

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: BARRY J. WEBER, A/K/A J.
BARRY WEBER

)
)
) File No. 0000373
)

ORDER OF PROHIBITION AND FINE

TO THE RESPONDENT: Barry J. Weber
a/k/a J. Barry Weber
2206 Knox Highway 36
Wataga, Ill 61488

WHEREAS, the record of the above captioned matter 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 Facts and Conclusions of Law and Recommendation of the Hearing Officer, Thomas Londrigan, Jr., in the above-captioned matter have been read and examined;

WHEREAS, the following proposed Findings of Fact are correct and are adopted by the Secretary of State as follows:

1. The evidence, exhibits and testimony have been offered and received from all parties and a proper record of all proceedings has been made and preserved as required.
2. The Hearing Officer has ruled on all motions and objections timely made and submitted.
3. The Hearing Officer and the Secretary of State, Illinois Securities Department have jurisdiction over the parties herein and the subject matter dealt with herein, due and proper notice having been previously given as required by statute in this case.
4. As no Answer was filed, the Respondent is therefore deemed to be in default.
5. That all times relevant hereto, the Respondent Barry J. Weber, a/k/a J. Barry Weber, is an Illinois resident,

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with a last known business address of 2206 Knox Highway 36, Wataga, Illinois 61488.

6. That 815 ILCS 5/2.1 defines the term "security" as any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit sharing agreement, collateral trust certificate, preorganization certificate or subscription, transferable share, investment contract, investment fund share, face-amount certificate, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral lease, right or royalty, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not mean a mineral investment contract or a mineral deferred delivery contract; provided, however, the Department shall have authority to regulate these contracts as hereinafter provided.
7. That 815 ILCS 5/2.5 defines the term "Sale" or "Sell" to have the full meaning of that term as applied by or accepted in the courts of this State, and shall include every contract of sale or disposition of a security or interest in a security for value. Any security given with or as a bonus on account of any purchase of securities or property shall be conclusively presumed to constitute a part of the subject of such purchase and shall be deemed to have been sold within the meaning of this Section. A privilege to convert a security into another security shall not be deemed a sale of such other security, provided no consideration from the holder in addition to the surrender or cancellation of the convertible is required to effect the conversion.
8. That 815 ILCS 5/5 provides, inter alia, that all securities except those set forth under Section 2a of this Act, or those exempt under Section 3 of this Act, or those offered or sold in transactions exempt under Section 4 of this Act, or face amount certificate contracts required to be registered under Section 6 of this Act, or investment fund shares required to be registered under Section 7 of this Act, shall be

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registered either by coordination or by qualification, as hereinafter in this Section provided, prior to their offer or sale in this State.

9. That 815 ILCS 5/8.A. provides, inter alia, that, except as otherwise provided in subsection A, every salesperson shall be registered as such with the Secretary of State.
10. That on July 22, 1999, the Respondent, Barry Weber, a/k/a J. Barry Weber, sold a security as defined by the Act.
11. That at all times relevant hereto, the Respondent sold a security without first having registered the security or registered himself as a salesperson with the Illinois Secretary of State as is required under the Act.
12. That 815 ILCS 5/12.A provides, inter alia, that it shall be a violation of the provisions of this Act for any person to offer or sell any security except in accordance with this Act.
13. That 815 ILCS 5/12.C provides, inter alia, that it shall be a violation of the Act for any person to act as a salesperson unless registered as such, where such registration is required.
14. That 815 ILCS 5/12.D provides, inter alia, that it shall be a violation of the provisions of this Act to fail to file with the Secretary of State any application, report or document required to be filed under the provisions of this Act or any rule or regulation made by the Secretary of State pursuant to this Act or to fail to comply with the terms of any order of the Secretary of State issued pursuant to Section 11 hereof.
15. That by virtue of the foregoing, the Respondent has violated Sections 12.A, 12.C, and 12.D of the Act.
16. That 815 ILCS 5/11.E (2) provides that if the Secretary of State shall find that any person has violated subsection C, D, E, F, G, H, I, J, or K of Section 12 of this Act, the Secretary of State may by written order temporarily or permanently prohibit or suspend the person from offering or selling any securities, any mineral investment contract, or any mineral deferred delivery contract in this State, provided that any person who is the subject of an order of permanent prohibition may petition the Secretary of State for a hearing to present evidence of rehabilitation or change

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of circumstances justifying the amendment or termination of the order of permanent prohibition.

