

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

IN THE MATTER OF: JOHN J. HORELED

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) **File No. 1400469**
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NOTICE OF HEARING

TO THE RESPONDENT: JOHN J. HORELED
6816 Meadow Drive
Crystal Lake, Illinois 60012

You are hereby notified that pursuant to Section 11.F of the Illinois Securities Law of 1953, [815 ILCS 5/1 *et seq.*] (the "Act") and 14 Ill. Adm. Code 130, Subpart K, a public hearing will be held at 69 West Washington Street, Suite 1220, Chicago, Illinois 60602, on the 19th day of August, 2015 at the hour of 10:00 a.m., or as soon thereafter as counsel may be heard, before James Kopecky, or such other duly designated Hearing Officer of the Secretary of State.

The hearing will be held to determine whether an Order should be entered against respondent John J. Horeled (at times herein "Horeled") which prohibits him from giving investment advice within the State of Illinois, and 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 Section 11 of the Act, payable within ten (10) days of the entry of the Order.

Summary

Respondent John J. Horeled is an attorney in the State of Illinois, licensed with the Attorney Registration and Disciplinary Commission. Horeled regularly represented Charles A. Lindquist (at times "Charles" or "Mr. Lindquist") and Jean C. Lindquist (at times "Jean" or "Mrs. Lindquist"), husband and wife, in various legal matters. In 1990 Jean was involved in an auto/train collision in which she suffered numerous injuries, including brain trauma, but survived. In 1993 Horeled advised the Lindquists to each place their assets into Living Trusts, with Mr. Lindquist being the Settlor of the Charles A. Lindquist Trust; and Mrs. Lindquist being the Settlor of the Jean C. Lindquist Trust. In 1993 Horeled drafted the original Trust documents, which were amended from time to time. Jean signed as the Settlor of her Trust. On July 24, 2000 Dr. James P. Kelly, Medical Director, Chicago Neurological Institute, evaluated Mrs. Lindquist and reported that she "...has considerable cognitive deficits..." In 2002 Horeled drafted an Amendment, signed by Mrs. Lindquist, in which Horeled was named as "Successor Trustee".

In 2006 Jean's husband Charles A. Lindquist was killed in an automobile accident. Respondent Horeled assumed the role of "Successor Trustee". As such he moved the Jean C. Lindquist Trust assets to the Harvard State Bank Trust Department ("Harvard"), and began to work with Harvard

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trust officer Gerald Helt. Respondent Horeled then proceeded to regularly give and receive investment advice to and from Gerald Helt, and was actively involved in the buying and selling of stocks and other securities in and out of the trust assets. Between 2011 and 2014 Horeled charged the Jean C. Lindquist Trust (and other Lindquist Trusts) between \$200 and \$260 per hour for his services as "Trustee".

The premise of this Action is that Mrs. Lindquist never had the mental capacity to manage her own affairs, enter contracts or become the Settlor of a Living Trust. For this reason the Jean C. Lindquist Trust never existed, and accordingly no "Trustee", or "Successor Trustee", ever existed or ever had power to act as such – or hold himself out as such – or buy and sell stocks and other securities as such - or bill the "Jean C. Lindquist Trust" \$200 - \$260 per hour for services he had no power to perform.

Simply put, Respondent John J. Horeled, without authority held himself out as "Successor Trustee" who, at a significant cost to Mrs. Lindquist, acted fraudulently in the buying and selling of securities, and as a securities advisor to the "Trust" and the Harvard Trust Officer, Gerald Helt.

Accordingly, the grounds for the proposed action are as follows:

1. Respondent John J. Horeled (or "Horeled") has a last known address of 6816 Meadow Drive, Crystal Lake, Illinois 60012.
2. Horeled is an Illinois attorney who represented Mrs. Jean C. Lindquist (at times "Jean" or "Mrs. Lindquist") in various legal matters.
3. In 1990 Mrs. Lindquist was involved in an auto accident that resulted in a brain injury which caused her "...considerable cognitive deficits..."
4. Mrs. Lindquist's brain injury rendered her unable to manage her personal affairs, to negotiate or enter contracts, or to act as a Settlor to place her assets into a Living Trust or to designate its Trustee or Successor Trustee.
5. In 1993 Respondent, as an attorney, drafted a "Living Trust" document, which he named the "Declaration of Trust of Jean C. Lindquist", and designated Mrs. Lindquist's husband Charles A. Lindquist as "Trustee".
6. In 1993 Mrs. Lindquist signed this document.
7. On July 24, 2000 Dr. James P. Kelly, M.D., Medical Director, Chicago Neurological Institute, examined and evaluated Mrs. Lindquist, and reported that she "...has considerable cognitive deficits..."
8. In August 2000 Respondent Horeled, drafted an Amendment to the "Declaration of Trust of Jean C. Lindquist", naming Mrs. Lindquist's husband Charles A. Lindquist as Trustee,

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but also designating himself as "Successor Trustee" in the event that Mr. Lindquist were to become unable to act as Trustee.

