



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:

WILBANKS SECURITIES, INC., CRD No. 40673;
AARON WILBANKS & ASSOCIATES, INC., CRD
No. 118304; and AARON B. WILBANKS, CRD
No. 1983697,

Case No.: AP-17-31

Respondents.

Serve:

Wilbanks Securities, Inc.
4334 NW Expressway, Suite 222
Oklahoma City, Oklahoma 73116

Aaron Wilbanks & Associates, Inc.
4334 NW Expressway, Suite 222
Oklahoma City, Oklahoma 73116

and

Aaron B. Wilbanks
4334 NW Expressway, Suite 222
Oklahoma City, Oklahoma 73116

**ORDER TO CEASE AND DESIST AND ORDER TO SHOW CAUSE WHY
RESTITUTION, CIVIL PENALTIES, COSTS AND OTHER ADMINISTRATIVE
RELIEF SHOULD NOT BE IMPOSED**

On November 27, 2017, the Enforcement Section of the Missouri Securities Division of the Office of Secretary of State (“Enforcement Section”), through Enforcement Counsel Derek Green, submitted an Amended Petition for Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, Costs and Other Administrative Relief Should Not Be Imposed (“Petition”). After reviewing the Petition, the Commissioner issues the following order:

I. ALLEGATIONS OF FACT

The Petition alleges the following facts:

A. Summary of Allegations

1. The Petition alleges that Respondents failed to reasonably supervise its agents by failing to establish procedures and systems reasonably designed to achieve compliance, failing to reasonably implement the policies and procedures, failing to reasonably follow up on indications of wrongdoing, and failing to have a designated supervisor responsible for supervision with adequate time and resources to allow the supervisor to effectively execute his or her duties. Respondents engaged in dishonest and unethical practices by recommending investments without reasonable grounds to believe the investments were suitable; and making false, misleading, or deceptive representations in connection with the sale of investments to an elderly Missouri resident. Specifically, variable annuities and other products were recommended and sold to an elderly Missouri resident within days of her husband's death, annuities in the elderly Missouri resident's account were churned thereafter, and agents attempted to become the guardian for the elderly Missouri resident's disabled son to enable more sales in the disabled son's trust account.

B. Respondents and Related Parties

2. Wilbanks Securities is a Missouri-registered broker-dealer with the Central Registration Depository ("CRD") number 40673 and a home office address of 4334 NW Expressway, Suite 222, Oklahoma City, Oklahoma 73116. Wilbanks Securities has been registered in Missouri since March 2002.
3. Aaron Wilbanks & Associates, Inc., also known as Wilbanks Securities Advisory ("Wilbanks Advisory"), is a federally covered investment adviser with the CRD number 118304 and a home office address of 4334 NW Expressway, Suite 222, Oklahoma City, Oklahoma 73116. Wilbanks Advisory has notice-filed in Missouri since September 2005.
4. As used herein and unless otherwise specified, the term "Wilbanks" collectively refers to Wilbanks Securities and Wilbanks Advisory.
5. Aaron B. Wilbanks ("A. Wilbanks") was registered in Missouri as an agent with Wilbanks Securities from March 5, 2008, through December 19, 2011, with the CRD number 1983697. A. Wilbanks is currently registered in Oklahoma with Wilbanks as an agent and investment adviser representative. A. Wilbanks has an office address of 4334 NW Expressway, Suite 222, Oklahoma City, Oklahoma 73116.
6. Associates Diversified Brokerage, Inc. ("ADB") is an Oklahoma corporation affiliated with Wilbanks. The majority owner of, and registered agent for, ADB is A. Wilbanks with an address of 4334 NW Expressway, Suite 222, Oklahoma City, Oklahoma 73116.

