

**BEFORE THE
DIVISION OF SECURITIES
STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS**

IN THE MATTER OF

LUIS SOSA, JR.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND ORDER**

Respondent

File No. S-04112 (LX)

Randall E. Schumann, Designated Hearing Officer, presiding. Pursuant to paragraph 3 of the June 7, 2004 Notice of Hearing, these Findings of Fact, Conclusions of Law, Opinion and Order issued by the Designated Hearing Officer in this matter constitute the final Decision of the Division.

Appearances

(and persons considered parties for purposes of judicial review and rehearing)

For the Division of Securities:

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Enforcement Bureau
DFI Division of Securities
345 West Washington Avenue
Madison, WI 53701

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DFI Division of Securities
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For the Respondent:

Mr. Luis Sosa (appeared pro se)
1524 Lurting Avenue
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Preliminary Matters

Subsequent to the original Notice of Hearing Issued June 7, 2004, and pursuant to an August 20, 2004 Rescheduling of Hearing, a hearing was held on October 26 and 27, 2004, before the Designated Hearing Officer, for the purpose of determining whether the Summary Order issued April 30, 2004 denying the securities agent license of Respondent Sosa should be modified or should remain in effect as issued. The specific factual issues for determination at the hearing are the following seven remaining issues listed in the July 27, 2004 Prehearing Memorandum and

Scheduling Order [three of the issues listed in the July 27, 2004 Prehearing Memorandum (issues No. 1, 3 and 7 relating to allegations of securities registration violations) were withdrawn by the staff at the beginning of the hearing.]

--Issue #1. Whether the Respondent in connection with the Fall 2002 sale of Discover Capital Unit securities to a Wisconsin purchaser (Daniel Reichwald) made any of the alleged misrepresentations set forth in Paragraphs #6(a), (b) or (c) of the April 30, 2004 Staff Petition for Order, and whether the Respondent in connection with the sale of the Discover Capital Unit securities to the Wisconsin purchaser omitted to disclose the material facts alleged in Paragraph #7 of the April 30, 2004 Staff Petition for Order.

--Issue #2. Whether the Wisconsin purchaser (Reichwald) of the Discover Capital Unit securities met the criteria to be considered an "accredited investor" under 551.23(8)(g), Wis. Stats., impacting the suitability of the sale to Reichwald.

--Issue #3. Whether the Respondent used high-pressure sales tactics in connection with the sale of the Discover Capital Unit securities to Wisconsin purchaser Reichwald as alleged in Paragraph #8 of the April 30, 2004 Staff Petition for Order.

--Issue #4. Whether the Respondent used high-pressure sales tactics or conducted unauthorized trades in connection with securities transactions with two other Wisconsin investors as alleged in Paragraph #9 of the April 30, 2004 Staff Petition for Order.

--Issue #5. Whether the Respondent recommended securities transactions for a Wisconsin customer in violation of the customer suitability requirement, as alleged in Paragraph #10(b) of the April 30, 2004 Staff Petition for Order.

--Issue #6. Whether the Respondent executed securities transactions for a Wisconsin customer without authority to do so, as alleged in Paragraph #10(c) of the April 30, 2004 Staff Petition for Order.

--Issue #7. Whether the Respondent exercised discretionary authority in effecting a securities transaction for a Wisconsin customer without first obtaining written discretionary authority from the customer, as alleged in Paragraph #10(d) of the April 30, 2004 Staff Petition for Order.

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A Prehearing Conference was held on July 14, 2004, and a Prehearing Memorandum and Scheduling Order was issued on July 27, 2004. A Rescheduling of Hearing & Final Discovery Exchange was issued August 20, 2004.

The hearing was transcribed by a court reporter. The record consists of: (i) the Division's Order of Prohibition and Denial of Securities Agent License dated April 30, 2004, with accompanying Staff Petition For Order dated April 30, 2004; (ii) the Respondent's Petition for Hearing Dated May 28, 2004, with accompanying cover letter; (iii) the July 27, 2004 Prehearing Memorandum

and Scheduling Order; (iv) the August 20, 2004 Rescheduling of Hearing & Final Discovery Exchange; (v) the transcript of the October 26 and 27, 2004 hearing in this proceeding; (vi) the Division Staff's Hearing Exhibits 1 through 23; and (vii) on December 3, 2004, materials were received from the Division pursuant to the agreement at the end of the hearing to leave the record open to be supplemented by information on two subjects regarding: (i) NASD Bylaws concerning Statutory Disqualification, together with related Wisconsin statutes and court decisions (Exhibit 24); and (ii) an October 20, 2004 letter to Respondent Luis Sosa from the NASD closing their investigation, as received on November 30, 2004 by the Division Staff from the NASD (Exhibit 25).

* * * * *

Applicable Law

Wisconsin Statutes:

551.34. Denial, suspension and revocation of licenses.

(1)(g) [The licensee or applicant] [H]as engaged in dishonest or unethical practices in the securities or investment advisory business, or has taken unfair advantage of a customer

(2) The enumeration of the causes stated in sub. (1) shall not be exclusive, and the Division may deny an application or suspend or revoke any license or censure a licensee for any cause whether similar to or different from these causes when necessary or appropriate in the public interest or for the protection of investors.

Wisconsin Administrative Rules:

DFI-Sec 4.05(11)(d) [No agent shall] Make repeated telephone or electronic solicitations in an annoying, abusive or harassing manner, either individually or in concert with others.

DFI-Sec 4.06 Prohibited Business Practices.

(2) [by an agent as incorporated by reference under DFI-Sec 4.06(2)]

(1)(b) Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account.

(1)(c)1. Recommending to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer on the basis of information furnished by the customer after reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other information known by the broker-dealer [or agent].

(1)(d) Executing a transaction on behalf of a customer without authority to do so....

(1)(f) Executing any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time or price the execution of orders, or both.

* * * * *

Issue

Whether the Summary Order issued April 30, 2004 denying the securities agent license of Respondent Luis Sosa should be vacated, should remain in effect as issued, or whether an alternative sanction should be imposed.

* * * * *

Based on the record, the Designated Hearing Officer makes the following:

Findings of Fact

1. Luis Sosa, Jr. ("Sosa") (Central Registration Depository ["CRD"] #2324543) is an adult residing at 1524 Lurting Avenue, #3, Bronx, NY 10461.
2. Sosa had a Wisconsin securities agent license with Indianapolis Securities from June 4, 2002 through July 20, 2003.
3. In March, 2002, Indianapolis Securities acquired the Wisconsin-based broker-dealer firm (formerly known as White Discount Securities) assets and customer list of Richard P. Vanderkelen of Green Bay, Wisconsin, that had numerous Wisconsin customers.
4. Indianapolis Securities assigned 44 of those Wisconsin customers accounts to Sosa, which accounts Sosa regarded as "headache"/"problem" accounts in that the management insiders of Indianapolis Securities took the best customer prospects for themselves. (Tr. Pages 22, 23, 193, 195)
5. In the Fall of 2002, Sosa offered and sold a ½ Unit of Discover Capital Holdings Corp. ("Discover Capital") aggregating \$10,000, as well as other securities, to Wisconsin resident customer Daniel Reichwald ("Reichwald").
6. The offering of Discover Capital Units (each consisting of a Share of Series A Preferred Stock, and a Common Stock Purchase Warrant) was the subject of a filing made with the Wisconsin Division of Securities on October 1, 2002 (File No. 441132-7) under section 551.29(2), Wis. Stats., as a category of Federal Covered Security as being an offering pursuant to Rule 506 under Regulation D of the federal Securities Act of 1933.
7. The Division Staff at the commencement of the hearing withdrew all allegations made in the April 30, 2004 Order regarding the offer or sale of unregistered securities with respect to the offering of Discover Capital Units. (Tr. Pg. 6)
8. The Private Placement Memorandum ("PPM" Exhibit 23) for the offering of Discover Capital Units provided on the unnumbered inside facing page and page 1 thereof that the

Units could be purchased only by "accredited investors." However, Sosa's Wisconsin customer Reichwald who purchased for \$10,000, a ½ Unit in the Discover Capital offering did not meet the criteria for being an "accredited investor."

9. Sosa approached Indianapolis Securities' management, and the firm's compliance officer, regarding the ability of his customer Reichwald to be a purchaser in the Discover Capital Unit Offering, and he was told that the sale to Reichwald would be permissible as one of fewer than 35 non-accredited purchasers. (Tr. Pages 204, 205, & 208)
10. Sosa regarded Reichwald as suitable for purchasing a ½ Unit in the Discover Capital offering for \$10,000, even though Reichwald was not an accredited investor, on the basis that he already owned Discover Capital common stock, he had previously purchased over the years and continued to own various low-priced/bulletin board stocks (Tr. Pg. 204) demonstrating a tolerance for risk.
11. In connection with the offer and sale of the Discover Capital Units to the Wisconsin customer/purchaser Reichwald, Sosa did not make a misrepresentation of fact when he told the purchaser that Discover Capital "had great potential because it was buying up other financial services companies," for the reason that disclosures to that effect (that such acquisitions had, in fact, occurred, and were continuing) were contained in the PPM for the offering. (Exhibit 23, unnumbered inside facing page (2) and pages 28 & 29). Any disclosure issues regarding that fact would be the responsibility of the issuer and its controlling persons for purposes of the PPM/disclosure document for the Regulation D, Rule 506 offering under the Securities Act of 1933, not a responsibility of an individual sales agent for a licensed broker-dealer using the PPM for the offering.
12. In connection with the offer and sale of the Discover Capital Units to the Wisconsin customer/purchaser Reichwald, Sosa did not make a misrepresentation of fact when he told the purchaser that the management of Discover Capital "contained top names, which would increase the value of the company," for the reason that disclosures to that effect (regarding certain prominent persons listed as being on the Company's Advisory Board) were contained in the PPM for the offering. (Exhibit 23, pages 38 & 39) Any disclosure issues regarding that fact would be the responsibility of the issuer and its controlling persons for purposes of the PPM/disclosure document for the Regulation D, Rule 506 offering under the Securities Act of 1933, not a responsibility of an individual sales agent for a licensed broker-dealer using the PPM for the offering.
13. In connection with the offer and sale of the Discover Capital Units to the Wisconsin customer/purchaser Reichwald, Sosa did not make a misrepresentation of fact when he told the purchaser that Discover Capital would be listed on NASDAQ within 18 months, and would be worth \$15-\$20 per share at that time.
14. In connection with the offer and sale of the Discover Capital Units to the Wisconsin customer/purchaser Reichwald, although Sosa did not tell the customer/purchaser that the president of Discover Capital had been sanctioned in a disciplinary proceeding by the NASD, any disclosure obligation regarding that fact would be on the issuer and its controlling persons for purposes of the PPM/disclosure document for the Regulation D, Rule 506 offering under the Securities Act of 1933, not on an individual sales agent for a licensed broker-dealer using the PPM for the offering.
15. The only evidence in the record demonstrating that Sosa violated rule DFI-Sec 4.05(11) regarding sales tactics was with respect to the single transaction involving the purchase by customer Reichwald of the 1/2 Unit of Discover Capital.

