

STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT

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IN THE MATTER OF: WAYNE P. MESSNER )  
\_\_\_\_\_) )

FILE NO. 0201061

CONSENT ORDER OF REVOCATION

TO THE RESPONDENT: Wayne P. Messner  
(CRD #2170398)  
65 Fox Street  
Gloversville, New York 12078

WHEREAS, Respondent on the 10th day of March 2003 executed a certain Stipulation to Enter Consent Order of Revocation (the "Stipulation"), which hereby is incorporated by reference herein.

WHEREAS, by means of the Stipulation, Respondent has admitted to the jurisdiction of the Secretary of State and service of the Notice of Hearing of the Secretary of State, Securities Department, dated January 13, 2003 in this proceeding (the "Notice") and Respondent has consented to the entry of this Consent Order of Revocation ("Consent Order").

WHEREAS, by means of the Stipulation, the Respondent acknowledged, while neither admitting nor denying the truth thereof, that the following allegations contained in the Notice of Hearing shall be adopted as the Secretary of State's Findings of Fact:

- 1) That at all relevant times, the Respondent was registered with the Secretary of State as a salesperson in the State of Illinois pursuant to Section 8 of the Act, until June 14, 2002.
- 2) That on September 26, 2002, NASD entered a Letter of Acceptance, Waiver and Consent (AWC) submitted by the Respondent regarding File No. C8AO20072 which barred him from association in any capacity with any member of the NASD.
- 3) That the AWC, found that the Respondent on or about June 13, 2001, received a check in the amount of \$5,000 from D.H., a member of the public and a customer of the Member (Respondent's employer), for the purpose of investing in mutual funds. He thereafter deposited the \$5,000 check from D.H. into his business checking account and converted the funds to his own use or for some purpose other than the benefit of

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D.H. without the knowledge or consent of D.H., in violation of NASD Conduct Rules 2110 and 2330(a).

- 4) That Section 8.E (1)(j) of the Act provides, inter alia, that the registration of a salesperson may be revoked 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.
- 5) That NASD is a self-regulatory organization as specified in Section 8.E (1)(j) of the Act.
- 6) That Section 8.E (3) of the Act provides inter alia withdrawal of an application for registration or withdrawal from registration as a salesperson, becomes effective 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 2 years after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

WHEREAS, by means of the Stipulation Respondent has acknowledged, without admitting nor denying the averments, that the following shall be adopted as the Secretary of State's Conclusion of Law:

That by virtue of the foregoing, the Respondent's registration as a salesperson in the State of Illinois is subject to revocation pursuant to Section 8.E(1)(j) of the Act.

WHEREAS, by means of the Stipulation Respondent has acknowledged and agreed that his registration as a salesperson in the State of Illinois shall be revoked.

WHEREAS, the Secretary of State, by and through his duly authorized representative, has determined that the matter related to the aforesaid formal hearing may be dismissed without further proceedings.

NOW THEREFORE IT SHALL BE AND IS HEREBY ORDERED THAT:

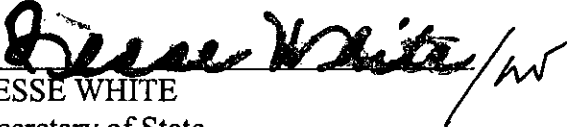
1. Wayne P. Messner's registration as a salesperson in the State of Illinois shall be revoked.

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2. The formal hearing scheduled on this matter is hereby dismissed without further proceedings.

ENTERED: This 25<sup>th</sup> day of MARCH 2003.

  
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JESSE WHITE  
Secretary of State  
State of Illinois