

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

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IN THE MATTER OF: KLAUS ALOIS ROBERT OFFENBACHER) FILE NO. 0700259
_____))

NOTICE OF HEARING

TO THE RESPONDENT: Klaus Alois Robert Offenbacher
(CRD#:1280108)
421 Valley Road Itasca, Illinois 60143

C/o First Analysis Securities Corporation
One South Wacker Drive
Suite 3900
Chicago, Illinois 60606

You are hereby notified that pursuant to Section 11.F of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act") and 14 Ill. Adm. Code 130, Subpart K, a public hearing will be held at 69 West Washington Street, Suite 1220, Chicago, Illinois 60602, on the 22nd day of August, 2007 at the hour of 10:00 a.m. or as soon as possible thereafter, before George Berbas, Esq., or such other duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order shall be entered revoking Klaus Alois Robert Offenbacher's (the "Respondent") registration as a salesperson in the State of Illinois and/or granting such other relief as may be authorized under the Act including but not limited to the imposition of a monetary fine in the maximum amount pursuant to Section 11.E(4) of the Act, payable within ten (10) business days of the entry of the Order.

The grounds for such proposed action are as follows:

1. That at all relevant times, the Respondent was registered with the Secretary of State as a salesperson in the State of Illinois pursuant to Section 8 of the Act.
2. That on March 29, 2007, NASD entered a Letter Of Acceptance, Waiver And Consent (AWC) submitted by the Respondent regarding File No. 20060063414-01 which sanctioned the Respondent as follows:

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- a. Fined \$25,000; and
 - b. 90 day suspension in all capacities, with credit to be given for the 60 day suspension without pay imposed by the member firm with which he was associated and previously served. He will be suspended for an additional 30 days.
3. That the AWC found:
- a. The Respondent was the registered representative with a member firm responsible for repurchasing Material Science Corporation ("MSC") stock on behalf of the issuer pursuant to the company's stock repurchase program, which was subject to the provisions of the Securities Exchange Act of 1934 and SEC Rule 10b-18 ("Rule 10b-18").
 - b. On August 21, 2006, the Respondent received authorization from MSC to repurchase 100,000 shares of MSC stock pursuant to the repurchase program.
 - c. The same day, the Respondent located an owner of MSC stock willing to sell its entire holding of 174,300 shares at a price of \$9.90 per share.
 - d. Later that day, the Respondent attempted to contact the principals of MSC to determine if they would be willing to purchase 174,300 shares of MSC stock at a price of \$9.90 per share, but he was unable to locate the principals on that day.
 - e. On August 21, 2006, MSC stock opened at a price of \$9.95 per share and closed at a price of \$9.80 per share.
 - f. The Respondent received confirmation on August 22, 2006 from MSC's principals that they were willing to purchase 174,300 shares of MSC stock at a price of \$9.90 per share. He then informed the seller that he had a buyer who was willing to purchase 174,300 shares of MSC stock at a price of \$9.90 per share.
 - g. To repurchase the stock in accordance with the provisions of Rule 10b-18, the issuer's purchase:
 - (i) could not be the opening (regular way) purchase reported in the consolidated system; and
 - (ii) could not exceed the highest independent bid or the last independent transaction price, whichever was higher, quoted or reported in the consolidated system at the time the Rule 10b18 purchase was effected.
 - h. The following events occurred on August 22, 2006:

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- i. At 9:03:37¹ the Respondent instructed an institutional floor broker on the Chicago Stock Exchange to purchase 1,000 shares of MSC stock at \$9.90 per share in the event MSC opened below such price in order to move the price of MSC stock to \$9.90 per share, which was the price that he needed in order to execute the cross trade as agreed to by the issuer and the seller.
 - ii. MSC stock opened on the New York Stock Exchange at \$9.75 per share, which was below the prior day's closing price and below the parameters of where the Respondent could execute the cross trade because it would not satisfy the seller's price requirement.
 - iii. At 9:31:02, the institutional floor broker purchased 1,000 shares of MSC stock at a price of \$9.90 per share, increasing the price of MSC stock from the opening price of \$9.75 per share.
 - iv. A few seconds later, the Respondent executed a cross transaction for 174,300 shares of MSC stock at \$9.90 per share between the issuer and the seller.
 - i. The Respondent knowingly and intentionally artificially increased the market price of MSC stock on August 22, 2006 in an attempt to comply with the provisions of Rule 10b-18 and still execute the cross transaction between the issuer and the seller at the negotiated price.
 - j. The conduct described in paragraphs a through i constitutes violations of NASD Conduct Rules 2110, 2120, 3310 and IM-3310.
4. That Section 8.E(1)(j) of the Act provides, *inter alia*, that the registration of a salesperson may be revoked if the Secretary of State finds that such salesperson has been suspended by any self-regulatory organization registered under the Federal 1934 Act or the Federal 1974 Act arising from any fraudulent or deceptive act or a practice in violation of any rule, regulation or standard duly promulgated by the self-regulatory organization.
5. That NASD is a self-regulatory organization as specified in Section 8.E(1)(j) of the Act.
6. That by virtue of the foregoing, the Respondent's registration as a salesperson in the State of Illinois is subject to revocation pursuant to Section 8.E(1)(j) of the Act.

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You are further notified that you are required pursuant to Section 130.1104 of the Rules and Regulations (14 ILL. Adm. Code 130) (the "Rules"), to file an answer to the allegations outlined above within thirty (30) days of the receipt of this Notice. A failure to file an answer within the prescribed time shall be construed as an admission of the allegations contained in the Notice of Hearing.

Furthermore, you may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate. A failure to so appear shall constitute default, unless any Respondent has upon due notice moved for and obtained a continuance.

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

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

Dated: This 19th day of June 2007.



JESSE WHITE
Secretary of State
State of Illinois

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Hearing Officer:
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