16. No lack of suitability was established in the hearing record with respect to either options transactions or other transactions in customer Stueber's or customer Oettinger's accounts, who were the Division's only other witnesses.
17. I cannot determine there to have been unauthorized trades in customer Oettinger's account because I find the hearing testimony on the issue to be conflicting and the record inconclusive.
18. Customer Reichwald's Questionnaire did not make any reference to unauthorized trading in his account, such that the Summary License Application Denial Order could not be based on allegations of unauthorized trading relating to customer Reichwald.
19. No evidence or testimony was elicited regarding unauthorized trading in the account of the only other witness called by the Staff, customer Raymond Stueber.
20. Sosa did not obtain full written discretionary authority for any of his customer accounts at Indianapolis Securities. (Tr. Pg. 187)
21. Sosa's discretionary practice with customers for the last 6-7 years regarding his trading strategy involving stocks is that once he receives authorization from a customer to buy into a position, he requests and receives from the customer at that time a verbal authorization to sell out that position at any time without a prior OK from the customer. (Tr. Pg. 187)
22. Sosa did not obtain in writing from customers, authority to implement his "discretionary sales out of an existing position" activities described in the preceding paragraph, which Sosa stated he regretted. (Tr. Pg. 187)
23. When Sosa told the compliance officer for Indianapolis Securities regarding Sosa's discretionary practices, Sosa was told that such was "no problem" and was permissible. (Tr. Pg. 190).
24. Sosa developed and distributed to his customers his own Newsletter for the purpose of being independent and making his own calls, and Sosa's stock recommendations to customers principally were stocks on his recommended list in the Newsletter and were not inventoried stocks of Indianapolis Securities. (Tr. Pages 190, 238, 239, 240, 252, 253)
25. After Sosa learned from a newly assigned customer, Stephen Jeffers, that Jeffers had made a \$20,000 purchase of a Discover Capital Unit through a different Indianapolis Securities agent, because Sosa believed the sale to Jeffers was unsuitable and inappropriate, Sosa sought rescission of Jeffers' Discover Capital Unit purchase by talking on several occasions directly with the management of Indianapolis at considerable professional risk to Sosa's employment with Indianapolis Securities. (Tr. Pages 333, 334, 337 to 340, 398)
26. Although Sosa worked for a number of firms over his 12 years in the securities business, several of which firms were "problem firms" by his own admission (Tr. Pages 168-170), he had no disciplinary items on his CRD records related to his employment at any of those firms, and had no disciplinary items of any kind until the Oettinger complaint to the NASD in February 2003 which was closed by the NASD without any regulatory action taken as confirmed to the customer by letter dated December 4, 2003 (Exhibit 10), some five months before Sosa's license application was filed in Wisconsin.

27. As of the April 19, 2004 date Sosa's license application was filed, his CRD record did not reflect any violations of federal or state securities laws or SRO (NASD or trading exchanges) rules, or any criminal convictions.
28. At the time of Sosa's license application filed by Pro-Integrity Securities in April 2004, Sosa had not been licensed in Wisconsin since July 2003 when he left Indianapolis Securities.
29. On April 19, 2004, Pro-Integrity Securities, Inc., filed an application for Sosa to be licensed as a securities agent in Wisconsin for that firm, which application was denied by an Order of the Division of Securities dated April 30, 2004, that was issued summarily without prior notice to the applicant Sosa or notice to his applying broker-dealer.
30. During the time Sosa's license application was received on April 19, 2004 until the Denial Order was issued on April 30, neither Sosa nor the applying firm were notified by the Division that issues/problems had been identified in the license application review process that would preclude immediate licensing approval, and Sosa's three attempts during the period by telephone to contact the staff person reviewing the application were unsuccessful (the staff person was on vacation), and a letter to the Division by Sosa's applying firm was not responded to. (Tr. Pages 298 & 299)
31. Approximately 1% of agent license applications filed with the Division are rejected/denied without opportunity to withdraw (Tr. Pg 301), and the Staff provided as examples of violations/problems triggering a licensing denial, "theft, unauthorized trading, account churning." (Tr. Pg. 275)
32. The Staff summarily denied Sosa's application rather than providing an opportunity to withdraw the license application based on Wisconsin customer Questionnaires obtained in connection with the Staff's investigation of Indianapolis Securities, Sosa's former employing broker-dealer where the responses from Sosa's clients indicated a pattern of similar answers that Sosa was aggressive on the telephone and would keep calling after having been told not to call (Tr. Pg. 317), the Oettinger complaint on the CRD, Indianapolis Securities' regulatory problems, Sosa's prior employment history with firms that had regulatory problems, and that because Sosa would be working from his home (in New York) when his firm's home office was in Texas, it would not be possible for Sosa to be on special supervision. (Tr. Pages 317- 318 & 354)
33. Under the Wisconsin Securities Law licensing provisions in 551.34(1) establishing bases for denial, suspension or revocation of a license: (i) subd. (1)(c) provides that state or federal securities-law related criminal complaint allegations cannot be used, a conviction is required; (ii) subd. (1)(d) provides that a state or federal securities-law related injunction has to be ordered by a court (mere pleadings seeking an injunction are not sufficient); (iii) subd. (1)(f) provides that for administrative proceedings brought either by state or federal securities agencies, or an SRO, an order must be issued -- a statement of staff allegations is not sufficient; (iv) subd. (1)(g) reads "Has engaged in dishonest or unethical practices in the securities business...." -- which language in the Uniform Securities Act is not interpreted in the Official Comments to preclude allegations of dishonest or unethical practices from being used as a basis for summary denial of a license application.
34. This hearing proceeding is not a license denial situation in which the denial was based on a final action or determination by Order of the SEC, a state securities agency, the NASD, or in an arbitration proceeding or by Order of a Court, that a violation of state or federal

securities laws or rules had, in fact, occurred.

35. The Summary Denial Order dated April 30, 2004 was based on Staff allegations in its Petition for Order of securities registration violations, anti-fraud violations and certain securities agent licensing business practice violations under 551.34(1)(g), Wis. Stats.
36. The initial Indianapolis Securities Questionnaires were not accompanied by customer account information, and it was only after the Summary Denial Order had taken place and a hearing was requested by Sosa, that the Staff sought corroborating evidence from the customers. (Tr. Pages 293, 304, 378)
37. After Sosa's license application Denial Order was summarily issued and Sosa requested a hearing, the staff contacted additional of Sosa's customers and received responses to further questionnaires which the Staff indicated contained additional concerns regarding "a real pattern of losses" and "a lot of trading in a short amount of time." (Tr. Pg. 264)
38. With regard to the allegations stemming from the customer Questionnaire information, the Staff testified that it accepted those allegations at face value, and assumed those allegations were true. (Tr. Pages 291, 292 and 293)
39. There was no testimony or evidence presented by the Division demonstrating that there was any current, ongoing injurious activity by Sosa with Wisconsin customers that precluded a withdrawal of the license application and instead warranted/required immediate denial action on a summary basis without prior notice to the applicant or his applying firm of regulatory concerns the staff had, nor providing opportunity to respond to them, noting that per Finding of Fact 28, Sosa had not been licensed in Wisconsin since July 2003 when he left Indianapolis Securities.
40. A former Indianapolis Securities agent who had previously been licensed in Wisconsin, John Buonocore, filed a licensing application in Wisconsin during 2004, which application was not denied, but was held open for a significant period of time (measured in months) while an appropriate supervisory structure was worked out, resulting in Buonocore both becoming licensed in Wisconsin and, from supervisory standpoint, permitted to use his home as an office in a different state from his firm's home office and its supervisory personnel. (Tr. Pages 286, 287, 376)

* * * * *

Conclusions of Law

1. Because the allegations regarding securities registration violations in connection with the Discover Capital Holdings private placement offering alleged in paragraph (5) of the Staff Petition for Order dated April 30, 2004 were dropped by the staff prior to commencement of the hearing (as confirmed on Page 6 of the Hearing Transcript), Sosa did not violate the securities registration requirement provisions of 551.21, Wis. Stats.
2. Because I made the Findings of Fact set forth above that there were no "misrepresentations of fact" by Sosa connection with the purchase by customer Reichwald of the ½ Unit in the Discover Capital Holdings private placement offering as alleged in paragraphs (6)(a), (b) & (c) of the Staff Petition for Order dated April 30, 2004, nor any "failure to disclose material facts" as alleged in paragraph (7) of the Staff Petition for Order, Sosa did not violate the anti-fraud provisions of 551.41(2), Wis. Stats.