17. That 815 ILCS 5/11.E (4) provides that in addition to any other sanction or remedy contained in this subsection E, the Secretary of State, after finding that any provision of this Act has been violated, may impose a fine as provided by rule, regulation or order not to exceed \$10,000, for each violation of this Act, and may issue an order of public censure against the violator.
18. The entry of a Final Order of Prohibition and fine up to \$10,000 per violation is proper in this case, given the conduct of the Respondent as described in Secretary of State Exhibits No. 1-6, as well as the fact that the Respondent failed to properly answer the charges.

WHEREAS, the Secretary of State rejects Finding of Fact, Paragraph 16 contained in the Hearing Officer's report and recommendation. Pursuant to Rule 1104 the failure by the Respondent to file an answer or other responsive pleading is an admission of the facts as alleged in the Notice of Hearing. The Secretary of State makes the following additional Findings of Fact:

1. That the statements made by Barry J. Weber, a/k/a/ J. Barry Weber were untrue statements of material facts or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.
2. That by virtue of the foregoing, the Respondent has violated Section 12.G of the Act.

WHEREAS, the proposed Conclusions of Law are correct and are adopted by the Secretary of State as follows:

1. After proper notification, the Complainant may proceed with a hearing in the Respondent's absence. (735 ILCS 5/1-105 and 5/2-1301; Ryan v. Bening, 1978, 22 Ill. Dec. 873, 66 Ill. App.3d 127, 383 N.E.2d 681; Koenig v. Nardullo, 1968, 99 Ill. App. 480, 241 N.E.2d 567; In Re the Marriage of Garde, 1983, 73 Ill. Dec. 816, 118 Ill. App. 3d 303, 454 N.E. 2d 1065.) Significantly, the Notice of Hearing outlines that a default judgment may be entered against a Respondent who fails to appear or answer the charges.

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2. That Respondent failed to register a security as defined by 815 ILCS 5/2.1 and 815 ILCS 5/5, the Respondent sold a security as defined by 815 ILCS 5/2.5, and the Respondent failed to register himself as a salesperson as defined by 815 ILCS 5/8.A. The Respondent's failure to register a security is a violation of 815 ILCS 5/12.D. The Respondent's selling of an unregistered security is in violation of 815 ILCS 12.A. The Respondent's failure to register as a salesperson is in violation of 815 ILCS 12.C.
3. That by virtue of the foregoing, the Respondent is subject to an Order of Prohibition in the State of Illinois and/or granting such other relief as may be authorized under the Act.
4. Because of the findings of the Order, the evidence admitted as Secretary of State Exhibits #1-6, as well as the fact that the Respondent failed to answer the charges, the entry of a written Order of Prohibition pursuant to 815 ILCS 5/11.E (2) which permanently prohibits the offer or sale of securities by the Respondent, in the State of Illinois, and a \$30,000 fine pursuant to 815 ILCS 5/11.E (4) is proper in this case.

WHEREAS, the Secretary of State makes the following Additional Conclusion of Law: That Respondent's untrue statements of material facts or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading were a violation of Section 12.G of the Act; and

WHEREAS, the recommendation of the Hearing Officer is accepted.

NOW THEREFORE IT IS HEREBY ORDERED: That pursuant to the foregoing Findings of Fact, Conclusions of Law, and the Recommendations of the Hearing Officer, the Respondent, Barry Weber, a/k/a J. Barry Weber, is permanently prohibited from offering or selling securities in the State of Illinois, and further is fined the sum of \$30,000 to be paid by certified or cashier's check within thirty (30) days of the entry of this order.

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ENTERED: This ^{2nd} day of *September*, 2003

Jesse White 

JESSE WHITE
Secretary of State

NOTICE: Failure to comply with the terms of this Order shall be a violation of Section 12.D of the Illinois Securities Law of 1953, as amended, 815 ILCS 5/1 et seq. (the "Act"). Any person or entity who fails to comply with the terms of this Order of the Secretary of State, having knowledge of the existence of this Order, shall be guilty of a Class 4 felony.

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. I, 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.

Attorney for the Secretary of State:
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