

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: PHILLIP GURGONE, CRD # 4474635

) File No. 1500168
)

AMENDED NOTICE OF HEARING

TO THE RESPONDENT: Phillip Gurgone
Benjamin & Jerold Brokerage I, LLC
80 Broad St, 6th Floor
New York, NY 10005

c/o Benjamin & Jerold Brokerage I, LLC
Attn: Raymond Maratea
80 Broad St, 6th Floor
New York, NY 10005

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, (the "Code") a public hearing will be held at 421 E. Capital Ave., 2nd Floor, Springfield, Illinois, 62701, on the 18th day of November, 2015 at the hour of 10:00 a.m. or as soon thereafter as counsel may be heard, before Jon K. Ellis or such other duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order should be entered suspending or revoking the registration of Phillip Gurgone (the "Respondent") as a salesperson and investment adviser representative in the State of Illinois and whether to grant such other relief as may be authorized under the Act, including, but not limited to, imposition of a monetary fine, pursuant to Section 11.E.(4) of the Act, payable within ten (10) business days of entry of the Order.

The grounds for such proposed action are as follows:

1. At all relevant times, the Respondent was registered with the Secretary of State as a salesperson and investment adviser representative in the State of Illinois pursuant to Section 8 of the Act.
2. Respondent is currently a registered representative at Benjamin & Jerold Brokerage I, LLC, a dealer registered in the State of Illinois pursuant to Section 8 of the Act.
3. From May 28, 2014 through July 10, 2015, Respondent was a registered investment adviser representative at Trac Asset Management LLC, an investment adviser registered in the State of Illinois pursuant to Section 8 of the Act. The Illinois registration was not terminated until July 16, 2015.

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4. On or about March 7, 2015, the Illinois Department of Revenue sent a Collection Action Notice of Intent letter to Respondent's home address. The letter advised that, if Respondent did not resolve his debt owed to the Department of Revenue, his salesperson license would be suspended and provided contact information for the Department of Revenue.
5. On or about June 19, 2015, the Office of the Secretary of State, Illinois Securities Department sent a letter to Respondent via certified mail notifying him that he had failed to effectively respond to the Department of Revenue and warning of the possible negative effect on his registration. Respondent was required to explain the situation, and Respondent's efforts to resolve it, in a notarized affidavit to the Securities Department within 10 business days of the date on which the letter was delivered.
6. On June 22, 2015, the certified letter was delivered to Respondent's office.
7. On July 7, 2015, the Securities Department contacted representatives of Benjamin & Jerold Brokerage I, LLC and Trac Asset Management LLC, informing the firms that Respondent had failed to respond to the Securities Department letter within 10 business days of receipt of the letter and warning that enforcement action would be taken if his affidavit was not delivered to the Securities Department by July 9, 2015.
8. Respondent has failed to provide the affidavit.
9. Respondent has failed to pay amounts owed to the Department of Revenue or to get on a payment plan.
10. Respondent has failed to submit certain returns to the Department of Revenue and to pay any amounts owed for those years or to get on a payment plan for those years.
11. From 2001 to the present, several liens have been entered against Respondent. The liens total \$209,779.91 and each lien is currently outstanding, according to Respondent's disclosures. Furthermore, some of the liens were not reported for several years after they were entered against Respondent.
12. A Notice of Hearing was entered on July 13, 2015.
13. Respondent failed to file an answer to the Notice of Hearing, but did appear at the hearing on September 16, 2015.
14. At that hearing, the Securities Department was granted leave to file this Amended Notice of Hearing.
15. Section 8.C(8) provides, *inter alia*, that any change which renders no longer accurate any information contained in any application for registration or re-registration as a salesperson

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shall be reported to the Secretary of State within 10 business days after the occurrence of such change.

16. Section 12.D of the Act provides, *inter alia*, that it shall be a violation of the provisions of the Act 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 the Act or any rule or regulation made by the Secretary of State pursuant to the Act, any statement which was false or misleading with respect to any material fact.
18. Section 8.E(1)(g) of the Act provides, *inter alia*, that the registration of a salesperson or investment adviser representative may be suspended or revoked if the salesperson or investment adviser representative has violated any of the provisions of this Act.
19. Section 8.E(1)(h) provides, *inter alia*, that the registration of a salesperson or investment adviser representative may be denied, suspended, or revoked if the Secretary of State finds that there has been made any material 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 adviser representative's business repute or qualifications or has refused to furnish any such information requested by the Secretary of State.
20. Section 8.E(1)(m) of the Act provides, *inter alia*, that the registration of a salesperson or investment adviser representative may be suspended or revoked if the salesperson or investment adviser representative has conducted a continuing course of dealing of such nature as to demonstrate an inability to properly conduct the business of a salesperson or investment adviser representative.
21. Section 8.E(1)(o) provides, *inter alia*, that the registration of a salesperson or investment adviser representative may be denied, suspended or revoked if the Secretary of State finds that such salesperson or investment adviser representative has failed to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any Act administered by the Illinois Department of Revenue, until such time as the requirements of that Act are satisfied.
22. Section 11.E(4) of the Act provides, *inter alia*, that the Secretary of State, after finding that any provision of the Act has been violated, may issue an order of censure, charge costs of investigation, and impose a fine not to exceed \$10,000 for each violation of the Act.
23. Section 11.F(1) of the Act provides, *inter alia*, that the Secretary of State may suspend or revoke the registration of a salesperson or investment adviser representative and impose a

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fine for violation of the Act after an opportunity for hearing upon not less than 10 days notice given by personal service or registered mail or certified mail, return receipt requested, to the person or persons concerned.

24. By virtue of the foregoing, the Respondent is subject to a fine of up to \$10,000 per violation, an order of censure, and an order that suspends or revokes his registration in the State of Illinois pursuant to Sections 8 and 11 of the Act.

You are further notified that you are required, pursuant to Section 130.1104 of the Rules, to file an answer to the allegations outlined above within thirty (30) days of receipt of this Notice. A 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.

You may be represented by legal counsel, present evidence, cross-examine witnesses and otherwise participate. However, a failure to appear shall constitute default.

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

ENTERED: This 10th day of September, 2015.



JESSE WHITE
Secretary of State
State of Illinois

Attorney for the Secretary of State:

Shannon Bond
Illinois Securities Department
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Hearing Officer:

Jon K. Ellis