3. The sale by Sosa with respect to a single transaction involving the purchase of the 1/2 Unit of Discover Capital to Reichwald violated the customer suitability rule in DFI-Sec 4.06(1)(c)1 [as incorporated by reference for agents under DFI-Sec 4.06(2)(i)]. However, the Staff did not meet its burden of proof to demonstrate that Respondent Sosa violated the suitability rule as a pattern with customers sufficient to warrant a sanction under that rule greater than a censure – and the overall sanction of the suspension in the duration specified below subsumes whatever sanction is warranted based on the record regarding suitability in this matter.
4. Sosa's telephonic sales tactics violated rule DFI-Sec 4.05(11) with respect to a single transaction involving the purchase of the 1/2 Unit of Discover Capital by customer Reichwald. However, the Staff did not meet its burden of proof to demonstrate that Respondent Sosa used high-pressure sales tactics (nor was there any evidence that he was abusive or threatening) as a pattern with customers sufficient to warrant a sanction under that rule greater than a censure – and the overall sanction of the suspension in the duration specified below subsumes whatever sanction is warranted under rule DFI-Sec 4.05(11) based on the record regarding sales tactics in this matter.
5. No unauthorized trading violations were established for purposes of this hearing on the basis that: (i) as to customer Oettinger, the hearing testimony and evidence was conflicting and inconclusive; (ii) as to customer Reichwald, because the Summary Denial Order was not based on any unauthorized trading allegations in Reichwald's Questionnaire, the Staff is precluded from introducing evidence on the subject at the hearing as per the ruling in the text of the Decision below; (iii) No evidence on the subject was elicited from the Staff's only other witness, customer Stueber.
6. Sosa's implementation of his trading strategy involving securities positions that were purchased in customer accounts with their express authorization that resulted in instances of Sosa effectuating sales out of customers' existing securities positions on a discretionary basis on the basis of informal verbal understandings as to time and price lasting longer than 1-2 days -- but which "discretionary sales out" activities did not involve obtaining proper written discretionary authority from the customers -- constitute a violation of rule DFI-Sec 4.06(2)(i) [cross-referencing rule DFI-Sec 4.06(1)(f)] and constitute sufficient cause under section 551.34(1)(g) of the Wisconsin Securities Law for issuing a suspension sanction against a securities agent's license of the duration specified below in conjunction with other findings and conclusions.
7. As stated in the ruling on Page 382 of the Hearing Transcript, the Staff is precluded from making any churning allegations, and from introducing any hearing evidence or testimony relating thereto, such that there are no violations of the Wisconsin Securities Law or rules relating to that subject.

* * * * *

Decision

Preliminary discussion/background

The mandate of the Wisconsin Securities Division under the Wisconsin Uniform Securities Law is to protect Wisconsin investors, and in furtherance of that mandate, the Division's Licensing Section uses the licensing process to screen certain applicants who seek a securities license to do business with Wisconsin investors. As a consequence, because Wisconsin is a "review state," the Division Staff testified that applicants who have a significant disciplinary history can expect to have the review process be rigorous. Also, an applicant can expect a rigorous review process if

the Division has received and is investigating complaints directed at them by Wisconsin customers. (Tr. Pages 260-262)

The Staff testified that one facet of the job duties of a Division Licensing Examiner is to determine whether a securities agent who has applied for licensure in Wisconsin should be approved, asked to withdraw, or denied. (Tr. Pg. 260)

The Division had opened an extensive investigative file in September 2003 regarding Indianapolis Securities, Sosa's previous employing broker-dealer (Sosa had left the firm in July). That investigation resulted in action by the Division to summarily issue an Order dated October 29, 2003 revoking the broker-dealer license for the firm, which by that time had essentially ceased operations. Much of the information relating to this licensing proceeding against Respondent Sosa was developed from Questionnaires provided (most during October 2003) by customers in response to that investigation of Indianapolis Securities. (Tr. Pg. 19, and see the discussion later in this Decision)

The Staff testified that the Division had determined to carefully review any agent license applications filed on behalf of former Indianapolis Securities agents regarding any suitability concerns, unauthorized trading concerns, or unethical telephone conduct. (Tr. Pg. 18)

On April 19, 2004, Pro-Integrity Securities, Inc., filed an application for Sosa to be licensed as a securities agent in Wisconsin for that firm. As noted in the above Findings of Fact, Respondent Sosa had been licensed as a securities agent in Wisconsin representing Indianapolis Securities from June 4, 2002 through July 20, 2003. At the time of Sosa's license application filed by Pro-Integrity Securities in April 2004, Sosa had not been licensed in Wisconsin to deal with persons in Wisconsin since July 2003 when he left Indianapolis Securities. The Staff testified that when Sosa's license application was filed, based on concerns raised in those Questionnaires from Indianapolis Securities customers for whom Sosa was their agent -- relating to suitability, unauthorized trading, and unethical telephone conduct, together with applicant Sosa's employment history and the broker-dealer firms Sosa previously had been with, the staff denied the license application. (Tr. Pages 18 & 19) The application was denied by Order of the Division of Securities dated April 30, 2004, that was issued summarily without prior notice to the applicant Sosa or notice to his applying broker-dealer.

Sosa's CRD employment records indicate that Sosa had been licensed for a total of 19 securities broker-dealer firms during his 12 year employment history in the securities business. (Tr. Pg 17) The Division Staff during its hearing testimony remarked and expressed concerns several times about Sosa's employment history, commenting that several of those firms experienced federal or state regulatory enforcement actions. (Tr. Pages 17, 379)

Sosa's hearing testimony on that subject included his acknowledgement that "a number of those firms were not legitimate, I realized that and moved on...." (Tr. Pg 170). Sosa also stated that he had "seen a lot of bad things in a lot of these firms doing things I knew or felt to be improper, and a large part of the time why I left a firm was because I felt it [not to leave] would cause the problems down the road." (Tr. Pg. 21) and Sosa further commented that (i) "I never actually worked in some of these firms. My license may have been there for a month or two, but upon joining the firm and getting to know the people and what was going on, decided it was best not to actually work there." (Tr. Pg 168); (ii) "What happens in these circumstances is that you get one story prior to signing on, and as soon as you sign, it's a completely different story. I've always been very independent in his business. I've never pushed stock." (Tr. Pg. 169); (iii) "For example, being able to trade certain stocks like the QQQ's, [Firm name expunged] would prefer that you bought the firm's own product, but I've never been a part of that, and I certainly wasn't going to start after 12 years in the business." (Tr. Pg. 169)

In summary, regarding this subject of an applicant's employment history with problem broker-dealer firms, while such would properly constitute "smoke" to be evaluated in connection with the license review process, guilt by association is not a basis for a license sanction, such that a case must be made demonstrating violations ("fire") by the applicant sufficient to warrant any sanctioning action taken.

In March, 2003, Indianapolis Securities acquired the Wisconsin-based broker-dealer firm (formerly known as White Discount Securities) assets and customer list of Richard P. Vanderkelen of Green Bay, Wisconsin, that had numerous Wisconsin customers. Indianapolis Securities assigned 44 of those Wisconsin customers accounts to Sosa (Tr. Pg. 18), which accounts Sosa regarded as "difficult"/"headaches" in that the management insiders of Indianapolis Securities took the best customer prospects for themselves. (Tr. Pages 193, 195)

Sosa testified that he had previously been licensed in approximately 20 to 25 states, including Wisconsin, when he was with Indianapolis Securities. (Tr. Pg. 183) He also stated on the record that he is currently licensed in only two states, New York and California, (Tr. Pages 198 & 416), and that as a result of the denial action by Wisconsin, a number of other states which he listed that he was previously licensed in have not licensed him and have asked him to withdraw. (Tr. Pages 198 and 292) Sosa also stated on the record that he was "testifying from personal experience" that "other states will ask [an applicant] to withdraw [a license application] upon seeing rejection from a state." (Tr. Pg. 289)

Sosa testified that he developed his own Newsletter, four issues of which he stated he prepared totally on his own from his own research, over the course of time from 2001 to 2003. (Tr. Pg. 191) He testified that he put the Newsletter together to create a track record for himself, to lay down a foundation for his customers to see the type of situations Sosa would look for, and what the circumstances were in the overall market. (Tr. Pages 190 & 191) The Newsletter also discussed his trading philosophy, his analysis of current economic and financial trends, contained a list of recommended stocks which he had researched and was closely following, and contained a model portfolio of the performance of his 17 recommended stocks. (Tr. Pages 220, 222, 238, 240, 250, 252) Sosa testified that he attempted to provide all his customers with his Newsletter: Jeffers acknowledged that he received and read the Newsletter, commenting that he thought it was "very well done." (Tr. Pg. 341); Stueber acknowledged that he received the Newsletter regularly, commenting that he thought it was good in terms of containing Sosa's own opinions (Tr. Pg. 106); Oettinger acknowledged that he received the Newsletter (Tr. Pages 153-154); only Reichwald testified that he did not recall receiving the newsletter (Tr. Pg. 66).

