

STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT

\_\_\_\_\_  
IN THE MATTER OF: BARRY F. CASSESE )  
\_\_\_\_\_) )

FILE NO. 0300836

ORDER OF REVOCATION

**TO THE RESPONDENT:**

Barry F. Cassese  
(CRD#: 2080657)  
1 Cordwood Court  
East Northport, New York 11713

C/o Morgan Wilshire Securities, Inc.  
1400 Old Country Road  
Suite 304  
Westbury, New York 11590

WHEREAS, the above-captioned matter came on to be heard on March 24, 2004, pursuant to the Notice of Hearing dated February 2, 2004, FILED BY Petitioner Secretary of State, and the record of the matter under the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act") has been reviewed by the Secretary of State or his duly authorized representative.

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions are deemed to be proper and are hereby concurred with by the Secretary of State.

WHEREAS, the proposed Findings of fact, Conclusions of Law and Recommendations of the Hearing Officer Soula J. Spyropoulos, Esq. in the above-captioned matter have been read and examined.

WHEREAS, the proposed Findings of Fact of the Hearing Officer are correct and are hereby adopted as the Findings of Fact of the Secretary of State:

1. Section 130.1102 of Subpart K of the Rules and Regulations of the Illinois Securities Law of 1953 [the "Rules and Regulations"] states that each respondent shall be given a Notice of Hearing at least 45 days before the first date set for any hearing under the Act. Proper notice is given by depositing a Notice of Hearing with the United States Postal Service [the U.S.P.S.], either by certified or

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registered mail, return receipt requested, or by the personal service of the Notice of Hearing to the last known address of the Respondent.

As per Group Exhibit 1, on February 2, 2004, the Department deposited the Notice of Hearing on the File, the Notice, with the U.S.P.S. by certified mail, return receipt requested, to both Respondent's last known personal residence and last known place of business. The Notice was, thus, given on February 2, 2004. The Notice marks as the first date set for hearing the date of March 24, 2004, a date over 45 days after Respondent was given the Notice. Therefore, the service of the Notice upon Respondent by the Department was proper.

2. Section 11.F(1) of the ACT provides that the Secretary of State shall not undertake any action or impose a fine against a registered salesperson of securities within the State of Illinois for a violation of the Act without first providing the salesperson 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 concerned.

As per Group Exhibit 1, Respondent was properly notified of his opportunity to be heard on the File via the Department's timely provision thereto of the Notice. As discussed in Paragraph 1 here in above, the Department served the Notice upon Respondent on February 2, 2004, over 10 days before the Respondent's scheduled opportunity to be heard on March 24, 2004. Notably, both of the return receipts were personally executed, not returned unclaimed.

Respondent received well over the requisite 10 days notice of the scheduled, March 24<sup>th</sup>, hearing date. Therefore, because the Department gave proper notice of the hearing to Respondent, the Department has personal jurisdiction over Respondent.

3. Respondent did not appear, whether personally or through counsel, at the hearing.
4. The Department offered exhibits, identified above, each of which was received and admitted into evidence, a proper record of all proceedings having been made and preserved, via the services of a court reporter, as required.
5. No outstanding petitions, motions, or objections exist as to this proceeding.
6. At all material and relevant times Respondent was registered with the Secretary of State as a salesperson pursuant to Section 8 of the Act.
7. On July 23, 2003, without admitting or denying the findings alleged by NASD as per the Complaint, Respondent consented to NASD's entry of the Letter of AWC executed thereby. The Letter of AWC sanctions Respondent with a fine in the amount of \$5,000.00, and with a suspension from associating with any member firm in all capacities for a period of forty (40) calendar days.

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The Order or AWC finds that on or about April 17, 1998, Respondent effected a transaction in WMS (his employing member) customer WH's account, specifically, the purchase of 250,000 shares of Community Care Services stock and 500,000 CCS warrants. Cassese acted without customer WH's prior knowledge, authorization, or consent. By reason of the foregoing, Respondent violated NASD Conduct Rule 2110.

WHEREAS, the proposed Conclusions of Law made by the Hearing Officer are correct and are hereby adopted as the Conclusions of Law of the Secretary of State:

1. The Secretary of State has jurisdiction over the subject matter hereof pursuant to the Act.
2. Section 8.E(1)(j) of the Act provides, *inter alia*, that the registration of salespeople registered within the State of Illinois may be revoked if the Secretary of State finds that such have been suspended by any self-regulatory organization registered under the Federal 1934 Act or the Federal 1974 Act arising from any fraudulent or deceptive act or a practice in violation of any rule, regulation, or standard duly promulgated by the self-regulatory organization.
3. Respondent is a registered salesperson of securities in the State of Illinois who has entered against him the Order, the AWC, that, because of Respondent's having bought and sold securities on behalf of a customer without the customer's prior knowledge, authorization or consent, not only fines him in the amount of \$5,000.00, but also suspends him from associating with any NASD member firm in any and all capacities for a period of forty (40) calendar days. Respondent's actions were, thus, in contravention of NASD Conduct Rule 2110.

Therefore, the suspension of Respondent in the Order clearly arose from fraudulent or deceptive acts or practices in violation or contravention of rules, regulations, or standards duly promulgated by a self-regulatory organization, the NASD, registered under the Federal 1934 Act.

4. Under and by virtue of the foregoing, Respondent's registration as a salesperson in the State of Illinois is subject to revocation pursuant to Section 8.E(1)(j) of the Act.

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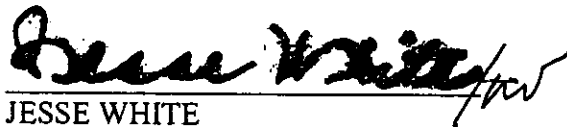
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WHEREAS, the Hearing Officer recommended that the Secretary of State should revoke the Respondent's registration as a salesperson in the State of Illinois, and the Secretary of State adopts in its entirety the Recommendation made by the Hearing Officer.

NOW THEREFORE, IT SHALL BE AND IS HEREBY ORDERED:

1. That Barry F. Cassese's registration as a salesperson in the State of Illinois is revoked pursuant to the authority provided under Section 8.E(1)(j) of the Act.
2. That this matter is concluded without further proceedings.

ENTERED: This 12<sup>th</sup> day of April, 2004.



JESSE WHITE  
Secretary of State  
State of Illinois

This is a final order subject to administrative review pursuant to the Administrative Review Law [735 ILCS 5/3-101 et seq.] and the Rules and Regulations of the Act (14 Ill. Admin. Code, Ch. 1 Sec. 130.1123). Any action for judicial review must be commenced within thirty-five (35) days from the date a copy of this Order is served upon the party seeking review.