

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

_____))
IN THE MATTER OF: DAVID J. HACKNEY)
CRD # 2301416)
_____)

No. C1400117

TEMPORARY ORDER OF SUSPENSION AND PROHIBITION

TO THE RESPONDENT : DAVID J. HACKNEY
206 W. Division St.
Unit 2R
Chicago, IL
60610

On information and belief, I, Jesse White, Secretary of State for the State of Illinois, through my designated representative, Securities Director, having been fully advised in the premises by the staff of the Illinois Securities Department, Office of the Secretary of State, herein find

FACTS COMMON TO ALL COUNTS

1. Respondent David J. Hackney ("Hackney") is a resident of Illinois with a last known address of 206 West Division Street, unit 2R, in Chicago, Illinois.
2. From March 2006 through February 7, 2014, Hackney was a representative for LPL Financial, LLC. ("LPL"), a Broker/Dealer and Investment Advisor registered with Illinois in coordination with the Securities Exchange Commission
3. On February 7, 2014, LPL terminated Hackney's employment with the firm due to Hackney having effectuated high trading volume and frequency in at least three LPL customer accounts during 2012 through 2013.
4. Two LPL customers ("Customers"), both residents of Illinois, and for which Hackney was the advisor, were identified as having an LPL advisory account that had been subjected to excessive trading

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5. Customers, at the time the account at LPL was opened, were well into their eighties and retired. They are conservative investors, seeking a preservation of their retirement money.
6. Excessive trading, often called "churning," occurs when a securities broker or advisor representative effectuates trades in a customer's account that are excessive in size or frequency in light of that customer's investment objectives and risk tolerance and is done for the purpose of generating commissions at the detriment of the customer.
7. Hackney's trading activity in Customers' account was unauthorized, that is, Hackney's trading activity was done without Customers' consent and without their knowledge.
8. During 2012 Hackney effectuated approximately 128 trades in Customers' account, taking \$40,669.00 in commissions from Customers account and also caused the account's value to fall from \$212,731.85 to \$142,342.55
9. During 2013 Hackney effectuated approximately 228 trades in Customers' account, taking \$84,727.77 in commissions, and causing the account's equity to fall to \$38,481.25 by the end of that year.
10. The churning of an investment portfolio by an Advisor, such as Hackney, is evidenced by the Turnover Ratio.
11. The Turnover Ratio is computed by dividing the account value by the value of the purchases during the same time frame
12. Thus, the Turnover Ratio is a measurement of how often the holdings in a portfolio are sold and purchased (replaced) during a period of time, with a "1", or 100% when represented as a percentage, meaning all the holdings of the portfolio were sold and re-purchased in that time-frame
13. Customers, as stated above, are both retired and well into their eighties. They have extremely low risk tolerances and did not seek an aggressive investment strategy.
14. During 2012, Hackney's unauthorized trades in Customers' account resulted in a turnover ratio of 7.28. That is, Hackney bought and sold the holdings of Customers' account over seven times.
15. During 2013, Hackney's unauthorized trades in Customers' account resulted in a turnover ratio of 23.46
16. A second measure to evidence churning is the Commission to Equity ratio which measures what the return on the investments would have to be to cover the commissions charged to the client associated with the purchase and sale of the investments.