Sosa testified in response to questions from the Designated Hearing Officer that his stock recommendations to customers principally were stocks on his recommended list in the Newsletter and were not inventoried stocks of Indianapolis Securities. (Tr. Pg. 238) [As noted in the hearing transcript, such question was asked based on concerns that stock recommendations by a firm's agents that primarily involved stocks inventoried by the firm could be part of so-called "Pump and Dump" abusive trading practices]. Sosa also testified that the reason he put the Newsletter together was to "be independent," and "make his own calls and live by them." (Tr. Pg. 240)

Sosa acknowledged in his testimony that he would be considered a "trader." (Tr. Pg. 249) Sosa stated that his strategy for trading is "geared toward the smaller investor who doesn't have the millions of dollars to partake in hedge funds and that sort of vehicle where the big money plays. Instead, it's designed specifically to give them that same opportunity by taking a more conservative approach to buy time and price." (Tr. Pg. 409) Sosa acknowledged that such strategy "is not for everyone," and "for those who didn't feel comfortable with it or I felt it was not appropriate, I didn't do it or even push them to do it." (Tr. Pages 410-411)

Following below are separate Sections discussing the various Staff allegations in its April 30, 2004 Petition for Order.

The first of the Sections contains several subsections relating to the sale of a ½ Unit in the Discover Capital Holdings Corp. Regulation D/Rule 506 private placement offering to customer Reichwald aggregating \$10,000.

A. Allegations in the Staff Petition for Order regarding the sale of a ½ Unit in the Discover Capital Holdings Corp. ("Discover Capital") Regulation D/Rule 506 private placement offering to customer Reichwald aggregating \$10,000.

Customer Reichwald stated in his testimony that he had a combined spousal annual income of \$120,000 over each of the past 5-6 years, a net worth of \$300-\$400,000, and a "medium to medium-high risk tolerance." (Tr. Page 26) Reichwald had an account with White Securities/Vanderkelen for some years that contained a number of low-priced stocks that could properly be characterized as "Bulletin Board" stocks (Namely, stocks traded on the Over-the-Counter Bulletin Board that, as a general rule, are low-priced, susceptible to price volatility, and higher risk than stocks traded on the major exchanges or NASDAQ/NMS). (Tr. Pages 41 – 44) Reichwald himself characterized certain of those investments he made as "high-risk, very high-risk investments." (Tr. Pg. 41) As an example, Reichwald testified that he had purchased on his own in 1998 or 1999 11,400 shares of Upside Development at 7/8ths per share (aggregating a purchase price of approximately \$10,000) after reading a newspaper article about the Company, which stock position was valued at less than \$100, on Reichwald's account statements when Sosa became the agent on Reichwald's account.

In February 2003, Sosa offered and sold ½ Unit in the Discover Capital offering to Wisconsin customer Daniel Reichwald for \$10,000. The offering of Discover Capital Units (each consisting of a Share of Series A Preferred Stock, and a Common Stock Purchase Warrant) was the subject of a filing made with the Wisconsin Division of Securities on October 1, 2002 (File No. 441132-7) under section 551.29(2), Wis. Stats., as a category of Federal Covered Security as being an offering pursuant to Rule 506 under Regulation D of the federal Securities Act of 1933.

A.(1) Discover Capital Unit sale allegations regarding securities registration violations.

The Division Staff at the commencement of the hearing withdrew all allegations made in the April 30, 2004 Staff Petition for Order regarding the offer or sale of unregistered securities with respect to the offering of Discover Capital Units. (Tr. Pg. 6). However, suitability and anti-fraud issues remained with respect to the sale of the ½ Unit to Reichwald.

A.(2) Allegations regarding suitability of the Discover Capital purchase by Reichwald.

In response to a general question from the Staff to Sosa asking how he would determine if a private placement would be suitable for customer, Sosa testified that private placements "are not suitable for most clients such that a purchaser would either have to be accredited or, because [Regulation D] allows a certain number of accredited individuals... they would have to have special circumstances to get involved." (Tr. Pg. 203)

With regard to purchaser suitability for the Reichwald purchase, the Private Placement Memorandum ("PPM" Exhibit 23) for the offering of Discover Capital Units provided on the unnumbered inside facing page and page 1 thereof that the Units could be purchased only by "accredited investors." However, Reichwald did not meet the criteria for being an "accredited investor." Sosa testified he approached Indianapolis Securities' management, and the firm's compliance officer, as well as spoke directly to the firm's outside attorneys regarding the ability of his customer Reichwald to be a purchaser in the offering, and Sosa was told that the sale to

Reichwald would be permissible as one of fewer than 35 non-accredited purchasers. (Tr. Pages 204, 205, & 208). Sosa testified on the record that he had never been involved in a Regulation D/Rule 506 offering that did not permit up to 35 non-accredited investors. (Tr. Pg. 207). Sosa regarded Reichwald as suitable for purchasing the ½ Unit in the Discover Capital offering for \$10,000 even though Reichwald was not an accredited investor on the basis that he already owned Discover Capital common stock, he had previously purchased over the years and continued to own various low-priced/bulletin board stocks (Tr. Pg. 204) demonstrating a tolerance for risk (as discussed above). In response to questions from the Designated Hearing Officer, Sosa testified that he did not offer the Discover Capital Units to any other non-accredited investors, and that he offered the Units to "a handful (5) of accredited guys."

It is my determination that the sale by Sosa of the 1/2 Unit of Discover Capital to Reichwald did not meet the mandatory accredited investor status requirement prescribed under the PPM to be a purchaser in the offering such that the sale to Reichwald was not suitable. However, I find there to be mitigating factors present that: (i) Sosa's firm allowed the purchase to take place after Sosa inquired specifically of the firm's management and compliance person if the transaction to Reichwald was permissible as being to an otherwise suitable, non-accredited investor; and (ii) Reichwald could be considered an otherwise suitable, non-accredited investor (of which 35 are permitted in most Regulation D offerings) for a \$10,000 ½ Unit on the basis of the factors set forth in the preceding paragraph. Notwithstanding the mitigating factors, I view the sale by Sosa with respect to the single transaction involving the purchase of the 1/2 Unit of Discover Capital to Reichwald violated the customer suitability rule in DFI-Sec 4.06(1)(c)1 [as incorporated by reference for agents under DFI-Sec 4.06(2)(i)]. However, the Staff did not meet its burden of proof to demonstrate that Respondent Sosa violated the suitability rule as a pattern with customers sufficient to warrant a sanction greater than a censure -- and the overall sanction of the suspension in the duration specified below subsumes whatever sanction is warranted based on the record regarding suitability in this matter.

A.(3) Allegations regarding misrepresentations in paragraphs (6)(a), (b), (c) and (7) of Staff Petition For Order

Re paragraph (6)(a). In connection with the offer and sale of a ½ Unit in the Discover Capital Unit offering to the Wisconsin customer/purchaser Reichwald, Sosa did not make a misrepresentation of fact when he told the purchaser that Discover Capital "had great potential because it was buying up other financial services companies," for the reason that disclosures to that effect (that such acquisitions had, in fact, occurred, and were continuing) were contained in the PPM for the offering. (Exhibit 23, unnumbered inside facing page (2) and pages 28 & 29) Any disclosure issues regarding that fact would be the responsibility of the issuer and its controlling persons for purposes of the PPM/disclosure document for the Regulation D, Rule 506 offering under the Securities Act of 1933, not a responsibility of an individual sales agent for a licensed broker-dealer using the PPM for the offering.

Re Paragraph (6)(c). In connection with the offer and sale of a ½ Unit in the Discover Capital Unit offering to the Wisconsin customer/purchaser Reichwald, Sosa did not make a misrepresentation of fact when he told the purchaser that the management of Discover Capital "contained top names, which would increase the value of the company," for the reason that disclosures to that effect (regarding certain prominent persons listed as being on the Company's Advisory Board) were contained in the PPM for the offering. (Exhibit 23, pages 38 & 39) Any disclosure issues regarding that fact would be the responsibility of the issuer and its controlling persons for purposes of the PPM/disclosure document for the Regulation D, Rule 506 offering under the Securities Act of 1933, not a responsibility of an individual sales agent for a licensed broker-dealer using the PPM for the offering.

Re Paragraph (6)(b). Regarding the staff allegation that in connection with the offer and sale of the Discover Capital Units to the Wisconsin customer Reichwald, Sosa made a misrepresentation of fact when he told the purchaser that Discover Capital would be listed on NASDAQ within 18 months [the Common Stock at the time was traded in the Pink Sheets, and Reichwald had previously purchased \$4000 of Discover Capital Common Stock before Sosa became Reichwald's sales agent] and would be worth \$15-\$20 per share within 18 months, I would first observe that there was no existing "fact" concerning a future NASDAQ listing or a potential future price. Rather, such statements were obviously predictions of a hoped-for upgrading of trading market and price increase/appreciation incident to the solicitation and sale process. Indeed, if every price target/prediction by a sales agent that turns out to be materially off the mark constitutes a "misrepresentation of fact"--an anti-fraud violation-- the Division should be issuing hundreds, if not thousands, of notices of hearing containing anti-fraud allegations naming Wisconsin-licensed agents of the ten largest investment banking broker-dealer firms in the US that were named in the separate Enforcement Orders in the Global Settlement in 2002-2003 regarding research analysts' conflicts of interest, where those agents repeated to their customers price target/predictions contained in research reports by their firm's "independent" research analysts (that turned out to be materially off the mark costing public investors billions) incident to the agents' making purchase recommendations and sales to Wisconsin customers involving the particular stocks identified in the various Enforcement Orders.

Concerns regarding agent sales commentary with respect to price increase/appreciation or upgrading of the trading market for a stock instead would be in the nature of licensing/prohibited business practice issues -- which were not alleged by the staff in its pleadings in this case. Even if I took judicial notice to evaluate the conduct under the prohibited business practice provisions, because there was no pattern of such activity involving other Sosa customers developed by the staff in the case it presented--just the item regarding Reichwald-- there is insufficient basis in the record to make any finding of prohibited business practice violations regarding such activity to sanction Respondent Sosa.

