

STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT

\_\_\_\_\_) )  
IN THE MATTER OF: MARK D. MONACO ) FILE NO. C0100161  
\_\_\_\_\_) )

ORDER OF DISMISSAL

TO THE RESPONDENT: Mark D. Monaco  
795 Jeffrey Court  
Wheaton, IL 60187

Mark D. Monaco  
C/o Howard Groedel, Esq.  
Ulmer & Berne LLP  
1300 East 9<sup>th</sup> St.  
Cleveland, OH 44114-1583

WHEREAS, the above-captioned matter came to be heard on December 4, 2002, pursuant to a Notice of Hearing dated September 16, 2002 and an Order of Continuance dated October 29th, 2002, 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 and Conclusions of Law and Recommendation of the Hearing Officer, Richard M. Cohen, in the above-captioned matter have been read and examined;

WHEREAS, the following specific Findings of Fact of the Hearing Officer are accepted and are hereby adopted as the Findings of Fact of the Secretary of State:

1. The Department gave proper notice of this hearing to Respondent.
2. The Department has personal jurisdiction over Respondent under Section 11.F of the Act, pursuant to the Department's proper service of the Notice.

3. Respondent appeared at the hearing, personally and through counsel.
4. Exhibits have been offered and received from the Department, admitted into evidence, and a proper record of all proceedings has been made and preserved as required.
5. There are no outstanding petitions, motions, or objections in the proceeding.
6. Mark D. Monaco ("Respondent"), is an individual with a last known address of 795 Jeffrey Court, Wheaton, Illinois, 60187.
7. Respondent was registered as a salesperson with the Secretary of State, Securities Department ("the Department") from September, 1997 through May, 2001.
8. Respondent was employed as a broker by Morgan Stanley Dean Witter ("MSDW") in Lisle, Illinois, from September, 1999 through February, 2001.
9. While employed by MSDW, Respondent engaged in a course of business with two of his Illinois resident customers as follows:

**McRedmond Morelli**

- a. McRedmond Morelli ("MM") resides at 139 Warren Street, Columbus, Ohio 43215.
- b. In or about the fall of 1999, MM was referred to Respondent at MSDW by his business partner, Kirk Kroft.
- c. In or about the fall of 1999, Respondent met with MM and discussed MM's objectives.
- d. In or about the fall of 1999, MM transferred his account from Charles Schwab to MSDW and opened up a margin account with MSDW with Respondent as his Financial Advisor.
- e. From January 2000 through October 2000, MM spoke with Respondent daily regarding this portfolio, the value of which had declined significantly.

- f. From January 2000 through October 2001, MM spoke with Respondent on a consistent basis regarding the activity in MM's account.
- g. Respondent did not have either written or oral discretion over MM's account.
- h. On or about December 5, 2000, Respondent called MM, who was vacationing out-of-state, to inform him of a large margin call due on December 7, 2000.
- i. On or about December 7, 2000, after selling some stock and paying enough cash to satisfy the margin call, MM's portfolio was margined at \$150,000.
- j. On or about January 5, 2001, MM instructed Respondent to sell everything in MM's portfolio to avoid further margin calls.

**Gardner Morelli**

- k. Gardner Morelli ("GM") resides at 1132 Birkdale Court, Naperville, Illinois 60563.
- l. In about January 2000, GM was introduced to Respondent at MSDW by his brother, MM.
- m. In about January 2000, Respondent met with GM to discuss GM's objectives.
- n. In about January 2000, GM transferred his account from Smith Barney to MSDW and opened up a margin account with MSDW with Respondent as his Financial Advisor.
- o. From January 2000 through January 2001, GM spoke with Respondent on a consistent basis regarding the activity in GM's account.
- p. Respondent did not have either written or oral discretion over GM's account.
- q. On or about January 15, 2001, GM instructed MSDW to sell the QQQ stock.

**Kirk Kroft**

- r. Kirk Kroft ("KK") resides at 134 Cutter Lane, Lake Barrington, Illinois 60010.
  - s. KK was a college friend of Respondent and had been investing with him since the fall of 1999 at MSDW.
  - t. Respondent did not have either written or oral discretion over KK's account.
  - u. KK did not testify at the hearing.
10. Respondent often discounted his usual and customary commissions in executing transactions authorized by MM, GM and KK.

WHEREAS, the Secretary of State rejects the following Findings of Fact of the Hearing Officer:

- a. Respondent did not cause MSDW to transfer certain stocks to MM as gifts.
- b. The transactions made in MM's account were authorized by MM.
- c. Respondent did not cause MSDW to transfer certain stock to GM as gifts.
- d. The transactions made in GM's account were authorized by GM, including on or about December 14, 2000, the purchase by Respondent of 3000 shares of Nasdaq Trust ("QQQ").
- e. The trades made in KK's account were authorized by KK.

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

- 1. The Department has jurisdiction over the subject matter hereof pursuant to the Act.
- 2. The activities described above constitute the offer and sale of stock and therefore securities as those terms are defined in Sections 2.1, 2.5 and 2.5a of the Act.

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3. Section 12.F of the Act provides that it shall be a violation of the Act for any person to engage in any transaction, practice or course of business in connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof.
4. Based on the foregoing, Respondent has not violated Section 12.F of the Act.
5. Section 8.E(1)(g) of the Act provides, *inter alia*, that the registration of a salesperson may be revoked if the Secretary of State finds that the salesperson has violated any of the provisions of the Act.
6. Section 8.E(3) of the Act provides, *inter alia*, that the Secretary of State may institute a revocation proceeding within two years after withdrawal became effective and enter a revocation order as of the last date on which registration was effective.
7. By virtue of the foregoing, the Respondent's registration as a salesperson in the State of Illinois is not subject to revocation effective as of the last date on which registration was effective, pursuant to Sections 8.E(1)(g) and 8.E(3) of the Act.

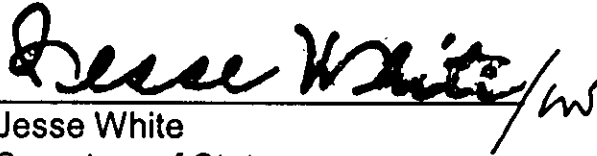
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WHEREAS, the Secretary of State adopts the Hearing Officer's Recommendation that an order be entered dismissing the Notice of Hearing against Respondent.

NOW THEREFORE IT IS HEREBY ORDERED that, pursuant to the foregoing Findings of Fact and Conclusions of Law, the determination of the Secretary of State and the Recommendation of the Hearing Officer, the Notice of Hearing against Respondent Mark Monaco is dismissed.

Dated: This 1st day of April, 2003.

A handwritten signature in black ink that reads "Jesse White" with a stylized flourish at the end that includes the letters "JW".

Jesse White  
Secretary of State  
State of Illinois

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