

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

IN THE MATTER OF:)	
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DENNIS E. KAGEL, an individual.)	File No. 1300300
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NOTICE OF HEARING

TO THE RESPONDENT:

Horter Investment Management, LLC (CRD # 119880)
8316 Cornell Road
Cincinnati, Ohio 45249

Dennis E. Kagel (CRD # 735448)
5 Bent Court
Bloomington, IL 61704

Dennis E. Kagel
321 Susan Drive, Suite A
Normal, Illinois 61761

c/o Attorney James Martinkus
Erwin, Martinkus & Cole, Ltd.
411 West University Avenue
Champaign, IL 61820

You are hereby notified in accordance with Sections 11.E and F of the Illinois Securities Law of 1953 [815 ILCS 5/11.E and F] (“the Act”) and 14 Ill. Adm. Code 130, subpart K, that a public hearing will be held at the Secretary of State’s Office at the Office of the Illinois Securities Department, 300 W. Jefferson Ave., Suite 300A, Springfield, Illinois 62702, on December 17, 2014 at the hour of 10:00 a.m., or as soon thereafter as possible as counsel may be heard, before Jon K. Ellis, or such other duly designated Hearing Officer of the Secretary of State.

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Said hearing will be held to determine whether a Final Order shall be entered against Respondent Dennis E. Kagel:

- 1) **Affirming the Secretary of State's Summary Order of Denial, denying Respondent Dennis E. Kagel's application for registration as an investment adviser representative in the State of Illinois (A copy of the Order is attached as Exhibit A); and**
- 2) **Prohibiting Respondent Dennis E. Kagel from engaging in the business of an Investment Advisor and/or Investment Advisor Representative; and**
- 3) **Imposing a monetary fine in the amount of \$10,000.00 per violation of the Act, pursuant to Section 11.E(4); and**
- 4) **Granting any such other relief authorized under the Act.**

Nature of the Case

Kagel Financial Services is not a Registered Investment Advisor, nor is Respondent Kagel a Registered Investment Representative. Despite this, Respondent Dennis Eugene Kagel is fraudulently holding his business Kagel Financial Services out as a registered investment advisor. To make matters worse, Respondent Kagel has run misleading advertisements in a newspaper whose targeted circulation is Senior Citizens. These advertisements falsely claim that Kagel Financial Services was offering a guaranteed product offering first year yields greater than 9%. Furthermore, despite first being notified by the Department of concern that he was claiming to be a registered investment advisor, and receiving an Order of Denial of his application, Respondent Kagel continues to this date to maintain a website claiming that Kagel Financial Services is a Registered Investment Advisor.

Kagel's Misleading Statements in Advertisements

1. Dennis Eugene Kagel ("Respondent") is an Illinois resident who maintains an address at 321 Susan Drive, Suite A, Normal, Illinois 61761; and an office address at #5 Bent Court Bloomington, IL 61704.
2. On February 18, 2014, Horter Investment Management, LLC, a federal covered investment adviser, filed a Form U4 application for registration of Dennis Eugene Kagel (the "Respondent") as an investment adviser representative in the State of Illinois.

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3. Pursuant to the authority granted under Sections 8 and 11.F of the Illinois Securities Law of 1953 [815 ILCS 5, *et seq.*] (henceforth the “Act”), the Secretary of State determined that Respondent’s application (henceforth “Application”) for registration as an investment adviser representative in the State of Illinois is subject to a Summary Order of Denial.
4. On August 11, 2014, the Secretary of State issued a Summary Order of Denial, denying Respondent’s application for registration as an investment adviser representative in the State of Illinois, subject to the further Order of the Secretary of State, and notifying Respondent of his right to a hearing on the matter.
5. The administration of the Act, including registration of an investment adviser representative in the State of Illinois, is vested in the Secretary of State pursuant to Sections 8 and 11 of the Act.
6. Respondent Kagel is responsible for an advertisement that contained misleading representations in connection with an investment vehicle. Specifically, the advertisement described a product with a guaranteed 9.1 % First Year Yield. The advertisement omitted that the 9.1 % yield was actually comprised of a 1.1% annual return plus an 8.0 % one-time payment, which could be forfeited upon withdrawal of funds prior to the 14-year vesting period. *A copy of the advertisement is attached as Exhibit B.*
7. The advertisement ran on a monthly basis between February 2013 and August 2013 in the Bloomington/Normal *News & Views*, a newspaper that holds itself out as “Dedicated to the Active Fifty and Older Generation.”
8. Additionally, this is not Respondent Kagel’s first regulatory issue with improper advertising. In or around 2004, NASD (a predecessor to FINRA) notified Respondent Kagel’s then employer, American General Securities Inc. (AGSI), that marketing material used by Respondent Kagel was misleading and in violation of NASD Conduct Rule 2210.
9. American General Securities Inc. internal review of the matter determined that the marketing material had not been approved for use pursuant to firm policy, and Respondent was permitted to resign from the firm.
10. Section 8.E (1)(b) of the Act provides, *inter alia*, subject to the provisions of Section 11.F of the Act, that the registration of an investment adviser representative may be denied if the Secretary of State finds that the investment adviser representative has engaged in any unethical practice in connection with any security, the offer or sale of securities, or in any fraudulent business practice.