9. In August 2000 Mrs. Lindquist signed this document.
10. In 2006 Jean's husband and named "Trustee" Charles A. Lindquist was killed in an automobile accident.
11. Later in 2006 Respondent Horeled assumed the role of "Successor Trustee".
12. Shortly thereafter, as "Successor Trustee", Horeled moved the "Trust" assets, including stocks and other securities, from a Raymond James account to the Harvard State Bank Trust Department.
13. At that time Mr. Gerald Helt was the Harvard Bank trust department officer who was to work with Horeled to manage the "Trust" assets, including buying and selling stocks and other securities.
14. Throughout the time that the Jean C. Lindquist "Trust" assets were held by Harvard State Bank, Gerald Helt and Horeled jointly decided which stocks and other securities were to be bought and which were to be sold.
15. At times Horeled provided Gerald Helt with information, suggestions, recommendations, and advice as to which stocks and other securities were to be bought and which were to be sold.
16. At times Gerald Helt provided Horeled with information, suggestions, recommendations, and advice as to which stocks and other securities were to be bought and which were to be sold

FRAUD IN THE BUYING AND SELLING OF SECURITIES

17. Because Mrs. Lindquist was unable to be a Settlor of a Trust, the "Declaration of Trust" signed by her was, in fact, not a Trust.
18. Because Mrs. Lindquist was unable to be a Settlor of a trust, the Amendments to the purported "Declaration of Trust" signed by her did not establish an Amended Trust.
19. Because the original "Declaration of Trust" and the "Amended Trust" documents failed to establish a Trust or an Amended Trust, the provisions of these documents are invalid, and have no effect in law; and accordingly the provisions naming the "Trustee" and the "Successor Trustee" are invalid and have no effect in law.
20. Because of the foregoing there never existed a Trustee or a Successor Trustee of the "Living Trust" of Mrs. Lindquist.

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21. Respondent John J. Horeled was never Trustee or Successor Trustee of a Jean C. Lindquist Trust.
22. Respondent John J. Horeled assumed the duties of "Trustee" and acted as Trustee, but had no power to do so.
23. Respondent John J. Horeled acted as Trustee and transferred Mrs. Lindquist's assets from Raymond James to Harvard State Bank but had no power to do so.
24. Respondent John J. Horeled acted as Trustee and provided investment advice to Gerald Helt at Harvard State Bank but had no power to do so.
25. As a purported Trustee/investment advisor Respondent John J. Horeled collected fees of \$200 to \$260 but had no right or power to do so, or to collect any fee.
26. Respondent's activities described above constitute the activity of giving investment advice to others, and being an "investment adviser", as that term is defined in Sec 2.11 of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act").
27. Respondent's activities described above involve the buying and selling of securities as those terms are defined in Sections 2.1, 2.5 and 2.5a of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act").
28. Respondent John J. Horeled failed to advise Gerald Helt, or any principal at the Harvard State Bank, that Respondent Horeled was not an actual Trustee, and therefore did not have the power he held himself out as having, including the power to give investment advice and to collect Trustee fees.
29. Respondent John J. Horeled failed to advise any beneficiary, contingent beneficiary or other person with an interest in Mrs. Lindquist's assets, that the Trust was invalid and Respondent Horeled was not an actual Trustee, and therefore did not have the power he held himself out as having, including the power to give investment advice and to collect Trustee fees.
30. Section 12.A of the Act provides, *inter alia*, that shall be a violation of the Act for any person, "to offer or sell any security except in accordance with the provisions of this Act".
31. Section 12.F of the Act provides, *inter alia*, 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".
32. Section 12.G of the Act provides, *inter alia*, that it shall be a violation of the 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

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make the statements made, in the light of the circumstances under which they were made, not misleading.

33. Section 12.I of the Act provides, *inter alia*, that it shall be a violation of the Act for any person, "to employ any device, scheme or artifice to defraud in connection with the sale or purchase of any security, directly or indirectly".
34. By virtue of the foregoing Respondent John J. Horeled has violated sections 12.A, F, G, and I of the Illinois Securities Law of 1953 815 ILCS 5/1 ("the Act").
35. Section 11.E(4) of the Act provides, *inter alia*, that if the Secretary of State, after finding that any provision of the Act has been violated, may impose a fine as provided by rule, regulation or order not to exceed \$10,000.00 for each violation of the Act.
36. By virtue of the foregoing John J. Horeled is subject to an Order of Prohibition, and a fine of up to \$10,000.00 per violation.

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 or a Special Appearance pursuant to Section 130.1107 of the Rules, or other responsive pleading within thirty days of the receipt of this notice. Your failure to do so 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 so appear shall constitute default.

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

Dated this 19th day of June, 2015.



Jesse White
Secretary of State
State of Illinois

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