Re Paragraph (7). In connection with the offer and sale of a ½ Unit in the Discover Capital Unit offering to the Wisconsin customer/purchaser Reichwald, although Sosa did not tell the customer/purchaser that the president of Discover Capital had been sanctioned in a disciplinary proceeding by the NASD, any disclosure obligation regarding that fact would be on the issuer and its controlling persons for purposes of the PPM/disclosure document for the Regulation D, Rule 506 offering under the Securities Act of 1933, not on an individual sales agent for a licensed broker-dealer using the PPM for the offering.

B. Allegations regarding high-pressure sales tactics by Sosa.

Overall, there was a limited amount of testimony developed at the hearing and in the hearing record regarding the allegations of high-pressure sales tactics in numbered paragraphs 8 and 9 of the Staff Petition for Order. The only substantive evidence of high-pressure sales tactics was hearing testimony from Reichwald in two places. First, in connection with the solicitation and sale of the 1/2 Unit of Discover Capital, Reichwald testified that there was a "really big push" where Sosa "called just about every day over three weeks" (Tr. Pg. 34). Sosa did not dispute that testimony. I find that such level of calling by Sosa regarding the Discover Capital transaction goes beyond being persistent and would constitute at least "annoying" for purposes of rule DFI-Sec 4.05(11). The other reference was after Sosa was assigned Reichwald's account (two prior Indianapolis Securities sales agents that had been assigned to Reichwald had left the firm abruptly, leaving Reichwald's account up in the air), Reichwald testified that Sosa telephoned "every other day" and that it got to be "quite aggravating." (Tr. Pg. 32). However, Reichwald continued to be a customer of Sosa and transacted business in the account with Sosa throughout

the time Sosa was with Indianapolis Securities until Sosa left the firm in July 2003. There is no testimony from Reichwald that he ever complained to the firm about Sosa's sales tactics. As a result, there is insufficient basis in the record to conclude Sosa to have engaged in any other instances of high-pressure tactics with customer Reichwald.

With respect to the Staff's other witnesses regarding this allegation, customer Raymond Stueber testified that Sosa's calls to him were "Sporadic. Maybe once in every 2-1/2 or three weeks." (Tr. Pg. 95), and when asked by Sosa "Did I call you up every day and beat you up over the phone?" Stueber replied "No." Customer Terry Oettinger testified that Sosa contacted him "2 or 3 times a week." (Tr. Pg. 95), with no testimony of any kind that Sosa was ever annoying, harassing or abusive over the telephone.

Because the only evidence in the record demonstrating that Sosa's telephonic sales tactics violated rule DFI-Sec 4.05(11) was with respect to the single transaction involving the purchase of the 1/2 Unit of Discover Capital discussed above, the Staff did not meet its burden of proof to demonstrate that Respondent Sosa used high-pressure sales tactics (nor was there any evidence that he was abusive, hostile or threatening) as a pattern with customers sufficient to warrant a sanction under that rule greater than a censure. The overall sanction of the suspension in the duration specified below subsumes whatever sanction is warranted under rule DFI-Sec 4.05(11) based on the record in this matter.

[As a separate matter with respect to telephonic sales practices, there was disturbing testimony at the hearing -- not involving sales practices of Sosa, but instead involving a different Indianapolis Securities sales agent that dealt with a Wisconsin resident customer (Stephen Jeffers, who subsequently became a customer of Sosa's). Jeffers, whom Sosa called as his witness, testified that he and his wife were solicited and sold a full \$20,000 Unit in the Discover Capital Unit Offering in circumstances which Jeffers testified involved the other agent's repeated use of hostile and abusive telephone tactics. (Tr. Pages 325, 328-329) Such hostile and abusive telephone tactics were corroborated by Sosa in his testimony (Tr. Pages 211-213) as a result of being present firsthand and overhearing a telephone conversation involving the other agent, together with a member of Indianapolis Securities' management, and customers then unknown to Sosa (but who Sosa later realized were the Jeffers after they became his customers). I will discuss additionally later in this Decision -- for other purposes -- the actions Sosa took with his firm on behalf of the Jeffers' regarding their Discover Capital purchase transaction. I make reference to the evidence in the hearing record regarding the Jeffers' Discover Capital Unit purchase for purposes of this Subsection of the Decision dealing with telephonic sales practices for two purposes: (i) to contrast it with the absence of any evidence in the hearing record of hostile or abusive tactics by Sosa; and (ii) to suggest that the Division Staff consider opening a file regarding this information. [I recognize that I would have to recuse myself from being the hearing officer in any administrative proceeding that might develop.]

C. Allegations of lack of suitability regarding customers other than Reichwald.

With regard to the issue of customer suitability, Sosa testified that whether a particular investment recommendation is suitable for a customer is determined on the basis of his prior discussions with the customer regarding their risk tolerance, investment history, investment perspective, their financial goals, and their financial status in terms of how much money do they have and how much of it is available for risk capital as contrasted with conservative money. (Tr. Pg. 192)

Customer Raymond Steuber had an account at White Discount Securities/Vanderkelen containing a few stocks aggregating appx. \$4500, had an annual income of appx. \$22,000 and a net worth of appx. \$250,000 exclusive of his residence (Tr. Pages 88, 89 & 97). The Staff stated in its testimony that its concerns regarding customer Stueber's account were whether an options

trade in his account was suitable. The principal transaction that took place in Stueber's account was a purchase of a basket exchange traded fund of the NASDAQ-100 (an option-related instrument denominated "QQQ") (Tr. Pages 110 & 114), in an amount aggregating appx. \$29,000 (Tr. Pg. 100). Stueber testified that the purchase funds were derived from the sale of the \$4500 of stock in his account which "he wanted to sell anyway" (Tr. Pg. 110), together with a \$25,000 certificate of deposit that came due (Tr. Pg. 112). Stueber acknowledged Sosa informed him that options had risks involved (Tr. Pg. 113), and that he received and signed the firm's options agreement disclosure statement (Tr. Pg. 103). Stueber understood that the QQQ purchase was comprised of numerous stocks in a basket that would provide diversification of risk (Tr. Pages 114, 115 & 116), and he confirmed his agreement to the trade (Tr. Pg. 115). Stueber testified that after he moved his account from Indianapolis Securities, his new firm's agent handled transactions in the QQQ position and "did quite well on some of them ." (Tr. Pg. 116) On the basis of this record, no lack of suitability was established with respect to transactions in customer Stueber's account. Also of relevance, Stueber testified that when he transferred his account from Indianapolis Securities, it was not because of any concerns with Sosa's handling of his account, it was solely because he wanted a broker in the community where Stueber lived and could visit the office and talk to the agent. (Tr. Pg 104).

Customer Terry Oettinger had an account at White Discount Securities/Vanderkelen (constituting his own separate investment account aggregating \$30,000), had an annual income of appx. \$40,000, and a net worth of appx. \$400,000 exclusive of his residence. (Tr. Pages 118, 119, 120). Of that net worth, \$215,000 was in an IRA (all in Vanguard Aggressive Growth Fund). With regard to suitability, the only Oettinger transaction the staff developed information on related to a purchase of an exchange-traded fund of the NASDAQ-100 (an options-related instrument denominated "QAVJB") (Tr. Page 131), in an amount aggregating appx. \$6,000 in August of 2002. (Hearing Exhibit #3, Oettinger Account Statement for 7/31/02 to 8/30/02). Oettinger testified that he did not recall Sosa informing him of the risks involved in trading options, but acknowledged receiving and signing the firm's Option Agreement. (Tr. Pg. 127) Sosa testified that he felt Oettinger was an appropriate customer for options on the basis that Oettinger said he "was looking to make money, that he wanted to get more aggressive, that his own decisions weren't working out -- in that he was buying the 'big names' like he was supposed to, but they weren't making money -- and he wanted to make money." (Tr. Pg. 201) Sosa also testified that Oettinger made it clear that he had \$30,000 or so that could be used for options, which amount Sosa split in his head into 5 "plays," which corresponded to Sosa's testimony that an effective options strategy required 5 "plays" which would provide a reasonable probability of an overall profit, and Sosa's comment that it would be ludicrous to guarantee "one play-one win." (Tr. Pg 228) After the one and only options position expired worthless in October 2002, Oettinger moved his account to Wells Fargo Brokerage. (Tr. Pg. 132) Although Oettinger sent a formal complaint letter to the NASD in February 2003, Oettinger confirmed in his hearing testimony that his main complaint issue related to a separate issue discussed below with respect to the Invision stock transactions. (Tr. Pages 132 & 135) I conclude that the hearing record on this issue regarding Oettinger does not demonstrate any suitability violation in connection with the QAVJB options transaction.

D. Allegations of unauthorized trading.

With regard to the unauthorized trading allegation involving customer Oettinger, that allegation was the subject of a formal complaint letter to the NASD in February 2003 and is the one disciplinary item on Sosa's CRD record (as a complaint matter, not involving any finding that any violation occurred). Sosa in paragraph 10(c) of his May 28, 2004 Petition for Hearing made a general denial to the effect that he never executed transactions for any client without authority. Sosa in his testimony specifically denied that he had done any unauthorized trading in Oettinger's account (Tr. Pg. 391), which is consistent with Sosa's specific denial in his March 6, 2003 letter to the NASD (part of Exhibit 9) that any Invision trade was not authorized, together

with his statement therein that at no time were unauthorized trades made in Oettinger's account.

