

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: JAMES R. PECORARO)
_____)

FILE NO. 0500608

SUMMARY ORDER OF DENIAL

TO RESPONDENTS

James R. Pecoraro
(CRD#: 2440231)
63 The Glen
Glen Head, New York 11542

J.P. Turner & Company L.L.C.
3060 Peachtree Road NW
11th Floor
Atlanta, Georgia 30305

WHEREAS, on October 28, 2005, J.P. Turner & Company, L.L.C., a registered dealer, filed a Form U-4 application for registration of James R. Pecoraro (the "Respondent") as a salesperson in the State of Illinois;

WHEREAS, pursuant to the authority granted under Section 11.F of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act"), the Secretary of State has determined that the Respondent's application for registration as a salesperson in the State of Illinois is subject to a Summary Order of Denial;

WHEREAS, the Secretary of State finds that the grounds for such Summary Order of Denial are as follows:

1. That on October 13, 2004, the Securities Commissioner of the State of Colorado entered Consent Order (the "Order") in Case XY 2004-001 against the Respondent which imposed the following sanctions:
 - a. suspended his securities sales representative license for three (3) years;
 - b. will never re-apply for a sales representative license in the State of Colorado; and

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- c. pay the sum of \$15,900.00 to two (2) Colorado investors.
2. That paragraph 2 of the order provides, "That stated provisions contained in the Stipulation (For Consent Order hereinafter the "Stipulation") filed in this matter are specifically incorporated herein and made a part of this Order."
3. Paragraph 2 of the Stipulation provides, "As a result of the Staff's investigation, charges and allegations have been filed against Pecoraro (Respondent) for alleged violations of § 11-51-401(l)(g) and 11-51-501, C.R.S. (2003), as more fully and specifically set forth in the Staff's Notice of Duty to Answer, Notice to Set, Notice of Hearing, and Notice of Charges ("Notice of Charges") filed with this Court on February 6, 2004. A copy of the Notice of Charges is attached hereto as Exhibit 1 and incorporated herein by reference."
4. The Notice of Charges alleged:
 - a. Harrison Securities, Inc. ("Harrison") is a California corporation with its principal place of business at 6 Harbor Park Drive, Port Washington, NY 10050. Harrison is a member firm of the National Association of Securities Dealers ("NASD"), and during all times relevant hereto, has been licensed as a broker-dealer in the State of Colorado. Harrison became licensed as a broker-dealer in Colorado on November 1, 2000.
 - b. The Respondent is an adult male individual who resides at 63 The Glenn, Glen Head, NY 11542. During all times relevant hereto, he was associated with Harrison as a securities sales representative. He became licensed as a securities sales representative in Colorado on March 29, 2001.
 - c. Harrison is a broker-dealer offering various financial services to individuals and corporations. Harrison employs securities sales representatives to purchase and sell securities for the accounts of others. Harrison uses Wexford Clearing Services Corporation ("Wexford") as a clearing firm to handle the confirmation, delivery and settlement of customer transactions.
 - d. During the period from at least June 2002 until May 2003, the Respondent and others engaged in a pattern of unauthorized trading, unsuitable trading, securities fraud, and other deceptive sales practices with investors. This course of business generated significant commissions for Harrison and its sales representatives, but resulted in significant losses for the investors. The scheme violated various provisions of the Act and harmed Colorado investors so that

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the revocation of the broker-dealer license of Harrison and the sales representative licenses of the Respondent and others is warranted.

- e. Harrison sales representatives solicited various Colorado investors through repeated cold calls and other high pressure sales tactics. "Cold calling" is a practice in which sales representatives make unsolicited phone calls to people with whom they have had no prior relationship in order to attract new business. Once a Colorado investor verbally decided to open an account, a Harrison sales representative would complete investor's "New Account Form" based on the investor's telephone responses to various questions for information about the investor. The New Account Form included a section entitled "client profile." The client profile contains detailed information about the investor's objectives, income and net worth, investment experience, and risk tolerance. Once the Harrison sales representative completed the New Account Form, it was sent to the investor with other forms.
- f. When the investor received the New Account Forms and other documents, he was instructed by the Respondent and others to complete all the highlighted areas and was directed to sign all the forms in specific locations.
- g. The New Account prepared by the Respondent and others for Colorado investors misstated or overstated the income, net worth amounts, investment objectives, and risk tolerance of investors. At times, the information contained on the New Account Forms was inconsistent with or contradictory to internal documents kept by Harrison. By way of example and not limitation, a Colorado investor told Harrison he had a moderate tolerance for risk and had the investment objectives of preserving capital and generating income. These investment objectives were stated on the New Account Forms, but internal Harrison documents regarding the investors account reflect the more risky investment objectives of speculation and growth.
- h. In completing the New Account Forms, certain Colorado investors advised the Respondent and others they sought to open "cash accounts." In a "cash account" the customer is required to pay the full amount due when securities are purchased. Even though these investors desired cash accounts and Harrison established the accounts as "cash" on the New Account Form, Harrison routinely sent these investors a form Margin Agreement which authorized Harrison to open a margin account on their behalf. Unlike a cash account, a "margin account" allows an investor to purchase securities, with money he does not have, by borrowing money from the broker. This practice is not permitted

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in a cash account. Many of these Colorado investors were misled into signing the Margin Agreements.

