



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:)
)
TIMOTHY P. HIGGINS,) Case No. AP-04-94
CRD# 2282547)
)
Respondent.)

Serve at:
1 Chuck Hollow Court
Huntington, New York 11743

**SUMMARY ORDER TO CEASE AND DESIST,
SUMMARY ORDER BARRING AGENT FROM REGISTRATION, AND ORDER
TO SHOW CAUSE WHY CIVIL PENALTY AND COSTS SHOULD NOT BE
IMPOSED**

On the 23rd day of November, 2004, Mary S. Hosmer, Assistant Commissioner for Enforcement as counsel for the Enforcement Section, submitted a Petition for Administrative Relief, alleging cause for discipline or disqualification of Timothy P. Higgins. After reviewing the petition, the Commissioner issues the following findings of fact, conclusions of law and summary order:

FINDINGS OF FACT

1. Respondent has a residence address of 1 Chuck Hollow Court, Huntington, New York 11743.
2. Respondent has been a registered agent of LH Ross & Company, Inc. ("LH Ross") a Missouri-registered broker-dealer since January 27, 2004. Respondent is registered in several states and with the National Association of Securities Dealers ("NASD"), however, he is not currently registered in the State of Missouri.
3. Respondent was registered in Missouri as an agent of Continental Broker-Dealer Corp. ("Continental") from June 3, 1996 to October 31, 2003.
4. On January 27, 2004, LH Ross submitted a Uniform Application for Securities Industry Registration or Transfer ("Form U-4") to the Central Registration Depository ("CRD") for agent number 2282547 seeking register Respondent as an agent with the NASD and several states.

5. On January 29, 2004, Continental submitted a Uniform Termination Notice for Securities Industry Registration ("Form U-5") to the CRD for agent number 2282547 and reported Respondent's voluntary termination from the firm.

6. Question 14 of the Form U-4 requests information about customer complaints. This question states:

(1) Have you ever been named as a respondent/defendant in an *investment-related* consumer-initiated arbitration or civil litigation which alleged that you were *involved* in one or more *sales practice violations* and which:

(a) is still pending, or;

(b) resulted in an arbitration award or civil judgment against you, regardless of amount, or;

(c) was settled for an amount of \$10,000 or more?

(2) Have you ever been the subject of an *investment-related*, consumer-initiated complaint, not otherwise reported under question 14I(1) above, which alleged that you were *involved* in one or more *sales practice violations*, and which complaint was settled for an amount of \$10,000 or more?

(3) Within the past twenty four (24) months, have you been the subject of an *investment-related*, consumer-initiated written complaint, not otherwise reported under question 14I(1) or 14I(2) above, which:

(a) alleged that you were *involved* in one or more *sales practice violations* and contained a claim for compensatory damages of \$5,000 or more (if no damage amount is alleged, the complaint must be reported unless the *firm* has made a good faith determination that the damages from the alleged conduct would be less than \$5,000), or;

(b) alleged that you were *involved* in forgery, theft, misappropriation or conversion of funds or securities? (Emphasis in original)

7. Each of these questions should be answered "YES" or "NO". Any question with a "YES" response requires the filing of a Disclosure Reporting Page for each reportable event.

8. Pursuant to the instructions to Form U-4, an amendment to the application should be made as changes occur.

9. The Form U-4 page entitled, *Individual/ Applicant's Acknowledgment and Consent* states, in part, the following:

I agree to update this form by causing an amendment to be filed on a timely basis whenever changes occur to answers previously reported. Further, I represent that to the extent that any information previously submitted is not amended, the information provided in this form is currently accurate and complete.

10. The Form U-4 requires that prior to submission to the CRD System the applicant or applicant's agent must attest to the completeness and accuracy of the record.
11. A review of Respondent's record with the CRD System revealed that Respondent failed to timely report customer complaints and settlements on his Form U-4.