In connection with Oettinger's complaint to the NASD, Oettinger told the compliance officer at Indianapolis Securities that he had telephone tapes that would demonstrate violations by Sosa and that if the firm would pay him for part of his losses in the options transaction, Oettinger would drop his complaint. (Tr. Pages 150 & 162) Sosa's testimony on the subject was that because Sosa knew he had not done an unauthorized trade, the firm did not acquiesce to making any payment whereupon Oettinger pursued the matter with the NASD. During the course of the NASD investigations of the matter, no telephone tapes were produced, and (as previously mentioned in this Decision) the NASD ultimately closed its file in December 2003 without recommending any enforcement action. With regard to the tapes, Oettinger testified that: (i) "the tapes" consisted of "one tape on a [telephone] answering machine, a little tape... probably not more than an hour." ; and that (ii) "the tape ended up getting taped over." (Tr. Pg. 165)

Of relevance on this issue, the December 4, 2003 letter from the NASD closing its investigation of the Oettinger complaint matter informed that Oettinger was entitled to pursue arbitration or mediation regarding the complaint. No information was provided in the hearing testimony or record indicating that Oettinger acted to pursue arbitration or mediation with regard to his complaint issue.

The following hearing testimony also is relevant regarding this unauthorized trading issue. Oettinger testified that notwithstanding the numerous recommendations that Sosa made to him, most of which he did not want to do, Oettinger acknowledged that Sosa did not do any trades that Oettinger did not want to do. (Tr. Pg. 139) With regard to financial benefit to Sosa in connection with the InVision trade, the hearing testimony references a document reflecting that for the \$15,779 sale transaction, the commission was \$100 (less than 1%). (Tr. Pg. 149) Lastly, and significantly, despite the controversy over the alleged unauthorized transaction in InVision, Oettinger acknowledged that he subsequently agreed to purchase additional InVision stock (Tr. Pg. 159) -- a customer action that would not be expected for a customer who contended there were problems with the prior transaction involving the same security.

Because I find the hearing testimony on this issue regarding Oettinger to be conflicting and the record inconclusive, I cannot determine there to have been unauthorized trades in Oettinger's account.

With regard to this subsection relating to authorized trading, there was testimony by customer Reichwald (Tr. Pages 36 & 39) that both a purchase transaction of Sirius Satellite and the sale within the week in his account were unauthorized. As referenced in Conclusion of Law # 7 and discussed with more particularity in a following Subsection, I made a ruling on the record (Tr. Pg. 382) for the reasons recited, that the staff was precluded from making any churning allegations or introducing any hearing evidence or testimony relating thereto.

Such ruling regarding the Staff's attempt to raise a churning allegation at the hearing has relevance to Reichwald's hearing testimony regarding such Sirius Satellite transactions. The staff acknowledged in its hearing testimony that customer Reichwald's account information was not obtained or reviewed prior to Sosa's summary license denial. (Tr. Pg. 304) In that regard, I note that the customer account records for customers Reichwald, Oettinger and Tilque were date-stamped received by the Division from FISERV, Inc. on July 30, 2004, some three months after the Summary Denial Order. (Exhibit 1) The Staff testified that information regarding unauthorized trades in Reichwald's account developed from interviews with the customer [after the license denial] (Tr. Pg. 270) Thus the Staff's information regarding alleged violations by Reichwald at the time the Summary Denial Order was issued consisted of what was contained in the Questionnaire Reichwald supplied to the Division on October 7, 2003 (Exhibit 3A) A review of the concerns/allegations contained in that Questionnaire (accompanied by supplemental

documents) demonstrate that they related solely to a \$4000 common stock purchase of Discover Capital common stock through agent John Wong, and the purchase of ½ Unit of Discover Capital for \$10,000 through Sosa.

The Staff is entitled to obtain additional, corroborative evidence regarding allegations made in the Petition for Order involving customers and their respective Questionnaire information that comprised the basis for the Summary Denial Order. However, once a Summary Order is issued and a hearing is requested, the Staff cannot after the fact look to buttress its original case by going back to individual customers to seek evidence of possible violations beyond/separate from what those customers' Questionnaires were used for in the Summary Order. In a Summary Order situation, the staff is obligated to make -- and has the burden of proof to make -- a prima facie case with regard to the allegations giving rise to the Summary Order adequate to support the severity of the sanction imposed in the Summary Order. If, incident to the Indianapolis Securities investigation, the Staff had Questionnaires from other customers that brought up unauthorized trading allegations, it was incumbent on the Staff to call those customers as witnesses at the hearing to make its case regarding unauthorized trading allegations.

Consequently, it is my determination that no unauthorized trading allegation or evidence relating thereto involving customer Reichwald can be considered for purposes of this hearing proceeding because it could not have been a part of the determination to issue the Summary Order Denying Sosa's license application.

The only other witness called by the staff was customer Raymond Stueber, and no evidence or testimony was elicited regarding unauthorized trading in his account.

E. Allegations of discretionary trading without written authorization

Sosa acknowledged that he did not obtain full written discretionary authority for any of his customer accounts at Indianapolis Securities. (Tr. Pg. 187)

Sosa testified that he has used a discretionary practice with customers for the last 6-7 years in connection with his trading strategy involving stocks in which once he receives authorization from a customer to buy into a position, he requests and receives from the customer at that time a verbal authorization to sell out that position at any time without a prior OK from the customer (Tr. Pg. 187).

Sosa also stated on the record that "I made it a specific point to ask each and every client with every [purchase] transaction, do I have your authority to sell the stock at my discretion? If I don't get a yes, I won't do the transaction." (Tr. Pg. 142)

Sosa did not obtain in writing from customers, authority to implement his "discretionary sales out of an existing position" practice described in the preceding paragraph -- and Sosa stated he regretted not obtaining such. (Tr. Pg. 187)

While it wasn't raised by Sosa as a defense, the "discretionary sales out of an existing position" practice which involved relying on a verbal/informal understanding with the customer does not qualify for the "time or price" exception to rule DFI-Sec 4.06(1)(f) dealing with when discretionary authority in a customer's account can be exercised. Interpretations of the NASD Conduct Rule 2510 dealing with this subject state that the verbal permission by a customer to allow an agent flexibility as to the exact time and price for executing an order "is measured in minutes, hours and days (1-2), not longer." (Fend-Securities Expert Witness/www.fend.com/Time and Price Discretion)

I will note here for the record the NASD's sanctioning Guidelines for exercising discretion without written authorization recommend a fine of \$2500 to \$10,000, plus the amount of the agent's financial benefit from the transactions, and, in egregious cases, a suspension of 10 to 30 business days. The Guidelines list as principal considerations in determining sanctions: (i) whether the customer's grant of discretion was express or implied; and (ii) whether the firm's policies prohibited discretionary trading and whether the firm prohibited the agent from exercising discretion in customer accounts.

Regarding whether Sosa's customers' grant of discretion was express or implied, customer Jeffers testified that when Sosa asked him for discretionary authority to sell a stock (that Jeffers had previously authorized purchase of), Jeffers told Sosa he would not grant Sosa that kind of discretion such that Sosa only did such sale transactions after calling Jeffers. (Tr. Pg. 342) Regarding knowledge to, and the position of, his firm on this issue, Sosa testified that when he told the compliance officer for Indianapolis Securities of Sosa's "discretionary sale out of an existing position" practice, Sosa was told that so long as it was limited to that, such was "no problem" and was permissible. (Tr. Pg. 190)

There was no evidence developed in the hearing record regarding customer losses, significant or otherwise, as a result of the Sosa's "discretionary sales out of an existing position" practice.

In summary on this subject, Sosa's implementation of his trading strategy involving securities positions that were purchased in customer accounts with their express authorization that resulted in instances of Sosa effectuating sales out of customers' existing securities positions on a discretionary basis on the basis of informal verbal understandings as to time and price lasting longer than 1-2 days -- but which "discretionary sales out" activities did not involve obtaining proper written discretionary authority from the customers -- constitute a violation of rule DFI-Sec 4.06(2)(i) [cross-referencing rule DFI-Sec 4.06(1)(f)] and constitute sufficient cause under section 551.34(1)(g) of the Wisconsin Securities Law for issuing a suspension sanction against a securities agent's license of the duration specified below in conjunction with other findings and conclusions.

Churning allegation and evidence ruling.

During the hearing, the Division Staff sought to introduce evidence -- in the form of hearing testimony from a Division Licensing Examiner (Tr. Pg. 244 & 266) and a churning worksheet (Exhibit 4) to attempt to demonstrate that churning took place in the account of Sosa's customer Reichwald. During the hearing, I made a determination on the record (Tr. Pg. 382) that no churning allegation or evidence relating thereto would be considered for purposes of this hearing proceeding because it was not an allegation in the April 30, 2004 Staff Petition and thus could not have been a part of the determination to deny Sosa's license application. Furthermore, it was not listed among the issues for hearing set forth in the July 27, 2004 Prehearing Memorandum, and the Division Staff at no time prior to the hearing made any Motion to seek to amend the pleadings to add allegations of churning. [Parenthetically, I would mention for the record that even if a Motion to amend had been made in this case, such would not have been permitted because of this being a license denial by summary order case. In contrast, if this proceeding had been initiated by a Staff Notice of Hearing seeking to impose sanctions, Staff Motions To Amend Pleadings are routinely granted to cover newly identified issues during the course of the proceeding up to the time of the hearing.] Additionally, allowing evidence on the churning subject matter to be introduced for the first time during the conduct of this hearing regarding a previously issued denial order (that was based on the staff allegations contained therein at that time) would constitute undue surprise and prejudice to the Respondent.