7. Randall Wilbanks (“R. Wilbanks”) has never been registered in Missouri as a securities agent or investment adviser representative. R. Wilbanks has been registered in Oklahoma and various other states as a securities agent and investment adviser representative with Wilbanks since 1996, with the CRD number 2675482. R. Wilbanks has an office address of 4334 NW Expressway, Suite 222, Oklahoma City, Oklahoma 73116.
8. Agent 1 was registered in Missouri as an agent with Wilbanks Securities from March 2002, until March 2008, and from June 2009, until December 2013.
9. Agent 2 was registered in Missouri as an agent with Wilbanks Securities from July 1999, until March 2008, and from June 2009, until January 2014.
10. Agent 1 and Agent 2 were permitted to resign from Wilbanks on or about January 24, 2014, “while under heightened supervision and investigation for improper recommendations to clients concerning variable annuities.” Wilbanks’ investigation purportedly “revealed that [Agent 1 and Agent 2] encouraged clients to prematurely surrender variable annuities early in the surrender period for A-shares in various mutual fund shares” causing “significant client harm.”
11. At all times relevant to this matter, Agent 2 was licensed in Missouri as an insurance producer. However, Agent 2’s Missouri insurance producer license expired on or around July 29, 2013.
12. Agent 1 was licensed in Missouri as an insurance producer. Agent 1’s Missouri insurance license expired on or about August 31, 2011, at which time Agent 1 was deemed inactive.
13. Neither Agent 1 nor Agent 2 has ever been licensed to sell insurance in Illinois.
14. TNP, Inc. (“TNP”) is an Oklahoma corporation solely owned by Agent 2. According to Agent 2, Agent 2 utilizes TNP to receive commissions from at least some sales of securities and/or insurance products. Agent 2 is the registered agent for TNP, with a registered address of 6208 NE 107th Street, Oklahoma City, Oklahoma 73151.

C. Enforcement Section’s Investigation

Overview

15. Agent 1 and Agent 2 together provided investment advisory and brokerage services for an elderly Missouri resident (“MR”) and MR’s spouse, including formulating investment plans, implementing investment strategies, and making investment recommendations. During this time, MR’s spouse was solely responsible for all financial decisions and worked closely with Agent 1 and Agent 2 to formulate a financial plan for MR, in the event that MR’s spouse would predecease MR.
16. In the 20 months following the death of MR’s spouse, Agent 1 and Agent 2 routinely recommended MR purchase and prematurely liquidate numerous annuities,

recommended MR purchase an unsuitable bond fund, and repeatedly recommended that MR sell MR's home in order to fund the purchases of additional investments. Further, Agent 1 and Agent 2 suggested that Agent 1 become trustee of MR's trust and guardian of MR's developmentally disabled adult son.

17. The investments MR made and liquidated were on behalf of MR and on behalf of MR's net income makeup charitable remainder unitrust ("NIMCRUT"). The charitable trust operates to make payouts to beneficiaries of the lesser of the prescribed unitrust amount or actual trust income as defined by the trust instrument.¹ When the trust does not have sufficient income in certain years to make a minimum payout, the missed payouts or shortfall are tracked in what is called a makeup account, allowing larger payouts to the income beneficiaries in future years to the extent the trust has sufficient income to make up for the shortfalls in prior periods.
18. At some point after the transactions in question, MR submitted a complaint to Financial Industry Regulatory Authority ("FINRA") regarding the transactions facilitated by Agent 1 and Agent 2. At or about this time, Wilbanks terminated the relationship with MR, rather than initiate an investigation into Agent 1's and Agent 2's business practices.

Corporate Structure of Wilbanks

19. ADB is an extension of Wilbanks and serves as the entity through which all sales by agents and representatives of Wilbanks of indexed annuities and life insurance must pass. In various on-the-record ("OTR") interviews, the Enforcement Section learned:
 - a. that Wilbanks and ADB were "mesh[ed] or merge[d]" and that "[their] compensation quotas were also met by writing the ADB business";
 - b. "[agents] were contractually obligated to...run [all life and annuity business] through ADB"; and
 - c. at least all indexed annuities were required to go through Wilbanks because "[A. Wilbanks] requires it".
20. Since in or about March 1996, A. Wilbanks has been the president, Chief Executive Officer, Chief Financial Officer, and Co-Chief Compliance Officer of Wilbanks. A. Wilbanks also owns ADB. A. Wilbanks is largely not involved in day-to-day compliance activities.
21. Since in or about March 1996, R. Wilbanks has been Vice President of Wilbanks.
22. Since in or about September 2011, the Co-Chief Compliance Officer has been in that position with Wilbanks.

¹Douglas Moore & Ajay Badlani, *Evaluate the Economics of Charitable Remainder Trusts*, PRACTICAL TAX STRATEGIES, October 2005.

23. From approximately June 2007, through approximately April 2012, the General Counsel performed some compliance work for Wilbanks. Since in or around April 2012, the General Counsel worked as a full-time contract specialist at Tinker Air Force base, located in Midwest City, Oklahoma, and has only spent limited time assisting Wilbanks in a compliance and/or legal role.
24. The New General Counsel performs some compliance work for Wilbanks. The New General Counsel passed the Series 24 exam and started performing supervisory duties on December 20, 2012.
25. The Co-Chief Compliance Officer and New General Counsel are currently the two main compliance officers. Their responsibilities include supervising and auditing between 80 to 120 agents and representatives in more than 25 different states. No specific compliance duties are delegated between them.
26. Upon information and belief, from April 2012, until December 20, 2012, the Co-Chief Compliance Officer was effectively the only compliance officer at Wilbanks.
27. ADB is the affiliated entity required by Wilbanks to furnish insurance products.

