**Section 130.847 Financial and Disciplinary Information That Investment Advisers Must Disclose to Clients**

a) It shall constitute a fraudulent, deceptive or manipulative act, practice or course of business within the meaning of Section 12(J)(3) of the Act for any investment adviser to fail to disclose to any client or prospective client all material facts with respect to:

1) A financial condition of the investment adviser such as insolvency or embezzlement, that impairs the ability of the investment adviser to meet contractual commitments to clients, if the investment adviser has discretionary authority (express or implied) or custody over such client's funds or securities, or requires prepayment of advisory fees of more than $500.00 from such client and six (6) months or more in advance; or

2) A legal or disciplinary event that is material to an evaluation of the investment adviser's integrity or ability to meet contractual commitments to clients.

b) It shall constitute a rebuttable presumption that the following legal or disciplinary events involving the investment adviser or a management person of the investment adviser (any of the foregoing being referred to hereafter in this Section as "person") that were not resolved in the person's favor or subsequently reversed, suspended or vacated are material within the meaning of subsection (a)(2) of this Section for a period of ten (10) years from the time of the event:

1) A criminal or civil action in a court of competent jurisdiction in which the person:

A) was convicted, pleaded guilty or nolo contendere ("no contest") to a felony or misdemeanor, or is the named subject of a pending criminal proceeding (any of the foregoing referred to hereafter in this Section as "action"), and such action involved an investment related business; or fraud, false statements, or omissions; or wrongful taking of property; or bribery, forgery, counterfeiting or extortion;

B) was found to have violated or caused the violation of an investment related statute or regulation; or

C) was the subject of any order, judgment or decree permanently or temporarily enjoining the person from, or otherwise limiting the person from, engaging in any investment related activity.

2) Administrative proceedings before the SEC, any other federal regulatory agency or any state agency (any of the foregoing being referred to hereafter in this Section as "agency") in which the person:

A) was found to have caused an investment related business to lose its authorization to do business; or

B) was found to have violated or caused the violation of an investment related statute or regulation and was the subject of an order by the agency denying, suspending or revoking the authorization of the person to act in, or barring or suspending the person's association with, an investment related business.

3) Self Regulatory Organization (SRO) proceedings in which the person:

A) was found to have caused an investment related business to lose its authorization to do business; or

B) was found to have violated or caused the violation of the SRO's rules and was the subject of an order by the SRO barring or suspending the person from membership or from association with other members, or expelling the person from membership, fining the person more than $2,500.00.

c) The information required to be disclosed by subsection (a) of this Section shall be disclosed to clients promptly, and to prospective clients not less than 48 hours prior to entering into any written or oral investment advisory contract, or no later than the time of entering into such contract if the client has the right to terminate the contract without penalty within five (5) business days after entering into the contract.

d) For purposes of this Section:

1) "Management person" means a person with power to exercise, directly or indirectly, a controlling influence over the management or policies of an investment adviser which is a company or to determine the general investment advise given to clients.

2) "Found" means determined or ascertained by adjudication or consent in a final SRO proceeding, administrative proceeding or court action.

3) "Investment related" means pertaining to securities, commodities, banking, insurance or real estate (including, but not limited to, acting as of being associated with a broker, dealer, investment company, investment adviser, government securities broker or dealer, municipal securities dealer, bank, savings and loan association, entity or person required to be registered under the Federal 1974 Act, as defined in Section 130.200 of this Part, or fiduciary).

4) "Involved" means acting or aiding, abetting, causing, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act.

5) "Self Regulatory Organization" or "SRO" means any national securities or commodities exchange, registered association or registered clearing agency.

e) For purposes of calculating the ten (10) year period during which events are presumed to be material under subsection (b) of this Section, the date of a reportable event shall be the date on which the final order, judgment or decree was entered, or the date on which any rights of appeal from preliminary orders, judgments or decrees lapsed.

f) Compliance with subsection (b) of this Section shall not relieve any investment adviser from the disclosure obligations of subsection (a) of this Section; compliance with subsection (a) of this Section shall not relieve any investment adviser from any other disclosure requirement under this Part or the Act, or under any other federal or state law.

g) Registered investment advisers may disclose the information required by this Section to clients and prospective clients with the information required by Section 130.846 of this Part; provided that the delivery of the information satisfies the timing of disclosure requirements described in subsection (c) of this Section.

(Source: Added at 14 Ill. Reg. 884, effective December 30, 1989)