration was effective – April 24, 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 Richard D. Russell Sr. registration as a salesperson in the State of Illinois is revoked effective April 24, 2002 pursuant to the authority provided under Section 8.E(1)(j) and 8.E(3) of the Act.
2. That this matter is concluded without further proceedings.

Dated: This 31<sup>st</sup> day of October 2003.



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.