Wilbanks Relevant Policies and Procedures

28. Wilbanks has the following policies and procedures regarding Equity-indexed annuities (“EIAs”)²:
 - a. “[An IA sale] requires a New Account Form, a signed Client Indexed Annuity or Indexed Life Insurance Disclosure Form and the Application submitted to Wilbanks Securities before or at the same time as submission to the insurer.”;
 - b. Agent 2 has stated to the Enforcement Section that MR’s EIA applications were retrieved and submitted to ADB rather than Wilbanks Securities;
 - c. “The registered representative may not sell [an indexed annuity] irrespective of whether it is considered to be a security without the written approval of the CCO.”;
 - d. “If the registered representative recommends a client liquidate or surrender a security in order to purchase the IA, the CCO or DP will review the suitability of the recommendation and either approve or disapprove the transaction in writing. The Wilbanks Securities, Inc. customer IA Disclosure form signed and initialed where required and Wilbanks Securities New Account Form must be submitted in advance of placing the transaction.”; and

² Equity-indexed annuities (“EIAs”) are highly complex products which combine characteristics of both fixed and variable annuities.

- e. “The only source of funds [for an IA purchase] that is acceptable is money taken from savings accounts, certificates of deposit (CDs), or other similar deposits. Selling, redeeming or otherwise liquidating mutual funds, variable annuities or variable life insurance are all unacceptable sources of funds for IAs.”
29. Wilbanks has the following policies and procedures regarding prohibited activities:
- a. “No registered representative shall share or split a selling commission or other remuneration due him/her with another person who is not associated with the Firm in exchange for locating prospective investors or assisting in effectuating an offer or a sales transaction.”; and
 - b. “No registered representative shall act as a trustee or custodian of money, securities, warrants or stock powers for any customer, unless he/she has received prior written approval from the CCO.”
30. While Wilbanks has a policy prohibiting the activities, there are no set procedures for ensuring agents are not unlawfully splitting commissions or acting as trustees or custodians.

Regulatory and Legal History of Respondents and Respondents’ Personnel

31. In or around 2006, R. Wilbanks and A. Wilbanks received 42 customer complaints stemming from a Wilbanks representative’s Ponzi scheme.
32. In 2007, the Oklahoma Department of Securities (“ODS”) censured Wilbanks Securities for allegations that Wilbanks Securities:
- a. failed to establish a supervisory system and supervisory procedures in violation of multiple rules of the Securities Exchange Commission (“SEC”) and FINRA;
 - b. failed to establish, maintain, and enforce written supervisory procedures (“WSPs”);
 - c. failed to inspect non-branch offices on a regular schedule;
 - d. failed to supervise two agents; and
 - e. failed to comply with agreements with the states of Pennsylvania and Maryland in regard to a particular agent.
33. Part of the settlement agreement between Wilbanks Securities and ODS was that the principal registration of A. Wilbanks, one of the control persons of Wilbanks Securities, was to be suspended for ten days, after which time A. Wilbanks had to requalify as a principal by taking and successfully passing the Series 24 examination, as well as attending a FINRA course entitled, “Compliance Essentials.” R. Wilbanks’s principal

registration was limited as well; he was not permitted to perform any supervisory or compliance duties for two years and had to requalify as a principal by taking and passing the Series 24 in addition to completing the “Compliance Essentials” course.

34. Also in 2007, FINRA entered into a Letter of Acceptance, Waiver, and Consent with Wilbanks Securities, A. Wilbanks, and R. Wilbanks for:
 - a. failing to specify a cycle for the inspection;
 - b. failing to conduct inspections of non-branch locations in the WSPs;
 - c. failing to file a quarterly report with FINRA disclosing information regarding customer complaints;
 - d. failing to preserve electronic communications in an easily accessible place; and
 - e. failing to establish, maintain, and enforce WSPs regarding the preservation of electronic mail correspondence.
35. In 1999, a customer submitted a complaint to FINRA regarding Agent 1’s misrepresentations of a variable universal life insurance policy. This complaint was ultimately settled.
36. In or around 2005, Agent 1 filed for bankruptcy in the United States Bankruptcy Court for the Western District of Oklahoma. This was not disclosed on CRD until on or about March 2008.

