

STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT

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IN THE MATTER OF: GARY WAYNE HARDY AND )  
HARDY ASSET MANAGEMENT ) File No. 0500472  
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ORDER OF PROHIBITION AND FINE

TO THE RESPONDENTS: Gary Wayne Hardy (CRD 1298371)  
Hardy Asset Management (CRD 116821)  
4625 S. Wendler Drive, Suite 11  
Tempe, AZ 85282

WHEREAS, the record of the above-captioned matter 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 Facts and Conclusions of Law and Recommendation of the Hearing officer, John K. Ellis, in the above-captioned matter have been read and examined; and

WHEREAS, the proposed Findings of Fact are correct and are adopted by the Secretary of State as follows:

1. The pleading and Exhibits have been offered and received from the Department and a proper record of all proceedings has been made and preserved as required by law.
2. The Hearing Officer has ruled on all motions and objections timely made and submitted.
3. The Hearing Officer and the Secretary of State Securities Department have jurisdiction over the parties herein and the subject matter dealt with herein, due and proper notice having been previously given as required by statute in these matters.
4. As no Answers were filed, the Respondents are therefore deemed to be in default.

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5. That the Respondent, Hardy, was an Illinois registered Salesperson from January 19, 2001 through June 9, 2005 for SunAmerica Securities, an Illinois registered Dealer, and an NASD Member firm, pursuant to Section 8 of the Illinois Securities Law 815 ILCS 5/1 et seq. (the "Act").
6. Hardy Asset Management is a state registered Investment Adviser in the State of Arizona but is not registered in Illinois.
7. SA and JA, a married couple residing in Illinois and clients of Hardy and Hardy Asset Management, were solicited by Hardy to purchase bonds purportedly issued by Weingarten Realty Investments, PNC, Deutsche Bank, Goldman Sachs, Ford Motor Corporation and Honeywell International for \$60,000. Hardy directed them to write a check for the amount of \$60,000 payable to Hardy Asset Management dated November 13, 2002.
8. Shortly after their investment, SA and JA received a Customer Report that purportedly showed their portfolio holdings and current value.
9. In June 2003, SA and JA were solicited by Hardy to invest \$20,000 in Internotes purportedly issued by CIT Group, Daimler Chrysler and GE Capital Corporation. Hardy directed them to write a check for the amount \$20,000 payable to Hardy Asset Management dated June 3, 2003.
10. Subsequently, SA and JA received from Hardy on Hardy Asset Management letterhead a statement dated June 27, 2003 purportedly disclosing and confirming their purchase of the above-described Internotes.
11. In October of 2003, Hardy sent to SA and JA documents that purportedly disclosed information regarding the maturity date, interest rate, yield and credit ratings of the Internotes that Hardy stated he purchased on behalf of SA and JA.
12. In August of 2003, Hardy solicited SA and JA to invest \$45,000 in a Net Bank CD, GMAC Internote and Federal National Mortgage Bond. As before, Hardy directed SA and JA to write a check for the amount of \$45,000 payable to Hardy Asset Management dated August 7, 2003.

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13. Soon after their investment, SA and JA received from Hardy on Hardy Asset Management letterhead statements dated August 21, 2003 purportedly disclosing and confirming the purchase of the Net Bank CD, GMAC Internote and Federal National Mortgage Bond.
14. After the above described transactions, SA and JA continued to receive from Hardy and Hardy Asset Management periodic statements that showed the value of their investments including a statement dated October 29, 2004 on Hardy Asset Management which purportedly reported their portfolio holdings and value.
15. In June 2005, SA and JA received a letter on Hardy Asset Management letterhead from Hardy which stated that Hardy had resigned his position as a salesperson with SunAmerica Securities; that Hardy had been arrested by the Tempe, AZ Police Department; and that Hardy had thousands of dollars in debt and unresolved tax issues.
16. Alarmed by the letter, SA and JA contacted SunAmerica Securities and were advised that the firm could not document the \$125,000 total investment they had made and that they concluded that the money had been diverted by Hardy for his own personal gain.
17. MZ, an 81 year old Illinois resident client of Hardy and Hardy Asset Management, was solicited by Hardy to purchase a five year Capital Bank private Certificate of Deposit Annuity with a 4.83% interest rate for \$20,000.
18. Hardy directed MZ to write a check out to Hardy Asset Management for \$20,000 on March 29, 2004.
19. After making his initial deposit, MZ, approximately 4-8 weeks later, received a statement on Hardy Asset Management letterhead purportedly showing the purchase of the Capital Bank Private Certificate of Deposit Annuity.
20. For the next year, MZ received routine correspondence from Hardy and Hardy Asset Management regarding investments in general and was asked frequently by Hardy to recommend that MZ's family and friends invest with Hardy.
21. In June 2005, MZ received a letter on Hardy Asset Management letterhead from Hardy which stated that Hardy had resigned his position as a salesperson with SunAmerica Securities; that Hardy had been arrested by Tempe, AZ