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11. Section 8.E(1)(m) of the Act provides, *inter alia*, subject to the provisions of Section 11.F of the Act, that the registration of an investment adviser representative may be denied if the Secretary of State finds that the investment adviser representative has conducted a continuing course of dealing of such nature as to demonstrate an inability to properly conduct the business of the investment adviser representative.
12. Section 8.E.1(g) of the Act provides, *inter alia*, subject to the provisions of Section 11.F of the Act, that the registration of an investment adviser representative may be denied if the Secretary of State finds that the investment adviser representative has violated any provision of this Act.
13. Section 12.H of the Act provides, *inter alia*, that it shall be a violation of the provisions of this Act for any person, when acting as an investment adviser representative, by any means or instrumentality, directly or indirectly, to sign or circulate any statement, prospectus, or other paper or document required by any provision of this Act or pertaining to any security knowing or having reasonable grounds to know any material representation therein contained to be false or untrue.
14. Section 12.J(2) of the Act provides, *inter alia*, that it shall be a violation of the provisions of this Act for any person, when acting as an investment adviser representative, by any means or instrumentality, directly or indirectly, to engage in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client.
15. By virtue of the foregoing, the Respondent's registration as an investment adviser representative in the State of Illinois is subject to denial, pursuant to Sections 8.E (1)(b), 8.E(1)(m), and 8.E.1(g) of the Act.
16. By virtue of the foregoing, the Respondent Kagel violated Sections 12.H and 12.J(2) of the Act.

Kagel's Misleading/False Statements in Business Cards and Letterhead

17. In April 2014, pursuant to Respondent's application for registration with the State of Illinois as an Investment Adviser Representative, the Department conducted an on-site examination of Respondent's books and records and requested, *inter alia*, a copy of Respondent's current business card and current letterhead.
18. During the Department's Examination, Respondent presented his business card and letterhead which contained misleading/false statements regarding Respondent's credentials. (*Respondent's Business Card and Letterhead are attached herein as Exhibits C & D*).

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19. Respondent's *letterhead* made the following misleading statements:

- a. That Respondent is a "Registered Representative", where Respondent has not been a "Registered Representative" in the State of Illinois since May 2011 (at least 3 years).
- b. That the "Securities [are] offered through Ameritas Investment Corp (AIC) member NASD/SIPC", where Respondent has not offered securities through AIC since 2010 (at least 4 years); where NASD (FINRA's predecessor) has not been an existing entity by that name since 2007.
- c. That Respondent claimed on his letterhead "SIPC" Insurance Coverage. In fact, at the time of the exam, Respondent Kagel's customers were not covered by SIPC insurance, as neither Kagel nor Kagel Financial Services were members of SIPC and/or associated with a SIPC Member.

20. Respondent's *business card* made the following misleading statements:

- a. That Respondent is an "Investment Advisor Representative", where Respondent was not (and is not) registered as an "Investment Advisor Representative" in the State of Illinois.
- b. That the "Securities [are] offered through Redhawk Wealth Advisors member NASD/SIPC", where Respondent was and is no longer affiliated with Redhawk;
- c. Respondent is claiming "SIPC" Insurance Coverage on his business card. In fact, at the time of the exam, Respondent Kagel's customers were not covered by SIPC insurance, as neither Kagel nor Kagel Financial Services were members of SIPC and/or associated with a SIPC Member.

21. Section 8.E (1)(b) of the Act provides, *inter alia*, subject to the provisions of Section 11.F of the Act, that the registration of an investment adviser representative may be denied if the Secretary of State finds that the investment adviser representative has engaged in any unethical practice in connection with any security, the offer or sale of securities, or in any fraudulent business practice.