- i. When it forwarded the New Account Forms and other forms, including the Margin Agreements, Harrison directed each investor to complete all the highlighted areas and sign where indicated on all the forms they received. The investors were misled into believing that they had to sign all the forms, including the Margin Agreements, in order to open an account at Harrison. In each instance, Harrison failed to explain to the investors why a margin agreement was sent to them when a cash account had been desired, what a margin account was, and the risks inherent in opening a margin account.
- j. These Colorado investors did not grant Harrison or its account representatives legal authority or actual authorization to exercise “discretionary authority” over their accounts. A “discretionary account” is an account in which the investor gives the broker authority to purchase or sell securities for the investor without the investor’s prior knowledge or consent.
- k. Although certain Colorado investors did not grant Harrison or its sales representatives the legal or actual authority to exercise discretionary trading, the Respondent and others exercised discretionary authority in customer accounts by purchasing or selling securities in the accounts without prior authorization from the investor. By way of example, and not limitation, one Colorado investor contacted Harrison to halt the unauthorized trading. Nevertheless, the next monthly statement reflects 30 securities purchases and sales. The following monthly statement reflects an additional 14 securities purchases and sales. The account of another, elderly Colorado investor who desired to control the trading in his account was also frequently traded without his authorization. In a one week period, 24 securities purchases and sales were conducted in the account. In the following month, 19 more securities purchases and sales were executed. In the next month, 25 more securities purchases and sales were executed.
- l. The Respondent also engaged in a course of frequent, high-risk trading that was inconsistent with certain Colorado customers’ financial situations. The trades were unsuitable in light of these investors’ knowledge, financial situations, needs, experience, and investment objectives. By way of example and not limitation, one Colorado investor had the investment objectives of preserving capital and generating income. Nevertheless, the Respondent engaged in frequent trading, sometimes executing multiple transactions in a single day. The trading was characterized by repeated short sales (as described below, and

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margin trades, ultimately resulting in losses in excess of \$100,000 to the investor.

- m. The Respondent often employed an investment technique known as “selling short” in the accounts of Colorado investors. “Selling short” is a risky strategy used by investors who try to profit from the falling price of a stock. When “selling short,” the investor borrows securities from his broker, sells them, later buys them back at a lower price, and ultimately returns the borrowed securities. The profit is the difference between the price at which the stock was sold and the cost to buy it back, minus commissions and the costs to borrow the stock. “Selling short” is a risky technique because, if the price of the shares increases, the potential losses are unlimited. At some point the investor must “cover the short position” by replacing the borrowed shares.
- n. In connection with the opening of customer accounts, the Respondent and others directly and indirectly allowed accounts to be traded as discretionary accounts and margin accounts when they knew, or should have known, that these were non-discretionary and cash accounts; that the income, net worth amounts and investment objectives as indicated on the new account forms for investors were false and misleading; that they allowed trading, including risky margin trading and short selling trading strategies in these accounts without learning the essential facts about the financial situation, investment objectives and market sophistication of investors, or knew of these facts, and still allowed such trading to occur; that they forwarded new account forms and margin agreements with instructions to investors to complete all the highlighted areas on all the forms and sign where indicated on all of the forms without explaining to the investors why a margin agreement was sent to them when a cash account was requested, what a margin account was, and the risks inherent in opening a margin account, and that allowing the investors to execute margin agreements without a full understanding of what they were signing or the significance of signing the agreements was misleading to investors.
- o. As a result of the unauthorized and unsuitable trading in the accounts of at least four Colorado investors, in conjunction with commission and interest charges on short and margin trades, investors sustained losses in excess of \$130,000. In contrast, the trading scheme generated significant commissions for the Respondent and others.
- p. In connection with the offer, purchase and sale of securities the Respondent and others, either directly or indirectly, made oral or

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written statements to investors, in and from the State of Colorado, including, but not limited to, the following:

- i. that investors would exercise control over their own trading decisions;
 - ii. that trading would be consistent with investors' actual investment objectives;
 - iii. that trading would be suitable in light of the investors' knowledge, financial situation, needs, experience, and investment objectives.
- q. In truth and material fact, and contrary to the statements made by the Respondent and others:
- i. The Respondent and others traded securities in investors' accounts without authorization.
 - ii. Trading in the accounts was risky and speculative, employing techniques such as "short selling" and buying securities on margin, which was inconsistent with investors' actual investment objectives:
 - iii. Trading was unsuitable in light of the investors' knowledge, financial situation, needs, experience and investment objectives.
- r. In connection with the offer and sale of securities, the Respondent and others, directly or indirectly, failed to disclose material facts to investors, including, but not limited to, the following:
- i. the fact that sales representatives would execute unauthorized trades in investor accounts;
 - ii. the fact that sales representatives would employ risky investment techniques that were inconsistent with actual investor objectives;
 - iii. the fact that sales representatives would execute unsuitable trades;
 - iv. the fact that sales representatives would engage in frequent trades in order to generate significant commissions.
- s. The investments offered and sold by the Respondent and others are "securities" under the Act in that they are at least

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“stocks,” and/or “investment contracts” as defined in § 11-5 1201(17), C.R.S. (2003).