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- Police Department; and that Hardy had thousands of dollars in debt and unresolved tax issues.
22. MZ contacted SunAmerica Securities and was advised that the firm could not document the \$20,000 investment. The Tempe, AZ Police Department advised MZ that his \$20,000 was not invested in a Certificate of Deposit Annuity but rather was spent by Hardy for his personal gain.
  23. In November 2003, EB, an 84 year old Illinois resident and a client of Hardy and Hardy Asset Management, was solicited by Hardy to invest \$25,000 in a Hardy Asset Management Annuity. EB was directed by Hardy to write a check for the amount of \$25,000 made payable to Hardy Asset Management dated November 5, 2003.
  24. In January 2004, EB was solicited by Hardy to purchase a second Hardy Asset Management Annuity in the amount of \$20,000. EB was again directed by Hardy to write a check for the amount of \$20,000 made payable to Hardy Asset Management dated January 14, 2004.
  25. In May 2004, EB was solicited by Hardy to purchase a Certificate of Deposit in the amount of \$34,516 that was purportedly issued by Hardy Asset Management. EB was directed by Hardy to write a check for the amount of \$34,516 to Hardy Asset Management dated May 5, 2004.
  26. Subsequently EB was also solicited by Hardy on November 9, 2004 and December 16, 2004 to invest \$40,000 in two investments of undisclosed natures. EB was directed by Hardy to write both checks for the amount of \$20,000 dated November 9, 2004 and December 16, 2004.
  27. In June 2005, MZ received a letter on Hardy Asset Management letterhead from Hardy which stated that Hardy had resigned his position as a salesperson with SunAmerica Securities; that Hardy had been arrested by Tempe, AZ Police Department; and that Hardy had thousands of dollars in debt and unresolved tax issues.
  28. The Tempe, AZ Police Department advised EB that her funds were not invested in any Annuity or Certificate of Deposit but rather were spent by Hardy for his personal gain.
  29. Section 8.E.1(b) of the Act provides, inter alia, that subject to the provisions of subsection F of Section 11 of the Act, the registration of a salesperson may be suspended

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or revoked if the Secretary of State finds that the salesperson has engaged in any unethical practice in the offer or sale of securities or in any fraudulent business practice.

30. Section 8.E.1(m) of the Act provides, inter alia, that subject to the provisions of subsection F of Section 11 of the Act, the registration of a salesperson may be suspended or revoked if the Secretary of State finds that the salesperson has conducted a continuing course of dealing of such nature as to demonstrate an inability to properly conduct the business of the salesperson.
31. That Section 8.E.3 of the Act provides, inter alia, that if no proceeding is pending or initiated or instituted and withdrawal automatically becomes effective, the Secretary of State may nevertheless institute a revocation or suspension proceeding within 2 years after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.
32. Section 12.F of the Act provides, inter alia, that it shall be a violation of the Act to engage in any transaction, practice, or course of business in connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof.
33. Section 12.G of the Act provides, inter alia, that it shall be a violation of the Act 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.
34. Section 12.H of the Act provides, inter alia, that it shall be a violation of the Act to sign or circulate any statement, prospectus, or other paper or document required by any provision of the Act or pertaining to any security knowing or having reasonable grounds to know any material representation therein contained to be false or untrue.
35. Section 12.I of the Act provides, inter alia, that it shall be a violation of the Act to employ any device, scheme or artifice to defraud in connection with the sale or purchase of any security, directly or indirectly.