Count 1

(Failing to Timely Amend Form U-4 Disclosing Complaint and Settlement with Client 1)

12. On July 2, 2002, Respondent, while employed with Continental, received a complaint from Client 1 that alleged Respondent made unsuitable recommendations in the sale of securities. Client 1 alleged compensatory damages of \$850,000.
13. On April 4, 2003, Respondent and Continental settled the complaint with Client 1 and agreed to pay Client 1 \$250,000.
14. On March 4, 2004, more than 20 months after receiving this complaint and more than 6 months after settling the complaint, Respondent filed an amendment to his Form U-4 and disclosed the complaint by Client 1 and the settlement of this complaint.
15. Respondent's Form U-4 contained the statement, "I represent that to the extent that any information previously submitted is not amended, the information provided in this form is currently accurate and complete."
16. Respondent had a duty to timely amend his Form U-4 when the change occurred.
17. By not reporting this complaint for more than 20 months after receiving the complaint and more than 6 months after settling the complaint, Respondent failed to timely amend his Form U-4.

Count 2

(Failing to Timely Amend Form U-4 Disclosing Complaint and Settlement with Client 2)

18. On July 11, 2002, Respondent, while employed with Continental, received a complaint from Client 2 that alleged Respondent violated sales practice regulations in the sale of securities. Client 2 alleged compensatory damages of \$377,000.
19. On February 24, 2003, Respondent and Continental settled the complaint with Client 2 and agreed to pay Client 2 \$130,000.
20. On March 4, 2004, more than 19 months after receiving this complaint and more than a year after settling the complaint, Respondent filed an amendment to his Form U-4 and disclosed the complaint by Client 2 and the settlement of this complaint.

21. Respondent's Form U-4 contained the statement, "I represent that to the extent that any information previously submitted is not amended, the information provided in this form is currently accurate and complete."
22. Respondent had a duty to timely amend his Form U-4 when the change occurred.
23. By not reporting this complaint for more than 19 months after receiving the complaint and more than a year after settling the complaint, Respondent failed to timely amend his Form U-4.

Count 3

(Failing to Timely Amend Form U-4 Disclosing Complaint from Client 3)

24. On July 2, 2003, Respondent, while employed with Continental, received a complaint from Client 3 that alleged Respondent violated sales practice regulations in the sale of securities. Client 3 alleged compensatory damages of \$400,000.
25. On March 30, 2004, more than 8 months after receiving this complaint, Respondent filed an amendment to his Form U-4 and disclosed the complaint by Client 3.
26. Respondent's Form U-4 contained the statement, "I represent that to the extent that any information previously submitted is not amended, the information provided in this form is currently accurate and complete."
27. Respondent had a duty to timely amend his Form U-4 when the change occurred.
28. By not reporting this complaint for more than 8 months after receiving the complaint, Respondent failed to timely amend his Form U-4.
29. This summary order is in the public interest.

CONCLUSIONS OF LAW

1. §409.4-412, RSMo Cumulative Supp. 2003, provides that:
 - (c) If the commissioner finds that the order is in the public interest and subsection (d) (1)... authorizes the action an order under this act may censure, impose a bar or impose a civil penalty in an amount not to exceed a maximum of five thousand dollars for a single violation or fifty thousand dollars for several violations...
 - (d) A person may be disciplined under subsections (a) to (c) if the person:
 - (2) Willfully violated or failed to comply with this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act within the previous ten years....

- (f) The commissioner may suspend or deny an application summarily; restrict, condition, limit, or suspend a registration; or censure, bar, or impose a civil penalty on a registrant before final determination of an administrative proceeding. Upon issuance of the order, the commissioner shall promptly notify each person subject to the order that the order has been issued, the reasons for the action and that within fifteen days after the receipt of a request in a record from the person the matter will be scheduled for a hearing. If a hearing is not requested and none is ordered by the commissioner within thirty days after the date of service of the order, the order becomes final by operation of law. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend the order until final determination.

2. Rule 15 CSR 30-51.160(3) provides:

Continuing Duty of Applicants and Registrants to Disclose Material Information.

