

**STATE OF ILLINOIS  
SECRETARY OF STATE  
DEPARTMENT OF SECURITIES**

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<b>IN THE MATTER OF:</b>	<b>Kelly J. Woitel</b>	<b>FILE NO. 0600174</b>
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**NOTICE OF HEARING**

**TO THE RESPONDENT:**           **Kelly J. Woitel**  
  **619 N. Russell**  
  **Geneseo, IL 61254**

You are hereby notified that pursuant to Section 11.E of the Illinois Securities law of 1953 [815 ILCS 5] (the "Act") and 14 Ill. Adm. Code 130, Subpart K, a public hearing will be held at 69 W. Washington Street, Suite 1220, Chicago, Illinois 60602, on the 12th day of August, 2008, at the hour of 10:00 a.m., or as soon as possible thereafter, before Soula Spyropoulos, Esq. Or such duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order shall be entered revoking Kelly Woitel's (the "Respondent") registration as a salesperson in the State of Illinois, prohibiting Respondent 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 the imposition of a monetary fine in the maximum amount pursuant to Section 11.E(4) of the Act, payable within ten (10) business days of the entry of the Order.

The grounds for such proposed action are as follows:

**INTRODUCTION**

1. Kelly J. Woitel ("Respondent") is an individual with a last known address of 619 N. Russell, Geneseo, IL 61254.
2. Respondent has been registered as a salesperson with the Secretary of State, Securities Department ("the Department") from March 1977 to May 25, 2006.
3. Between August 4, 2005 and May, 25 2006 Respondent was employed by broker-dealer Robert B. Ausdal and Company Inc. as a salesperson.

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4. While employed by Robert B. Ausdal and Company, Respondent was registered with the Secretary of State, Securities Department as a registered salesperson with Robert B. Ausdal and Company.
5. Respondent was registered through Multi-Financial Securities Corporation ("MFSC") from June, 1995 through August, 2002.
6. In 2002, Respondent agreed to an entry of a Consent Order (hereinafter "the Order") by the Secretary of State, including Findings of Fact, which the Respondent specifically acknowledged without any limitations, that found that Respondent's MFSC customers were provided misleading information regarding the redemption rights of Wells REITs that were sold to them by Respondent.
7. The Order included the following Findings of Fact:
  - a. That in or around June, 2001, an Illinois investor purchased through Respondent 7,500 shares of Wells REIT at \$10.00 per share for a total investment of \$75,000.00 (seventy five thousand dollars).
  - b. That in or around June, 2001, prior to investing in Wells REIT, Investor A received a description ("Description A") of the investment in Wells REIT. Description A was on the Bank letterhead and signed by Respondent as Managing Director, Investment Division.
  - c. That Description A contained information that Respondent knew or should have known was inaccurate.
  - d. That MFSC's policy required all correspondences and/or advertising material to be reviewed by MFSC's compliance department.
  - e. That although Respondent submitted other correspondences and advertising material for review, respondent never submitted Description A for review.
  - f. That on or around April 16, 2002 thru April 19, 2002 an Auditor from the Illinois Securities Department conducted an audit ("Audit") of the securities activity of Respondent.
  - g. That as part of the Audit, the auditor requested copies of all correspondences and advertising material.
  - h. That although Respondent produced limited material responsive to the request, that material did not include Description A.

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**COUNT 1: Making False Statements to the Secretary of State**

8. "Not For Profit Organization" is an Iowa corporation authorized to do business in the State of Illinois.
9. Since at least 2000, Respondent has been Treasurer of Not For Profit Organization.
10. By virtue of his position as treasurer, Respondent is a member of Not For Profit Organization's Finance Committee and participates in making investment decisions on behalf of Not For Profit Organization.
11. Respondent, as Treasurer for the Not For Profit Organization, had the sole responsibility for executing the investments that the Finance Committee approved.
12. In or around September, 2005, the Committee voted to approve the purchase of 2,666 shares of CNL Income Properties Real Estate Investment Trust.
13. Respondent, fully participated in the September, 2005 Committee meeting and advocated for the Organization to purchase the CNL Income Properties Real Estate Investment Trust shares.
14. Subsequent to the Committee meeting, Respondent placed an order on behalf of the Organization, to purchase the CNL Income Properties Real Estate Investment Trust shares. Respondent executed the order through the Broker/Dealer he was registered through.
15. Pursuant to Section 8.C of the Illinois Securities Law of 1953 as amended (815 ILCS 5/1 et seq. the "Act"), a dealer wishing to register a salesperson in the State of Illinois shall file an application with the Secretary of State which the salesperson is required to provide to the dealer, executed verified or authenticated by the salesperson setting forth information provided in Section 8.C of the Act.
16. Pursuant to Section 130.810 of the Rules and Regulations Under The Illinois Securities Law, an application, properly filed with the Secretary of State pursuant to Section 8.C, includes filing a U-4 form with the NASD utilizing the CRD System.
17. Pursuant to Section 8.C of the Act the U-4 form must be amended whenever a change occurs that renders inaccurate any information contained in the initial application.
18. The relevant portion of the U-4 form states the following:
  - a. Are you currently engaged in any other business either as a proprietor, partner, officer, director, employee, trustee, agent or otherwise? If YES, please provide the following details: the name of the other business, whether the business is *investment-related*, the address of the other business, the nature of the other

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business, your position, title, or relationship with the other business, the start date of your relationship, the approximate number of hours/month you devote to the other business, the number of hours you devote to the other business during securities trading hours, and briefly describe your duties relating to the other business.