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17. It is because commissions and fees associated with the purchase and sale of securities reduce an investor's possible return on an investment, it is incumbent on an advisor to minimize the number of trading recommendations so as to not eliminate any gains made, or, as in this case, cause losses to the investor's account value.
18. The Commission to Equity ratio is computed by dividing the amount of commissions paid by the average account equity during the same period of time.
19. Hackney's unauthorized trading in Customers' account during 2012 resulted in a Commission to Equity ratio of 24%, that is, Hackney's trades would have had to garner a 24% return just for the account to keep its current value.
20. Hackney's unauthorized trading in Customers' account during 2013 resulted in a Commission to Equity ratio of 101%.
21. Section 12.A of the Act states that it shall be a violation of the provisions of the Act to offer or sell any security except in accordance with the provisions of this Act.
22. Section 12.F of The Illinois Securities Law of 1953, 815 ILCS 5/1 *et seq.*, (The "Act") states that it shall be a violation of the provisions of this 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." 815 ILCS 5/12 F
23. Section 130.853 of the Rules and Regulations Under the Illinois Securities Law of 1953 states in pertinent part that effecting or causing to be effected by or for any client's account, any transactions of purchase or sale which are excessive in size or frequency or unsuitable in view of the financial resources and character of the account, shall constitute an act, practice, or course of business that is fraudulent, deceptive or manipulative
24. Hackney's excessive trading he effectuated in Customers' account constitutes a violation of Section 12.F of the Act for each of the 356 trades Hackney effectuated in it during 2012 and 2013
25. Section 12.G of the Act states that it shall be a violation of the provisions of this Act for any person to, "obtain money or property through the sale of securities by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading." 815 ILCS 5/12 G.
26. Hackney's unauthorized trades in the Illinois customers' account, for which he did not disclose to the Customers, constitutes a violation of Section 12.G of the Act for each of the 356 trades Hackney effectuated in it during 2012 and 2013

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27. Section 8.E(1)(b) of the Act states that the registration of an investment advisor representative may be suspended or revoked if that investment advisor representative has engaged in any unethical practice in connection with any security, the offer or sale of securities or in any fraudulent business practice. 815 ILCS 5/8.E (1)(b).
28. Section 8.E(3) of the Act states that the Secretary of State may institute a revocation or suspension proceeding within two years after the withdrawal of the registration became effective and enter a revocation and suspension order as of the last date on which registration became effective
29. Hackney's employment with LPL was terminated on February 7, 2014, and his registrations as a salesperson of securities and as an investment advisor representative were terminated on February 21, 2014
30. Section 11.F(2) of the Act states that the Secretary of State may temporarily prohibit or suspend, by an order effective immediately, the offer or sale of securities, suspend or revoke the registration of a salesperson, or the registration of an investment advisor representative if the Secretary of State shall in his or her opinion, based on credible evidence, deem it necessary to prevent an imminent violation of the Act or to prevent losses to investors.
31. This action is necessary to prevent losses to investors and to protect the public as the above described evidence shows that Respondent Hackney has committed fraud in the sale of securities and he may still utilize his registrations to seek employment in the securities industry.

NOW THEREFORE IT IS HEREBY ORDERED THAT: pursuant to the authority granted by Section 11.F of the Act, Respondent David J. Hackney is **PROHIBITED** from offering or selling securities in or from this State **AND** David J. Hackney's registration as a Salesperson of Securities and as an Investment Advisor Representative in the State of Illinois is **SUSPENDED** retroactively to February 21, 2014, until further Order of the Secretary of State

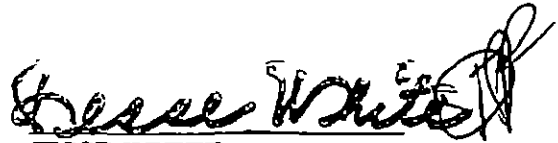
NOTICE is hereby given that Respondent may request a hearing on this matter by transmitting such request in writing to the Director, Illinois Securities Department, 69 W. Washington Street, Suite 1220, Chicago, Illinois 60602. Such request must be made within thirty (30) calendar days of the date of entry the Temporary Order of Prohibition Upon receipt of a request for hearing, a hearing will be scheduled as soon as reasonably practicable A request for hearing will not stop the effectiveness of this Temporary Order and will extend the effectiveness of this Temporary Order for sixty days from the date the hearing request is received by the Department.

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FAILURE BY ANY RESPONDENT TO REQUEST A HEARING WITHIN THIRTY (30) CALENDAR DAYS AFTER ENTRY OF THIS TEMPORARY ORDER OF PROHIBITION SHALL CONSTITUTE AN ADMISSION OF ANY FACTS ALLEGED HEREIN AND SHALL CONSTITUTE SUFFICIENT BASIS TO MAKE THIS TEMPORARY ORDER OF PROHIBITION FINAL.

Dated: This 26th day of March 2014.

A handwritten signature in black ink that reads "Jesse White". The signature is written in a cursive style and is positioned above the printed name of the Secretary of State.

JESSE WHITE
Secretary of State
State of Illinois

Attorney for the Secretary of State:
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