22. Section 8.E(1)(m) of the Act provides, *inter alia*, subject to the provisions of Section 11.F of the Act, that the registration of an investment adviser representative may be denied if

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the Secretary of State finds that the investment adviser representative has conducted a continuing course of dealing of such nature as to demonstrate an inability to properly conduct the business of the investment adviser representative.

23. Section 8.E.1(g) of the Act provides, *inter alia*, subject to the provisions of Section 11.F of the Act, that the registration of an investment adviser representative may be denied if the Secretary of State finds that the investment adviser representative has violated any provision of this Act.
24. Section 12.J(2) of the Act provides, *inter alia*, that it shall be a violation of the provisions of this Act for any person, when acting as an investment adviser representative, by any means or instrumentality, directly or indirectly, to engage in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client.
25. By virtue of the foregoing, the Respondent's registration as an investment adviser representative in the State of Illinois is subject to denial, pursuant to Sections 8.E (1)(b), 8.E(1)(m), and 8.E.1(g) of the Act.
26. By virtue of the foregoing, the Respondent Kagel violated Section 12.J(2) of the Act.

Kagel's Misleading/False Statements in Respondent's Websites

27. Respondent Kagel registered a web site with the domain name of www.safemoneywizard.com (The Website).
28. At all relevant times, Respondent Kagel was the administrator of the web site with the domain name of www.safemoneywizard.com.
29. Respondent Kagel knew or should have known that the material on The Website would be widely circulated and available for public viewing throughout Illinois and beyond.
30. The Website made the following misleading statements:
 - a) That Respondent has been improperly holding himself out as an "Investment Advisor Representative Registered with the State of Illinois" on one or more websites, including www.safemoneywizard.com, when he is not registered as such.
 - b) That on one or more of Respondent's websites, including www.safemoneywizard.com, as of the date of this Notice, Respondent's website(s) have falsely indicated/implied that Kagel is affiliated with "Redhawk Wealth

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Advisors, Inc. An SEC-Registered Investment Advisor". In fact, Respondent has not been affiliated with Redhawk Wealth Advisors, Inc. since March 2014. (See Exhibit E, attached herein – relevant pages printed from Respondent's website, www.safemoneywizard.com, October 2014).

31. Section 8.E (1)(b) of the Act provides, *inter alia*, subject to the provisions of Section 11.F of the Act, that the registration of an investment adviser representative may be denied if the Secretary of State finds that the investment adviser representative has engaged in any unethical practice in connection with any security, the offer or sale of securities, or in any fraudulent business practice.
32. Section 8.E(1)(m) of the Act provides, *inter alia*, subject to the provisions of Section 11.F of the Act, that the registration of an investment adviser representative may be denied if the Secretary of State finds that the investment adviser representative has conducted a continuing course of dealing of such nature as to demonstrate an inability to properly conduct the business of the investment adviser representative.
33. Section 8.E.1(g) of the Act provides, *inter alia*, subject to the provisions of Section 11.F of the Act, that the registration of an investment adviser representative may be denied if the Secretary of State finds that the investment adviser representative has violated any provision of this Act.
34. Section 12.J(2) of the Act provides, *inter alia*, that it shall be a violation of the provisions of this Act for any person, when acting as an investment adviser representative, by any means or instrumentality, directly or indirectly, to engage in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client.
35. By virtue of the foregoing, the Respondent's registration as an investment adviser representative in the State of Illinois is subject to denial, pursuant to Sections 8.E (1)(b), 8.E(1)(m), and 8.E.1(g) of the Act.
36. By virtue of the foregoing, the Respondent Kagel violated Sections 12.J(2) of the Act.

NOTICE: You are further notified that you are required pursuant to Section 130.1104 of the Rules and Regulations (14 Ill. Adm. Code 130) (the "Rules"), to file an answer to the allegations outlined above within thirty (30) days of the receipt of this Notice. A failure to file an answer within the prescribed time shall be construed as an admission of the allegations contained in the Notice of Hearing.

Furthermore, you may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate. A failure to so appear shall constitute default, unless Respondent has upon due notice moved for and obtained a continuance.

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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 at:

<http://www.cyberdriveillinois.com/departments/securities/lawrules.html>, or on request.

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

Dated: This 17th day of October, 2014.



JESSE WHITE
Secretary of State
State of Illinois

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