

**STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT**

IN THE MATTER OF:)

MARK DAVID HURWITZ.)

File No. 1200057

NOTICE OF HEARING

TO THE RESPONDENT:

Mark David Hurwitz
(CRD # 1549799)
3215 Larkspur Drive
Crystal Lake, Illinois 60012

You are hereby notified that pursuant to Section 11.E of the Illinois Securities law of 1953 [815 ILCS 5/1 et. seq.] ("the Act") and Ill. Adim. Code 130, Subpart K, a public hearing will be held at 69 W. Washington Street, Suite 1220, Chicago, Illinois 60602, on the 6th day of March, 2014, at the hour of 10:00 am, or as soon as possible thereafter, before James Kopecky or such duly designated Hearing Officer of the Secretary of State

Said Hearing will be held to determine whether an Order shall be entered pursuant to Section 11 E of the Act prohibiting Respondent from selling or offering for sale securities in the State of Illinois and/or granting such other relief as may be authorized under the Act including but not limited to imposition of a monetary fine in the maximum amount pursuant to 11.E(4) of the Act, payable within ten (10) days of the order.

The grounds for such proposed actions are as follows:

COUNT I

- 1 Respondent Mark David Hurwitz ("Hurwitz") is an individual with a last known address of 3215 Larkspur Drive, Crystal Lake, Illinois 60012.
2. At all relevant times, Hurwitz was registered with Assist Investment Management Company, Inc. ("Assist") as a securities salesperson and has been registered in this capacity since December of 1993.
3. Lynda M. Hurwitz ("LMH") is the wife of Hurwitz and has a last known address of 3215 Larkspur Drive, Crystal Lake, Illinois 60012

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- 4 At least as early as February of 2006, Hurwitz began soliciting investments in a company called Intervest Financial Corp ("Intervest"). Intervest is a company with a last known address of 322 Gatesby Road, Riverside, Illinois 60546 The President of Intervest was William Kanatas ("Kanas") Several brochures and sales material for Intervest identified Hurwitz's company, MDH Financial Services, Inc., as the Accounting Manager for Intervest.
5. Together Hurwitz and Kanatas met with more than one of Hurwitz's Assist Investment Management customers to discuss investing in Intervest
6. As a result of these discussions, several of Hurwitz's customers ("Investors") invested in Intervest Despite being a registered Salesperson of Assist, Hurwitz failed to provide written notice to Assist that he was participating in the sale of securities, and did not receive written approval or acknowledgement from Assist for those sales
7. During the period that Hurwitz was participating in the sale of investments in Intervest, LMH was receiving compensation for "marketing work" for another entity controlled by Kanatas. Although LMH was being compensated for such work, LMH never did any work for that entity
- 8 The payments to LMH by Kanatas were intended to conceal commissions that were being paid to Hurwitz for sales of investments in Intervest, and LMH was well aware of this fact
- 9 Neither Hurwitz nor Kanatas informed Investors that LMH was being compensated by Kanatas to disguise commission payments to Hurwitz for participating in sales of investments in Intervest.
- 10 The offer and sale of the investment in Intervest constitutes the offer and sale of a security as those terms are defined in Sections 2.1, 2.5, and 2.5a of the Illinois Securities Law of 1953 [815 ILCS 5/1 *et seq*] (the "Act").
- 11 Section 12 A of the Act provides, *inter alia*, that it shall be a violation for any person to offer or sell any security except in accordance with the provisions of this Act.

COUNT II

12. Pursuant to the Illinois Securities Law of 1953 [815 ILCS 5/1 *et seq*] (the "Act") and the Rules and Regulations promulgated under the Act, securities salespersons are required, through their broker-dealer, to file an application for registration with the Secretary of State by filing a U-4 form through the CRD system The U-4 form must be amended within ten (10) business days when the salesperson experiences a change that renders any information contained in the initial application for registration inaccurate.

- 13 Hurwitz amended his U-4 form as an employee of Assist on March 20, 2006. On his U-4 form he answered the following question:

“Are you currently engaged in any other business either as a proprietor, partner, officer, director, employee, trustee, agent or otherwise? (Please exclude non *investment-related* activity that is exclusively charitable, civic, religious or fraternal and is recognized as tax exempt.) If YES, please provide the following details: the name of the other business, whether the business is *investment-related*, the address of the other business, the nature of the other business, your position, title, or relationship with the other business, the start date of your relationship, the approximate number of hours/month you devote to the other business, the number of hours you devote to the other business during security trading hours, and briefly describe your duties relating to the other business.”

14. Hurwitz answered this question, “No,” indicating that he was not involved in outside business activity
- 15 Hurwitz never disclosed in any of his U-4 filings that he was participating in the offer or sale of investments in Interest.
- 16 Section 12.D of the Act provides, *inter alia*, that it shall be a violation for any person to fail to file with the Secretary of State any application, report or document required to be filed under the provisions of the Act or any rule or regulation made by the Secretary of State pursuant to the Act
17. Section 12.E of the Act provides, *inter alia*, that it shall be a violation of the act for any person to make or cause to be made in any application, report or document filed under this Act or any rule or regulation made by the Secretary of State pursuant to this Act, any statement which was false or misleading with respect to any material fact

You are further notified that you are required pursuant to Section 1104 of the Rules to file an answer to the allegations outlined above, or other responsive pleading within 30 (thirty) days of receipt of this notice. Your failure to do this within the prescribed time shall be deemed an admission of the allegations contained in the Notice of Hearing and waives your right to a hearing.

Furthermore, you may be represented by legal counsel; may present evidence, may cross-examine witnesses and otherwise participate. A failure to appear shall constitute default by you

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A copy of the Rules and Regulations promulgated under the Illinois Securities Law and pertaining to hearings held by the Office of the Secretary of State, Illinois Securities Department, are available at the Department's website:
<http://www.cyberdriveillinois.com/departments/secunties/lawrules.html>

Delivery of notice to the designated representative of any Respondent constitutes service upon such Respondent.

Dated: This 21st day of January, 2014.

A handwritten signature in black ink, appearing to read "Jesse White", is written over a horizontal line.

JESSE WHITE
Secretary of State
State of Illinois

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