

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF:
TIMOTHY JAMES FERGUS, an individual.

)
)
) File No. 1500256
)

NOTICE OF HEARING

TO THE RESPONDENT:

Timothy James Fergus
6611 N. Olmstead Avenue
Chicago, IL 60631

Timothy James Fergus
Care of:
Vanasco Genelly & Miller
Attention: Robert Castle
33 North LaSalle Street, Suite 2200
Chicago, IL 60602

You are hereby notified that pursuant to Section 11.E of the Illinois Securities law of 1953 [815 ILCS 5/1 et. Seq.] (The "Act") and Ill. Adm. Code 130, Subpart K, a public hearing will be held at 69 W. Washington Street, Suite 1220, Chicago, Illinois 60602, on the 4th day of February, 2016, at the hour of 10:00 AM, or as soon as possible thereafter, before George Georgopoulos or such duly designated Hearing Officer of the Secretary of State.

Said Hearing will be held to determine whether an Order shall be entered pursuant to Section 11.E of the Act prohibiting Respondents from selling or offering for sale securities in the State of Illinois and/or 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 11.E(4) of the Act, payable within ten (10) business days of the order.

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COUNT I

FRAUD

1. Respondent Timothy James Fergus ("Fergus") is a registered certified public accountant in the State of Illinois with a last known address of 6611 N. Olmstead Avenue, Chicago, IL 60631. Respondent Fergus was last registered to offer and sell securities in or from the State of Illinois in 2003.
2. On or around May 2007, Respondent Fergus met with Investor A, a senior citizen, to borrow some money so that he could start "day trading." Investor A had previous dealings with Respondent Fergus, as Respondent Fergus was Investor A's insurance agent, thereby creating a trust with Respondent Fergus.
3. On May 15, 2007, Respondent Fergus and Investor A entered into a promissory note whereby for value received (\$50,000), Respondent Fergus promised to pay Investor A the sum of \$50,000 together with interest accruing at the rate of 20% per annum (\$10,000) 1 year from May 15, 2007.
4. Investor A issued a check made payable to Respondent Fergus in the amount of \$50,000 dated May 18, 2007. The \$50,000 check was endorsed by Respondent Fergus and deposited into his personal bank account on May 18, 2007.
5. Investor A did not receive any payments from Respondent Fergus on the 2007 note.
6. In or around April 2008, Respondent Fergus contacted Investor A informing him that he was doing very well day trading and asked if Investor A could extend the first note and lend him some more money.
7. On April 2, 2008, Respondent Fergus and Investor A entered into a promissory note whereby for value received (\$50,000), Respondent Fergus promised to pay Investor A the sum of \$50,000 together with interest accruing at the rate of 20% per annum (\$10,000) 1 year from April 2, 2008.
8. Respondent Fergus did not make any payments on the original principal of \$50,000 and still owed the interest accrued of \$10,000. The \$10,000 was applied to the 2008 note. Therefore, the principal was \$100,000 accruing interest at 20% for the two notes.
9. Investor A issued a check made payable to Respondent Fergus in the amount of \$40,000 dated April 2, 2008. The \$40,000 check was endorsed by Respondent Fergus and deposited into his personal bank account on April 3, 2008.
10. Investor A did not receive any payments from Respondent Fergus on either of the 2007 or 2008 notes.

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11. On information and belief, Respondent Fergus transferred a portion of the funds to an account used to trade on the futures markets. The remaining funds, which were not used to trade on the futures market, were used for Respondent Fergus' personal expenses.
12. In or around May 2009, Respondent Fergus again approached Investor A and informed him that he had two fixed annuities he could cash out and obtain a better rate of return if he chose to invest more money with him (Respondent Fergus).
13. Respondent Fergus assisted Investor A in cashing out the two fixed annuities. Investor A received two checks from Axa Equitable Life Insurance Company, both dated May 26, 2009 and both in the amounts of \$12,965.91 for a total of \$25,931.82. These checks were deposited into Investor A's bank account.
14. Investor A issued a check made payable to Respondent Fergus in the amount of \$25,900 dated May 28, 2009. The \$25,900 check was endorsed by Respondent Fergus and deposited into his personal bank account on May 29, 2009.
15. The \$25,900 obtained from Investor A was used for Respondent Fergus' personal expenses.
16. Since 2009, Investor A has not received any interest payments nor the return of any of the \$115,900 in principal lent to Respondent Fergus.
17. To date, Respondent Fergus has failed to provide any accounting of the invested funds to Investor A.
18. The Promissory Notes entered into by Respondent Fergus constitute an "investment contract" and therefore is the offer or 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").
19. Section 12.F states *inter alia* 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 of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof.
20. Section 12.G of the Act states *inter alia* that it shall be a violation 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 the light of the circumstances under which they were made, not misleading.
21. Section 12.I of the Act states *inter alia* it shall be a violation of the provisions of this 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.

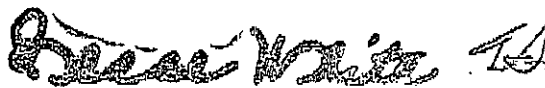
COUNT II

SALE OF UNREGISTERED SECURITIES

22. Paragraphs 1 through 21 are herein incorporated by reference.
23. As stated in paragraph 18, the Promissory Notes entered into by Respondent Fergus constitute an "investment contract" and therefore is the offer or 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").
24. Section 5 of the Act requires the registration of a security being offered or sold in the State of Illinois unless an exemption applies.
25. The securities offered by Respondent Fergus have not been registered with the State of Illinois nor has any exemption filing been received by the Secretary of State regarding any promissory notes.
26. Section 12.A of the Act states *inter alia* that it shall be a violation of this Act for any person to offer or sell any security except in accordance with the provisions of this Act.
27. Section 12.B of the Act states *inter alia* that it shall be a violation of the provisions of this Act for any person to deliver to a purchaser any security required to be registered under Section 5, Section 6, or Section 7 hereof unless accompanied or preceded by a prospectus that meets the requirements of the pertinent subsection of Section 5, Section 6, and Section 7.

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

Date of Mailing: 13th day of November 2015



JESSE WHITE
Secretary of State
State of Illinois

You are further notified that you are required pursuant to Section 1104 of the Rules to file an answer to the allegations outlined above, or other responsive pleading within 30 (thirty) days of receipt of this notice. Your failure to do this 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.

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Furthermore, you may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate. A failure to appear shall constitute default by you.

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:

<http://www.cyberdriveillinois.com/departments/securities/abfil.html>

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