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36. Section 11.E(2) of the Act provides, inter alia, that if the Secretary of State shall find that any person has violated subsection F, G, H or I of Section 12 of the Act, the Secretary of State may by written order prohibit the person from offering or selling any securities in this State.
37. Section 11.E(4) of the Act provides, inter alia, that if the Secretary of State, after finding that any provision of the Act has been violated, may impose a fine as provided by rule, regulation or order not to exceed \$10,000.00 for each violation of the Act.
38. By virtue of the foregoing, the Respondents are subject to a fine of up to \$ 10,000.00 per violation and an order which permanently prohibits the Respondents from offering or selling securities in the State of Illinois.
39. By virtue of the foregoing, the Respondent is subject to the entry of an Order which revokes his salesperson registrations in the State of Illinois pursuant to the authority provided under Sections 8.E.1(b) and (m) of the Act.
40. The entry of a Final Order of Prohibition and a fine not to exceed \$10,000.00 for each violation of the Act is proper in this Matter, given the conduct of the Respondents as described in the Pleadings and Secretary of State Exhibit Numbers 1-28, as well as the fact that the said Respondents failed to appear at the hearing and properly answer the Notice of Hearing.

WHEREAS, the proposed Conclusions of Law are correct and are adopted by the Secretary of State as follows:

1. After proper notification, the Department may proceed with a hearing in Respondents absence. Significantly, the Notice of Hearing outlines that a default judgment may be entered against a Respondent who fails to appear or answer the charges.
2. The actions, representations, and/or omissions of the Respondents made in connection with the sale or purchase of securities which worked or tended to work a fraud or deceit upon the purchasers or securities are violations of Section 12.F of the Act The actions, representations, and/or omissions of the Respondents which were untrue or

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misleading of material facts and were made to obtain money from Illinois purchasers are violations of Section 12.G of the Act. The actions, representations, and/or omissions of the Respondents to sign or circulate any statement, prospectus, or other paper or document required by any provision of the Act or pertaining to any security knowing or having reasonable grounds to know any material representation therein contained to be false or untrue are violations of Section 12.H of the Act. The actions, representations, and/or omissions of the Respondents which employ any device, scheme or artifice to defraud in connection with the sale or purchase of any security, directly or indirectly, are violations of Section 12.I of the Act.

3. That by virtue of the foregoing the Respondents are subject to an Order of Revocation and an Order of Permanent Prohibition in the State of Illinois, a public censure and a fine of up to \$10,000 per violation and or granting such other relief as may be authorized under the Act; and
4. Because of the Findings of this Order, the pleadings, the exhibits admitted as Secretary of State exhibits 1 through 28, as well as the fact that the Respondents failed to answer the Notices of Hearing or appear at the Hearing, the entry of a written Order of Revocation pursuant to Section 8.E.1 of the Act which revokes the registration of the Respondent Gary Wayne Hardy as a salesperson of securities in the State of Illinois, an Order of Prohibition pursuant to Section 11.E(2) of the Act, which permanently prohibits the offer or sale of securities by the Respondents in the State of Illinois and the imposition against each named Respondent of a \$25,000 fine with joint and several liability pursuant to 815 ILCS 5/11.E(4), is proper in this matter.

WHEREAS, the proposed Recommendation of the Hearing Officer is adopted by the Secretary of State;

NOW THEREFORE IT IS HEREBY ORDERED: That pursuant to the foregoing Findings of Fact, Conclusions of Law, and the Recommendation of the Hearing Officer:

1. The Respondents are permanently prohibited from offering or selling securities in the State of Illinois.

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2. The Respondents are fined \$25,000 (with joint and several liability) to be paid within ten (10) days of the date of entry of this Order.

ENTERED: This 25<sup>m</sup> day of May, 2006

Jesse White *Dr*

JESSE WHITE  
Secretary of State  
State of Illinois

NOTICE: Failure to comply with the terms of this Order shall be a violation of Section 12.D of the Illinois Securities Law of 1953, as amended, 815 ILCS 5/1 et seq. (the "Act"). Any person or entity who fails to comply with the terms of this Order of the Secretary of State, having knowledge of the existence of this Order, shall be guilty of a Class 4 felony.

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. I, 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.

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