The Staff is entitled to obtain additional, corroborative evidence regarding allegations made in the Petition for Order involving customers and their respective Questionnaire information that

comprised the basis for the Summary Denial Order. However, once a Summary Order is issued and a hearing is requested, the staff cannot after the fact look to buttress its original case by going back to individual customers to seek evidence of possible violations beyond/separate from what those customers' Questionnaires were used for in the Summary Order. In a Summary Order situation, the staff is obligated to make -- and has the burden of proof to make -- a prima facie case with regard to the allegations giving rise to the Summary Order adequate to support the severity of the sanction imposed in the Summary Order. If, incident to the Indianapolis Securities investigation, the Staff had Questionnaires from customers that brought up churning issues, it was incumbent on the Staff to include churning allegations in its Petition For Order and then call those customers as witnesses at the hearing to make its case regarding any churning allegation.

The Division's license review process as applied to Sosa's April 19, 2004 application for license

Although Sosa worked for a number of firms over his 12 years in the securities business, several of which firms were "problem firms" by his own admission (Tr. Pages 168-170), he had no disciplinary items on his CRD records related to his employment at any of those firms, and had no disciplinary items of any kind until the Oettinger complaint to the NASD in November 2002 which was closed by the NASD without any regulatory action taken as confirmed to the customer by letter dated December 4, 2003 (Exhibit 10), some five months before Sosa's license application was filed in Wisconsin and subsequently denied. Thus, as of the April 19, 2004 date Sosa's license application was filed, his CRD record did not reflect any violations of federal or state securities laws or SRO (NASD or trading exchanges) rules, or any criminal convictions.

The staff testified that one facet of the job duties of a Division Licensing Examiner is to determine whether a securities agent who has applied for licensure in Wisconsin should be approved, asked to withdraw, or denied. (Tr. Pg. 260)

According to testimony from licensing staff, approximately 1% of agent license applications filed with the Division are denied without opportunity to withdraw. (Tr. Pages 274, 301) The staff provided as examples of violations/problems triggering a licensing denial, "theft, unauthorized trading, account churning," and that "If the conduct affects anyone in Wisconsin, it is elevated to a higher level immediately." (Tr. Pg. 275)

In addition to Sosa's testimony and summation on the specific allegations in the Staff Petition, Sosa's testimony and summation emphasized what he regarded as a lack of due process in the Division's license review procedure in this case that resulted in a denial of his license application without providing prior notice there were concerns regarding his application and/or not providing him an opportunity to withdraw his license application. (Tr. Pages 383, 398-399). Sosa also stated that he believed there was a "rush to judgment, and that "facts were not considered fully or in a sufficient manner." (Tr. Pg. 398) Also, that "The whole picture was not reviewed prior to my being rejected, ... and had there been a withdrawal, there would have been time, ample time, to review all the facts and make a determination either way." (Tr. Pg. 409)

Sosa also contended that he was not given equal treatment vis-à-vis other former Indianapolis Securities agents whose applications for license in Wisconsin were not denied but rather were either asked to withdraw or allowed to hold their applications open until staff concerns were resolved, and who were able to work out with the Staff supervisory arrangements to enable the agent to operate from his home as his office which was located in another state from the firm's home office and its compliance personnel. (Tr. Pages 285-288 & 384)

When asked to describe what is the general practice by the Licensing Division Staff in connection with a review of a license application where a determination is made to allow the applicant to withdraw, the staff testified that when the staff's license application review results in

a determination that it would be better to have the applicant withdraw, the staff would write a letter to the firm requesting them to do that. (Tr. Pages 316, 317)

When the Division staff was asked by the Designated Hearing Officer what it was that resulted in the Staff denying Sosa's application rather than providing the withdrawal option, the Staff replied that it was based on Wisconsin customer Questionnaires obtained in connection with the Staff's investigation of Indianapolis Securities where the responses from Sosa's clients indicated a pattern of similar answers that Sosa was aggressive on the telephone and would keep calling after having been told not to call. (Tr. Pg. 317) Also, the staff mentioned the Oettinger complaint on the CRD, Indianapolis Securities' regulatory problems, Sosa's prior employment history with firms that had regulatory problems, and that because Sosa would be working from his home (in New York) when his firm's home office was in Texas, it would not be possible for Sosa to be on special supervision. (Tr. Pages 317- 318 & 354)

Of relevance on this point are the Staff's comments on the record that "You can't afford to take the risk of giving the applicant to the benefit of the doubt if serious concerns arise." and "There is no right to a securities license." (Tr. Pg. 406)

As discussed previously, the staff acknowledged in its hearing testimony that "it did not have some of the information that was subsequently provided to the Division after the Division had to go forward further because the hearing was requested." (Tr. Pg. 378) The staff also testified that after the license application denial was made and Sosa requested a hearing, the staff contacted additional of Sosa's customers and received responses to further questionnaires in which indicated additional concerns regarding "a real pattern of losses" and "a lot of trading in a short amount of time." (Tr. Pg. 264)

That subsequent information obviously is what prompted the Staff to seek to introduce hearing evidence to establish churning violations. However, as discussed earlier and recited in Conclusion of Law #7, I made a ruling on the record (Tr. Pg. 382) for the reasons recited, that the staff was precluded from making any churning allegations or introducing any hearing evidence or testimony relating thereto.

Under the Wisconsin Securities Law licensing provisions in 551.34(1)(c), Wis. Stats., state or federal securities-law related criminal complaint allegations cannot be used as a basis for denial, suspension or revocation of a license-- a conviction is required. Likewise, under 551.34(1)(d), Wis. Stats., a state or federal securities-law related injunction has to be ordered by a court before it can be used as a basis for denial, suspension or revocation (mere pleadings seeking an injunction are not sufficient). Similarly, under 551.31(1)(f), Wis. Stats., for administrative proceedings brought either by state securities agencies, the U.S. Securities and Exchange Commission or self-regulatory organizations to be used as a basis for denial, suspension or revocation a license, an order must be issued -- a statement of staff allegations is not sufficient. However, subd. (1)(g) provides as a basis for denial, suspension or revocation of a license "Has engaged in dishonest or unethical practices in the securities business...." -- which language in the Uniform Securities Act is not interpreted in the Official Comments to preclude allegations of dishonest or unethical practices from being used as a basis for summary denial of a license application.

This hearing proceeding is not a license denial situation in which the denial was based on a final action or determination by Order of the SEC, a state securities agency, the NASD, or in an arbitration proceeding or by Order of a Court, that a violation of state or federal securities laws or rules had, in fact, occurred. The Summary Denial Order dated April 30, 2004 was based on Staff allegations in its Petition for Order of securities registration violations, anti-fraud violations and certain securities agent licensing business practice violations under 551.34(1)(g), Wis. Stats.

This proceeding against Sosa was not triggered by any “traditional complaint” (that usually is accompanied by documentation of transaction details and account information) directed specifically at Sosa of the type that the Division or the NASD would open a file on (as the NASD did with customer Oettinger’s February 2003 specific complaint to the NASD regarding Sosa), although it is the case that information contained in a Questionnaire in certain circumstances might provide the functional equivalent of a complaint. Rather, as discussed earlier in this Decision, much of the information relating to this licensing proceeding against Respondent Sosa was developed from Questionnaires provided by customers in response to the general investigation of Indianapolis Securities conducted by the Division’s Licensing Staff which began in September 2003 (Sosa previously had left the firm in July) and resulted in action by the Division on October 29, 2004 to revoke the firm’s broker-dealer license. As the Staff commented on page 406 of the Transcript: “Usually decisions are made based solely upon the U-4. In this situation, we had the benefit of additional information which we used in making a determination.

The only two Questionnaires made part of the record (Exhibits 3A, 8-A) provided only “bare bones” answers to the questions posed. The Staff acknowledged that the initial Indianapolis Securities Questionnaires were not accompanied by account information, and it was only after the Summary Denial Order had taken place and a hearing was requested by Sosa, that the staff sought corroborating evidence from the customers. (Tr. Pages 293, 304) The staff acknowledged in its hearing testimony that “it did not have some of the information that was subsequently provided to the Division after the Division had to go forward further because the hearing was requested.” (Tr. Pg. 378) As noted earlier in this Decision, the customer account records for customers Reichwald, Oettinger and Tilque were date-stamped received by the Division from FISERV, Inc. on July 30, 2004, some three months after the Summary Denial Order. (Exhibit 1) The staff also testified that after the license application denial was made and Sosa requested a hearing, the staff contacted additional of Sosa’s customers and received responses to further questionnaires in which indicated additional concerns regarding “a real pattern of losses” and “a lot of trading in a short amount of time.” (Tr. Pg. 264)

With regard to the allegations stemming from the Questionnaire information, the Staff testified that the staff accepted those allegations at face value, and assumed those allegations were true. (Tr. Pages 291, 292 and 293) The Staff did add the qualifier that allegations were accepted as true “until it is proven otherwise.” (Tr. Pg. 292) When the Staff was asked how it could be “proven otherwise” if the person who is denied wasn’t given an opportunity to present their side of the case, the reply was “That’s what you are doing now,” [ie. participating in a hearing proceeding] “That’s where your due process comes in.”

It may often be the case that in an agent license application review situations the staff may have or receive customer allegations and some information regarding the applicant that produces a lot of metaphorical “smoke” indicating that there may be “fire” present in terms of sanctionable activities. In such situations, in determining whether it is necessary to act summarily for the protection of investors, an evaluation of the prospects for customer harm is warranted.

In this proceeding, there was no testimony or evidence presented by the Division demonstrating that there was any current, ongoing injurious activity by Sosa with Wisconsin customers that warranted or required immediate denial action on a summary basis without prior notice to the applicant or his applying firm of regulatory concerns the staff had, nor providing opportunity to respond to them. This was not a situation where Sosa was actively conducting business with Wisconsin customers for one firm, left for another firm and sought immediate transfer of his license to the new firm to continue ongoing business with those customers who would switch their accounts. Indeed, at the time of Sosa’s license application filed by Pro-Integrity Securities in April 2004, Sosa had not been licensed in Wisconsin since July 2003 when he left Indianapolis

Securities.