- (A) Amendments to Applications for Material Change.
During the pendency of any application, or effectiveness of any registration, every broker-dealer, agent, investment adviser, or investment adviser representative shall immediately report to the commissioner in writing any material change in any information, answers, responses, exhibits, or schedules submitted or circumstances disclosed in its last prior application. A correcting amendment shall be filed with the division at the time of occurrence or discovery of these changes, and not later than thirty (30) days following the specified event or occurrence. If the application was submitted through the CRD System or IARD System, any amendment shall be submitted in accordance with the guidelines of the CRD or IARD System.

3. §409.6-604(a), RSMo Cumulative Supp. 2003, provides:

If the commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice or course of business constituting a violation of this act or a rule adopted or order issued under this act or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of this act or a rule adopted or order issued under this act, the commissioner may:

- (1) Issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary and appropriate to comply with this act...

4. §409.6-604(d), RSMo Cumulative Supp. 2003, provides:

In a final order...the commissioner may impose a civil penalty up to one thousand dollars for a single violation or up to ten thousand dollars for more than one violation.

5. §409.6-604(e), RSMo Cumulative Supp. 2003, provides:

In a final order, the commissioner may charge the actual cost of an investigation or proceeding for a violation of this act or a rule adopted or order issued under this act. These funds may be paid into the investor education and protection fund.

6. Because Respondent failed to timely amend the Form U-4 disclosing the complaints from Client 1, Client 2 and Client 3 as alleged in Counts 1, 2 and 3 and in violation of 15 CSR 30-51.160(3), Respondent is subject to disqualification or discipline under §409.4-412(d)(2), RSMo Cumulative Supp. 2003 and may be barred or censured and ordered to pay a civil penalty pursuant to §409.4-412 (b) and (c), Cumulative Supp. 2003. In addition, the Commissioner is authorized to issue a cease and desist order, impose civil penalties and a charge for investigative costs pursuant to §409.6-604, RSMo Cumulative Supp. 2003.

ORDER

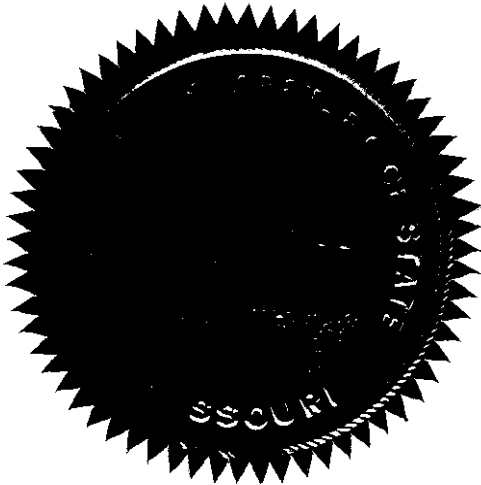
IT IS THEREFORE ORDERED that Timothy P. Higgins is immediately prohibited from violating, failing to comply with, or materially aiding others in violating or failing to comply with Rule 15 CSR 30-51.160(3), and prior to any application for registration in Missouri shall immediately report through an amendment to his Form U-4 any material change in any information, answers, responses, exhibits, or schedules submitted or circumstances disclosed in Respondent's Form U-4 and further shall file any correcting amendment at the time of occurrence or discovery of these changes, and not later than thirty (30) days following the specified event or occurrence.

IT IS FURTHER ORDERED that Timothy P. Higgins is BARRED from registration as an agent in the State of Missouri.

IT IS FURTHER ORDERED that the Enforcement Section has petitioned for civil penalties, specifically, an award of ten thousand dollars (\$10,000) and for investigative costs against the Respondent in this proceeding, and further, the Commissioner intends to issue a final order awarding a civil penalty of three thousand dollars (\$3,000) pursuant to §§409.4-412(d) and 409.6-604(d) and investigative costs pursuant to §409.6-604(e), unless Respondent requests a hearing and shows cause why a penalty and costs should not be imposed.

SO ORDERED.

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,
MISSOURI THIS 29th DAY OF November, 2004.



MATT BLUNT
SECRETARY OF STATE

A handwritten signature in black ink, which appears to read "Douglas M. Ommen". The signature is written in a cursive style and is positioned above a horizontal line.

DOUGLAS M. OMMEN
COMMISSIONER OF SECURITIES