

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

IN THE MATTER OF:
MARK DAVID HURWITZ.

)
) **File No. 1200057**
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)
)

CONSENT ORDER

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

WHEREAS, **Mark David Hurwitz** by and through his duly authorized representative, on the 17th day of January, 2014 executed a certain Stipulation to Enter Consent Order ("the Stipulation"), which hereby is incorporated by reference herein.

WHEREAS, by means of the Stipulation, Mark David Hurwitz has admitted to the jurisdiction of the Secretary of State, Securities Department, and has consented to the entry of this Consent Order

WHEREAS, by means of the Stipulation, Mark David Hurwitz, without admitting nor denying the truth thereof, acknowledges that the Secretary of State makes the following Findings of Fact:

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

**COUNT I
CONCEALING COMMISSION PAYMENTS FROM INVESTORS IN INTERVEST
FINANCIAL CORP.**

- 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

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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 the 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.
12. For the foregoing reasons, Hurwitz violated sections 12.A of the Act.
- 13 Section 8 E(1)(g) of the Act provides, *inter alia*, that the registration of a salesperson or investment advisor representative may be suspended or revoked if the Secretary of State finds that the salesperson or investment advisor representative has violated any of the provisions of this Act.

COUNT II

MAKING FALSE STATEMENTS TO THE SECRETARY OF STATE

14. 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.
15. 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."
16. Hurwitz answered this question; "No," indicating that he was not involved in outside business activity.
17. Hurwitz never disclosed in any of his U-4 filings that he was participating in the offer or sale of investments in Interest.
18. 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.
19. 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
20. For the foregoing reasons, Hurwitz violated section 12 D and 12.E of the Act.
21. Section 8.E(1)(h) of the Act provides, *inter alia*, that the registration of a salesperson or investment advisor representative may be suspended or revoked if the Secretary of State finds that such salesperson or investment advisor representative has made any material

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misrepresentation to the Secretary of State in connection with any information deemed necessary by the Secretary of State to determine a salesperson's or investment advisor representative's business repute or qualifications.

- 22 Section 8 E(1)(g) of the Act provides, *inter alia*, that the registration of a salesperson or investment advisor representative may be suspended or revoked if the Secretary of State finds that the salesperson or investment advisor representative has violated any of the provisions of this Act

WHEREAS, by means of the Stipulation, Hurwitz has acknowledged, that the following shall be adopted as the Secretary of State's Conclusions of Law:

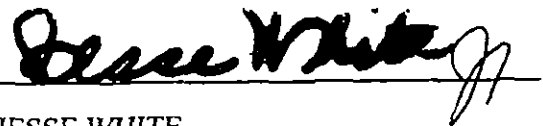
1. Illinois has jurisdiction over this matter pursuant to the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act");
2. Respondent Hurwitz has violated Sections 12 A, 12.D and 12.E of the Act,

WHEREAS, Respondent Mark David Hurwitz's registration as a securities salesperson in the State of Illinois is suspended as of May 18, 2012 for a period of three (3) years,

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

1. By means of Stipulation, Hurwitz has acknowledged and agreed that his registration as a securities salesperson in the State of Illinois is hereby **SUSPENDED** as of May 18, 2012 for a period of three (3) years in accordance with Sections 8.E(1)(g) and 8.E(1)(h) of the Act;
2. The entry of this Order ends the Secretary of State Securities Department's formal hearing of this matter.

Entered: This 21st day of January, 2014



JESSE WHITE
Secretary of State
State of Illinois

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NOTICE: Failure to comply with the terms of this Order shall be a violation of Section 12.D of 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 the 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 (14 111. 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 t h is Order is served upon the party seeking review.

Attorneys for the Secretary of State:
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