

STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT

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IN THE MATTER OF: )  
TIMOTHY JAMES FERGUS, an individual. ) File No. 1500256

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AMENDED 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: David Genelly  
Adam Goldman  
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. Adim. Code 130, Subpart K, a public hearing will be held at 69 W. Washington Street, Suite 1220, Chicago, Illinois 60602, on the 19th day of April, 2016 at the hour of 1:00 PM, or as soon as possible thereafter, before George Georgopoulos or such duly designated Hearing Officer of the Secretary of State. On March 8, 2016 a pre-trial conference will be held before George Georgopoulos, or such duly designated Hearing Officer of the Secretary of State, at 69 W. Washington Street, Suite 1220, Chicago, Illinois 60602 at 1:00 PM.

Said Hearing will be held to determine whether an Order shall be entered pursuant to Section 11.E of the Act prohibiting Respondent from selling or offering for sale securities in the State of Illinois, providing investment advice, 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.

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 determine whether he was interested in giving Respondent Fergus money so that he could start "self trading." Respondent Fergus stated that he would give Investor A 20% interest on any money given by Investor A. 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 "things were going good" and "it might behoove Investor A to give him 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.

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10. Investor A did not receive any payments from Respondent Fergus on either of the 2007 or 2008 notes.
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. On January 19, 2009 Respondent Fergus met with Investor B, an individual Respondent Fergus had known for around 15 years as he was her insurance agent. Respondent Fergus informed Investor B that he was "day trading" and was doing "very well." Respondent Fergus stated that he would give Investor B 20% interest on any money given by Investor B, and that she could expect a payment of \$6,000 by December 2009.
13. On or around January 19, 2009 Respondent Fergus and Investor B entered into a promissory note. Investor B issued two separate checks made payable to Respondent Fergus in the amounts of \$4,000 and \$24,580 both dated January 19, 2009. The \$24,580 check was endorsed by Respondent Fergus and deposited into his personal bank account on January 20, 2009. The \$4,000 check was endorsed by Respondent Fergus and deposited into his personal bank account on January 22, 2009.
14. Investor B did not receive any payments from Respondent Fergus on the 2009 note.
15. On information and belief, Respondent Fergus used the funds acquired from Investor B to pay personal expenses, and did not use any portion for day trading.
16. In or around May 2009, Respondent Fergus again approached Investor A and informed him that he had two fixed annuities, which "were not making much money." Respondent Fergus instructed Investor A to cash out the fixed annuities and invest the money with Respondent Fergus.
17. 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.
18. 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.
19. The \$25,900 obtained from Investor A was used for Respondent Fergus' personal expenses, and no funds acquired from Investor A at this time were used for day trading.
20. 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.

21. Since 2009, Investor B has not received any interest payments nor the return of any of the \$28,580.
22. To date, Respondent Fergus has failed to provide any accounting of the invested funds to Investor A or Investor B.
23. In addition to the promissory notes offered to Investors A and B, Respondent Fergus offered promissory notes to two additional Illinois residents and one Ohio resident.
24. The Promissory Notes with a maturity date of more than 9 months entered into by Respondent Fergus constitute an offer or sale of a security as those terms are defined in Sections 2.1, 2.5, 2.5a and 3.L of the Illinois Securities Law of 1953 [815 ILCS 5/1 *et. seq.*] (the "Act").
25. 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.
26. 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.
27. 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

28. Paragraphs 1 through 27 are herein incorporated by reference.
29. As stated in paragraph 24, the Promissory Notes with a maturity date of more than 9 months entered into by Respondent Fergus constitute an offer or sale of a security as those terms are defined in Sections 2.1, 2.5, 2.5a and 3.L of the Illinois Securities Law of 1953 [815 ILCS 5/1 *et. seq.*] (the "Act").
30. Section 5 of the Act requires the registration of a security being offered or sold in the State of Illinois unless an exemption applies.

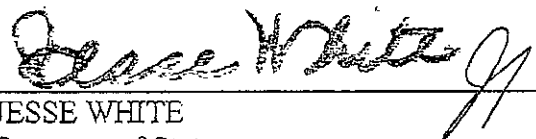
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31. The securities offered by Respondent Fergus have not been registered with the State of Illinois nor has any exemption filing been received by the Secretary of State regarding any promissory notes.
32. Section 12.A of the Act states *inter alia* 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.
33. 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: 25 day of March 2016



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 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.**

**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/abtil.html>**

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Attorneys for the Secretary of State:  
Frank Loscuito  
Office of the Secretary of State  
Illinois Securities Department  
69 West Washington Street, Suite 1220  
Chicago, Illinois 60602  
Telephone: (312) 793-7319

Hearing Officer:  
Law Office of George Georgopoulos  
22 W. Washington Street, Suite 1500  
Chicago, Illinois 60602  
312-523-3199 Office  
312-275-7664 Fax  
[Geopolis6@gmail.com](mailto:Geopolis6@gmail.com)