[I can imagine there could be fact scenarios in which exigent circumstances and apparent major ongoing violations are taking place where immediate summary action might be justified to deny an agent license application for an applicant with a clean disciplinary history-- for instance, if there were allegations and some evidence of theft from several Wisconsin customer accounts that the agent applicant was currently doing business with where the agent was changing firms and was seeking to transfer a license. As stated, no evidence of current, ongoing injurious activity by Sosa with Wisconsin customers was demonstrated.]

A summary denial has repercussions -- particularly where the applicant, as in this case, previously was licensed in Wisconsin, such that the denial was the functional equivalent of a revocation. Additionally, because the action taken by the Division was an Order, not a Notice of Hearing to evaluate Staff allegations before issuing an Order, the Division's action triggered other states' Uniform Securities Act language equivalent of 551.34(1)(f) enabling them to deny a license application by Sosa (or ask him to withdraw the application). In that regard, as mentioned earlier in this Decision, Sosa testified that he had previously been licensed in approximately 20 to 25 states, including Wisconsin, when he was with Indianapolis Securities. (Tr. Pg. 183) He also stated on the record that he is currently licensed in only two states, New York and California, (Tr. Pages 198 & 416), and that as a result of the denial action by Wisconsin, a number of other states which he listed that he was previously licensed in have not licensed him and have asked him to withdraw. (Tr. Pages 198 and 292) Sosa also stated on the record that he was testifying from personal experience that other states will ask [an applicant] to withdraw [a license application] upon seeing a rejection from a state. (Tr. Pg. 289)

As mentioned earlier in the Decision, the Staff identified the three alternatives available when reviewing a license application-- approval, asking the applicant to withdraw, or denial. (Tr. Pg 260) Where there are no exigent circumstances involving apparent major ongoing violations in which immediate summary action might be justified, the Staff has an available option that provides an investor protection mechanism for Wisconsin investors/customers in agent license application review situations where the staff has or receives information/allegations relating to a particular applicant that triggers regulatory concerns and/or if there is supervisory issues that need to be addressed/implemented. As Sosa stated in his summation, "had there been a withdrawal, there would have been time, ample time, to review all the facts and make a determination either way. As far as the risk to Wisconsin clients, if I withdraw, there is no risk." (Tr. Pg 409)

In that regard, when asked by Sosa on cross-examination "Why the Staff was not willing to wait to receive customer account information before making the denial? Why not wait? Was there a rush?" the Staff replied that "Based on the information available, the staff felt there was enough to make a determination to deny the application."

During the time Sosa's license application was received on April 19, 2004 until the Denial Order was issued on April 30, neither Sosa nor the applying firm were notified by the Division that issues/problems had been identified in the license application review process that would preclude immediate licensing approval, and Sosa's three attempts by telephone to contact the staff person reviewing the application were unsuccessful (the staff person was on vacation), and a letter to the Division by Sosa's applying firm was not responded to. (Tr. Pages 298 & 299)

During hearing testimony on the subject of the Division Staff allowing a license applicant to withdraw where the Staff identifies problems or concerns during the application review process, the Staff's testimony regarding a Wisconsin license application filed on behalf of former Indianapolis Securities agent John Buonocore (whom Sosa contended in the presentation of his case had sold hundreds of thousands of dollars worth of Discover Capital Units to his customers)

demonstrated that: (i) Buonocore's application was not summarily denied (apparently his attorney and/or his applying firm was able to contact the Division staff to discuss matters); (ii) although the Staff did not have at the hearing the records relating to Buonocore's application and could not recall whether or not he had been allowed to withdraw his application, the Staff did confirm that Buonocore's application was held open for a significant period of time (measured in months) while an appropriate supervisory structure was worked out resulting in Buonocore becoming licensed in Wisconsin. (Tr. Pages 286 to 287)

The hearing testimony regarding the Buonocore license application process was also relevant regarding the issue of the need for appropriate supervision mentioned by the Division staff as one reason for not permitting Sosa to withdraw his license application. Preliminarily, I fail to see how a prospective supervisory concern/issue could be a basis for a summary denial of a license application-- such assumes it would be impossible to remedy the supervisory issue/concern. In any event, the staff acknowledged in testimony that there have been situations in which out-of-state agents can be given special supervision when they are operating from their home as an office away from the firm's home office and its supervisory personnel, (Tr. Pg. 376) and the Staff's working out that type of supervisory arrangement with applicant Buonocore demonstrates such can be done.

Sosa testified that there are certain of his former Wisconsin customers that he named who would transfer their securities accounts to him if he were authorized to do business in Wisconsin. (Tr. Pages 235-236) Indeed, customer Stephen Jeffers so testified. (Tr. Page 351)

* * * * *

Reviewing the Findings of Fact and Conclusions of Law (and in contrast with the numerous violations alleged in the Staff Petition for Order) it is my determination that the violations established on the record in this proceeding relate essentially to: (i) 2 aspects of one transaction involving the sale to customer Reichwald of ½ Unit of Discover Capital for \$10,000 in the private placement – namely, the suitability of the sale to him, together with the solicitation process by Sosa regarding that sale; and (ii) Sosa's "discretionary-sale-out-of-an-existing-position" general practice based on a general verbal understanding with customers, but without obtaining a proper written discretionary authorization from the customers.

On the basis of the foregoing, although it is my determination that the Findings of Fact and Conclusions of Law rendered above constitute sufficient cause under section 551.34(1)(g) of the Wisconsin Securities Law for issuing a sanction in this proceeding, based on the violations able to be established on the record in this proceeding as well as the equitable considerations discussed in the several preceding paragraphs, it is also my determination that a suspension sanction of the duration specified below -- rather than the license application denial issued April 30, 2004 -- is warranted in this proceeding. [Parenthetically, I state for the record that I would make an equivalent sanctioning determination on this record had Sosa been permitted to withdraw his license application in April 2004 and had the Division determined it wanted to take regulatory action against Sosa by issuing a Notice of Hearing containing the same allegations and seeking sanctions against Sosa's Wisconsin agent's license as of its last effective date. However, had the Staff used that procedure, it could have made Motions to Amend Pleadings to add allegations from any additional or corroborating information the Staff might obtain to supplement the Questionnaire data.]

Notwithstanding such suspension-rather-than-denial determination, because I view it to be important for investor protection reasons to ensure that if Sosa becomes licensed in Wisconsin, any trading discretion sought to be exercised by Sosa in transactions for Wisconsin customers be appropriately authorized in writing, it is my further determination that for the protection of Wisconsin investors, *in connection with any securities license application filed by Sosa under the*

Wisconsin Uniform Securities Law, the Division shall impose pursuant to sec. 551.32(7), Wis. Stats., such reasonable additional and specific supervisory procedures regarding Sosa's prospective securities activities as may be warranted to ensure Sosa has appropriate written trading authorizations as may be necessary with respect to Wisconsin customer accounts.

As such, Respondent Sosa should consider this license suspension sanction, together with the related additional supervisory oversight procedures on his future securities activities that are imposed in this Decision and Order and are implemented in any licensure process, to be in the nature of a "first offender" - type securities sanction. Such also constitutes a determination of "zero future tolerance" for any discretionary trading without appropriate written authority that might occur in the future by Sosa in a securities agent capacity resulting in harm to securities customers.

* * * * *

NOW THEREFORE, based on the Findings of Fact and Conclusions of Law in this proceeding,

IT IS ORDERED THAT:

(1) The denial of the Wisconsin securities agent license application of Luis Sosa, Jr. contained in the April 30, 2004 Order of the Division is vacated; in substitution, a suspension of the Wisconsin securities agent license of Sosa is invoked for a period of thirty (30) days, commencing from the last effective date of his license.

(2) Given the passage of time since the April 30, 2004 denial of Sosa's license application, during which period the hearing process has taken place, Sosa/an applying firm on his behalf is granted immediate leave to file an application for a securities agent license in Wisconsin. In connection with any securities license application filed by Sosa/an applying firm on his behalf under the Wisconsin Uniform Securities Law, the Division shall impose pursuant to sec. 551.32(7), Wis. Stats., in connection with the license application process and for the protection of Wisconsin customers, such reasonable additional and specific supervisory procedures regarding Sosa's prospective securities activities as may be warranted with respect to Sosa's having appropriate written discretionary trading authorizations as may be necessary with respect to customer accounts.

DATED at Madison, Wisconsin this _____ day of _____, 2005.

(SEAL)

Randall E. Schumann
Designated Hearing Officer

NOTICE OF APPEAL INFORMATION

(Notice of rights for rehearing and judicial review,
the times allowed for each, and the identification
of the party to be named as Respondent)

The following notice is served on you as part of this Decision: (with copies of the statutes cited)

1. Rehearing. Any person aggrieved by this Decision may petition for a rehearing within 20 days after the service of the Decision, as provided in sec. 227.49, Wis. Stats. A petition for rehearing is not a prerequisite for appeal directly to Circuit Court through a petition for judicial review.

A petition for rehearing must be filed with the Department of Financial Institutions-Division of Securities at the address below.

2. Judicial review. Any person aggrieved by this Decision has a right to petition for judicial review of the Decision as provided in sec. 227.53, Wis. Stats. The petition must be filed in Circuit Court within thirty days after service of this Decision if there has been no petition for rehearing, or within thirty days after service of the Order finally disposing of the Petition for Rehearing, or within thirty days after the final disposition by operation of law of any Petition for Rehearing.

A petition for judicial review must be served on, and name as the Respondent:

Wisconsin Department of Financial Institutions-Division of Securities
345 West Washington Avenue, 4th Floor, Post Office Box 1768
Madison, Wisconsin 53701

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