19. Until February 23, 2006, Respondent's U-4 form falsely stated that he was not involved in any outside activity.
20. Section 12.E of the Act provides, *inter alia*, that it shall be a violation of the Act for any person to make, or cause to be made, (1) in any application, report or document filed under this Act or any rule or regulation made by the Secretary of State pursuant to this Act, any statement which was false or misleading with respect to any material fact.
21. By failing to disclose his activities as Treasurer for the Not For Profit Organization, Respondent violated Section 12.E of the Act.

### **COUNT II: Respondent Misrepresented to the State of Illinois That He Was Not Engaged In Outside Business Activity**

22. Paragraphs 1-21 are realleged and incorporated by reference.
23. Section 8.E(1)(h) of the Act provides, *inter alia*, that the registration of a salesperson may be revoked if the Secretary of State finds that such salesperson has made any material misrepresentation to the Secretary of State in connection with any information deemed necessary by the Secretary of State to determine a salesperson's business repute or qualifications, or has refused to furnish any such information requested by the Secretary of State.
24. By failing to disclose his activities as Treasurer for the Not For Profit Organization, Respondent's registration as a salesperson in the State of Illinois is subject to revocation pursuant to Section 8.E(1)(h) of the Act.

### **COUNT III: Making False Statements to the Secretary of State**

25. Counts 1-24 are realleged and incorporated by reference.
26. On, February 6, 2006, an audit of Robert B. Ausdal and Company was conducted by the Illinois Securities Department during which the outside business activities of Kelly Woitel were specifically discussed with compliance officers at Robert Ausdal and Associates.

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27. Subsequent to the Department's audit of Robert Ausdal & Company, Respondent amended his U-4 form on February 23, 2006, adding that he was in fact involved in outside business activities with the Not For Profit Organization.
28. Respondent, however, falsely stated in his amended U-4 form that his activities with Not For Profit Organization are not investment-related.
29. Respondent continues to falsely state on his U-4 form that his activities with Not For Profit Organization are not investment-related.
30. Section 12.E of the Act provides, *inter alia*, that it shall be a violation of the Act for any person to make, or cause to be made, (1) in any application, report or document filed under this Act or any rule or regulation made by the Secretary of State pursuant to this Act, any statement which was false or misleading with respect to any material fact.
31. By falsely stating on his U-4 form that his activities with Not For Profit Organization were not investment-related, Respondent violated Section 12.E of the Act.

**COUNT IV: Respondent Misrepresented to the State of Illinois The Nature of the Outside Business Activity**

32. Counts 25-31 are realleged and incorporated by reference.
33. Section 8.E(1)(h) of the Act provides, *inter alia*, that the registration of a salesperson may be revoked if the Secretary of State finds that such salesperson has made any material misrepresentation to the Secretary of State in connection with any information deemed necessary by the Secretary of State to determine a salesperson's business repute or qualifications, or has refused to furnish any such information requested by the Secretary of State.
34. By falsely stating in his amended U-4 form that his activities with Not For Profit Organization were not investment-related, the Respondent's registration as a salesperson in the State of Illinois is subject to revocation pursuant to Section 8.E(1)(h) of the Act.

**COUNT VI: Respondent Has Demonstrated an Inability to Properly Conduct the Business of A Salesperson**

35. Counts 1-34 are realleged and incorporated by reference.
36. Section 8.E(1)(m) of the Act provides, *inter alia*, that the registration of a salesperson may be revoked if the Secretary of State finds that such salesperson has conducted a continuing course of dealing of such nature as to demonstrate an inability to properly conduct the business of a salesperson.

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37. That by virtue of paragraphs 7, and paragraphs 8-29, the Respondent's registration as a salesperson in the State of Illinois is subject to revocation pursuant to Section 8.E(1)(m) of the Act.

You are further notified that you are required pursuant to Section 1104 of the Rules to file an answer to the allegations outlined above, a Special Appearance pursuant to Section 1107 of the Rules, or other responsive pleading within thirty (30) 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.

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 promulgated under the Act and pertaining to Hearings held by the Office of the Secretary of State, Securities Department is included with this Notice.

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

Dated: This 11<sup>th</sup> day of May, 2008.

  
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JESSE WHITE  
Secretary of State  
State of Illinois

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