Unfair and Dishonest Dealings § 11-51-410(1)(g)
(Unauthorized Transactions: The Respondent and others)

- t. The above sub-Paragraphs are incorporated herein by reference.
- u. The Respondent and others executed transactions for customers without legal authority or actual authorization to do so, in violation of Colorado Securities Commissioner’s Rule 51-4.7(A) (unauthorized transactions).
- v. By engaging in the conduct set forth above, the Respondent and others willfully engaged in a course of conduct involving the violation of one or more rules made by the securities commissioner that prohibit unfair and dishonest dealings in violation of § 11 -51-410(1)(g).
- w. The conduct of the Respondent and others constitutes grounds for the imposition of sanctions against their sales representative licenses pursuant to § 11-51-410(1) through unfair and Dishonest Dealings § 11-51-410(1)(g) (unsuitability)
- x. The above sub-paragraphs are incorporated herein by reference.
- y. The Respondent recommended the purchase, sale or exchange of a security without reasonable grounds for believing that the recommendation was suitable for the investor based on the information furnished by the investor after reasonable inquiry concerning the customer’s investment objectives, financial situation, and needs in violation of Colorado Securities Commissioner’s Rule 51-4.7(B) (unsuitability).
- z. By engaging in the conduct set forth above, the Respondent fully engaged in a course of conduct involving the violation of one or more rules made by the Securities Commissioner that prohibit unfair and dishonest dealings in violation of § 11-51-410(1)(g).
- aa. The conduct of the Respondent constitutes grounds for the imposition of sanctions against his sales representative license pursuant to § 11-51-410(1).

Securities Fraud § 11-51-501(1)

- bb. The above sub-Paragraphs are incorporated herein by reference.

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- cc. In connection with the offer, purchase, or sale of securities in Colorado, the Respondent and others directly or indirectly:
 - i. employed a device, scheme or artifice to defraud;
 - ii. made written and oral untrue statements of material facts or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made not misleading, or
 - iii. engaged in acts, practices or courses of business which operated or would operated as a fraud and deceit on investors; all in violation of 11-51-501 and (1) C.R.S. 2003. defraud; (2003).
 - dd. By engaging in the conduct set forth above, the Respondent and others willfully violated or failed to comply with a provision of article 51, known as the "Colorado Securities Act," §§ 11-51-101 through 11-51-908, C.R.S. (2003) ("Act") in violation of § 11-51-410(1)(b).
 - ee. The Respondent and other's conduct constitutes grounds for the imposition of sanctions against the Respondent and others and their broker-dealer or sales representatives licenses pursuant to § 11-51-410(1).
- 5. That Section 8.E(1)(k) of the Act provides, inter alia that the registration of a salesperson may be denied if the Secretary of State finds that such salesperson has any order entered against him after notice and opportunity for a hearing by a securities agency of any state arising from any fraudulent or deceptive act or a practice in violation of any statute, rule, or regulation administered or promulgated by the agency.
 - 6. That the Respondent had notice and opportunity to contest the matters in controversy, but chose to settle the matter with the State of Colorado.
 - 7. That by virtue of the foregoing, the Respondent's registration as a salesperson in the State of Illinois is subject to denial pursuant to Section 8.E(1)(k) of the Act.

NOW IT IS HEREBY ORDERED THAT:

The Respondent's application for registration as a salesperson in the State of Illinois is DENIED, subject to the further Order of the Secretary of State.

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A public hearing will be set within thirty (30) days of the Respondent's filing a written request for hearing with the Secretary of State at 69 west Washington Street, Suite 1220, Chicago, Illinois 60602. Said hearing will be held at the aforesaid address before a Hearing Officer duly designated by the Secretary of State. A copy of the Rules under the Act pertaining to contested cases is attached to this Order.

YOUR FAILURE TO REQUEST A HEARING WITHIN THIRTY (30) DAYS AFTER RECEIPT OF THIS ORDER SHALL CONSTITUTE AN ADMISSION OF ANY FACTS ALLEGED HEREIN AND SHALL CONSTITUTE A SUFFICIENT BASIS TO MAKE THIS ORDER FINAL.

You are further notified that if you request a hearing that you may be represented by legal counsel, may present evidence; may cross-examine witnesses and otherwise participate. Failure to so appear shall constitute default, unless any Respondent has upon due notice moved for and obtained a continuance.

Delivery of this Order or any subsequent notice to the designated representative of any Respondent constitutes service upon such Respondent.

Dated: This 6th day of December 2005.



JESSE WHITE
Secretary of State
State of Illinois

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