

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

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**IN THE MATTER OF:** )  
**ROBERT M. SMART and** )  
**SMART PLANNING COMPANY** )  
**D/B/A SMART FINANCIAL PLANNERS,** ) **No. 0600664**  
**their partners, officers and directors, agents, employees,** )  
**affiliates, successors and assigns.** )

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**ORDER OF PROHIBITION**

**TO RESPONDENTS: Robert M. Smart and Smart Planning Company  
C/o Robert Smart #13192-040  
FCI Terre Haute  
Federal Correctional Institution  
P.O. Box 33  
Terre Haute, Indiana 47808**

WHEREAS, a Temporary Order of Prohibition was issued by the Secretary of State on September 19, 2008 which prohibited **Robert M. Smart and Smart Planning Company d/b/a Smart Financial Planners**, their partners, officers and directors, agents, employees, affiliates, successors and assigns ("Respondents") from offering or selling securities in or from the State of Illinois until further order of the Secretary of State or his duly authorized representative;

WHEREAS, pursuant to section 11.F of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act"), the failure to request a hearing within thirty (30) calendar days of the entry of the Temporary Order shall constitute an admission of any acts alleged therein and constitute a sufficient basis to make the Temporary Order final;

WHEREAS, the Respondents have failed to request a hearing on the matters contained in the Temporary Order within thirty (30) calendar days of the entry of said Temporary Order and the Respondents are hereby deemed to have admitted the facts alleged in the Temporary Order;

WHEREAS, the Secretary of State, by and through his duly authorized representative, has adopted the Findings of Fact contained in the Temporary Order as the Secretary of State's Findings of Fact as follows:

## Order of Prohibition

-2-

1. Respondent Robert M. Smart or Robert Smart (hereinafter "Smart" or collectively with Smart Planning Company, "Respondents") has a last known address of Robert Smart #13192-040, FCI Terre Haute, Federal Correctional Institution, P.O. Box 33, Terre Haute, Indiana 47808.
2. Respondent Smart Planning Company, at times d/b/a Smart Financial Planners (hereinafter "SPC" or collectively with Smart, "Respondents") has a last known address of Robert Smart #13192-040, FCI Terre Haute, Federal Correctional Institution, P.O. Box 33, Terre Haute, Indiana 47808.
3. Smart is/was the sole shareholder, director and officer of SPC.
4. Between March 2006 and May 2006 Respondents offered to at least one Illinois resident ("Investor") the opportunity to invest \$170,000 with Respondents who would place the money into "equipment leasing" contracts.
7. The Respondents told the Investor that the Investor would receive \$1,500 per month over an unspecified period of time.
8. In March 2006 and May 2006 Investor wired Respondents an amount totaling totaling \$170,000 (the "Investments") payable to "Legacy Capital" in exchange for Respondents' promise to pay the Investor \$1,500 per month.
9. Respondents assured the Investor they would use the investments for the business purpose of purchasing "equipment leasing" contracts with profits to be used to pay the amounts due to the Investor.
10. The activities described above in paragraphs 6-10 constitute the offer and sale of an investment contract and are therefore a security as those terms are defined in Sections 2.1, 2.5 and 2.5a of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act").

### **FAILURE TO REGISTER SECURITIES**

11. Section 5 of the Act provides, *inter alia* that all securities except those exempt under Section 3 or those offered and sold under Section 4 shall be registered either by coordination or by qualification prior to their offer or sale in the State of Illinois.
12. Respondents failed to file with the Secretary of State an application for registration of the securities described above as required by the Act and that as a result the securities were not registered pursuant to Section 5 of the Act prior to their offer and sale in the State of Illinois.

Order of Prohibition

-3-

13. Section 12.A of the Act provides *inter alia* that it shall be a violation for any person to offer and sell any security except in accordance with the provisions of the Act.
14. Section 12.D of the Act provides *inter alia* that it shall be a violation for any person to fail to file with the Secretary of State any application, report or document required to be filed under the provisions of the Act or any rule or regulation made by the Secretary of State pursuant to the Act.
16. By virtue of the foregoing Respondents have violated Sections 12.A and 12.D of the Act.

**FRAUD IN SALE OF SECURITIES**

17. Respondents did not purchase “equipment leasing” contracts according to the promises made to the Investor, but instead placed the Investments into their own accounts, and converted them to their own use and benefit.
18. Respondents failed and refused to notify the Investor that they were converting the Investment to their own use and benefit, instead of using it for business purposes, to purchase “equipment leasing” contracts.
19. Section 12.F of the Act provides, *inter alia*, that it shall be a violation of the Act for any person, “to engage in any transaction, practice or course of business in connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof”.
20. Section 12.G of the Act provides, *inter alia*, that it shall be a violation of the Act for any person, “to obtain money or property through the sale of securities by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading”.
21. Section 12.I of the Act provides, *inter alia*, that it shall be a violation of the Act for any person, “to employ any device, scheme or artifice, to defraud in connection with the sale or purchase of any security, directly or indirectly”.

Order of Prohibition

-4-

22. By virtue of the foregoing, Respondents violated Sections 12.F, 12.G and 12.I of the Act and will violate them again if they make further offers, or if they make any sales of investment contracts or other securities in the State of Illinois.

NOW THEREFORE IT IS HEREBY ORDERED THAT: pursuant to the authority granted by Section 11.F of the Act, Respondents **Robert M. Smart and Smart Planning Company d/b/a Smart Financial Planners** and their partners, officers and directors, agents, employees, affiliates, successors and assigns, are **PROHIBITED** from rendering investment advice and from offering or selling securities in or from this State.

**NOTICE:** Failure to comply with the terms of this Order shall be a violation of Section 12.D of the ACT. Any person or entity that fails to comply with the terms of this Order of the Secretary of State, having knowledge of the existence of this Order, shall be guilty of a Class 4 felony for each offence.

**This is a final order subject to administrative review pursuant to the Administrative Review Law [735 ILCS 5/3-101 et seq.] and the Rules and Regulations of the Act (14 Ill. Admin. Code, Ch. 1 Sec. 130.1123). Any action for judicial review must be commenced within thirty-five (35) days from the date a copy of this Order is served upon the party seeking review.**

Dated: This 30<sup>th</sup> day of October 2008.



JESSE WHITE  
Secretary of State  
State of Illinois

Attorney for the Secretary of State:

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