Purchases of Prudential Variable Annuities

37. Agent 1 and Agent 2 together provided investment advisory and brokerage services for MR and MR’s spouse. MR’s spouse passed away on August 31, 2010, after which time MR had sole responsibility for MR’s developmentally disabled adult son. The funeral for MR’s spouse took place in Illinois on September 4, 2010.
38. Agent 1 and Agent 2 arrived in Illinois the day before the funeral for MR’s spouse. Agent 1 and Agent 2 met with MR on the night before the funeral for MR’s spouse to recommend MR purchase three Prudential variable annuities (“Prudential VAs”) in the amount of approximately \$863,980.42.³ Agent 1 and Agent 2 brought three previously completed Prudential variable annuity applications for MR’s signature.

³ Variable annuities are highly complex products regarded by the SEC, FINRA, and the North American Securities Administrators Association (“NASAA”) as “generally not appropriate for most seniors or individuals near retirement because of their steep penalties incurred for early withdrawals.” SEC, FINRA, and NASAA, *Investor Alert, Investment Products and Sales Practices Commonly Used to Defraud Seniors: Stories from the Front Line*, <http://www.sec.gov/spotlight/seniors/elderfraud.pdf>.

39. At this meeting, MR was vulnerable and under great emotional and mental stress stemming from the loss of MR's spouse, as well as from difficulties stemming from that loss, such as funeral arrangements and caring for MR's son.
40. Following Agent 1's and Agent 2's advice, MR purchased the three Prudential VAs on or about September 3, 2010. This purchase was funded with the liquidation of MR's money market account and with insurance proceeds from the death of MR's spouse.
41. The three Prudential VAs purchased by MR comprised more than 85% of MR's liquid net worth.⁴ Furthermore, each of the Prudential VAs was subject to an eight year surrender period during which time MR would experience substantial illiquidity. MR would have been 82 years-old at the end of the surrender period.
42. Agent 1 and Agent 2 significantly inflated MR's liquid net worth from \$2 million to \$3 million on the Wilbanks account forms accompanying the Prudential VA applications.
43. Agent 1 and Agent 2 submitted the Wilbanks account forms and the Prudential VA applications to Wilbanks. During this time, Wilbanks never discussed the Prudential VA investment recommendations with MR, Agent 1, or Agent 2.
44. Wilbanks received commissions from the sales of the three Prudential VAs totaling \$54,801.60. Of this amount, Agent 1 and Agent 2 received commissions totaling approximately \$23,327.47.

First Investment in the Municipal Bond Fund

45. In or around the summer of 2011, MR received approximately \$45,000 from an inheritance and from a certificate of deposit ("CD").
46. Agent 1 and Agent 2 had MR invest \$45,000 in a high-yield class B municipal bond fund, ("Muni Bond Fund"), through Oppenheimer Funds.
47. The Muni Bond Fund invested, without limit, in below-investment-grade bonds. The Muni Bond Fund was appropriate for aggressive investors able to withstand volatility.
48. Wilbanks received commissions from the purchase of the Muni Bond Fund by MR totaling \$1,800. Of this amount, Agent 1 and Agent 2 received commissions totaling approximately \$900.
49. At the time of the recommendations and sales in the Muni Bond Fund, MR was a conservative, risk-averse investor unable to withstand volatility.

⁴ Percentage based on the VA purchase of \$863,980.42 divided by MR's liquid net worth of \$1,000,000.

**Investment in the Allianz Indexed Annuities and
Second Investment in the Muni Bond Fund**

50. In or around December 2011, Agent 1 and Agent 2 drove to MR's home in Missouri to meet with MR. Agent 1 and/or Agent 2 brought to the meeting three completed Allianz equity-indexed annuities applications ("Allianz EIAs") and another Muni Bond Fund application for MR's signature.
51. Around this time, Agent 1 and Agent 2 recommended and had MR liquidate the three Prudential VAs purchased in 2010, and a Liberty Life Annuity purchased by MR in or around September 2009 ("Liberty Annuity").⁵
52. MR incurred surrender fees totaling approximately \$3,379.08 from the liquidation of the Liberty Annuity.⁶
53. MR incurred surrender fees totaling approximately \$82,202 from the liquidation of the three Prudential VAs.
54. Rather than completing 1035-exchanges and/or rollovers for the Liberty Annuity and the three Prudential VAs, Agent 1 and Agent 2 had all of MR's liquidated annuity funds transferred to MR's bank account.⁷
55. With the liquidated annuity funds in MR's bank account, Agent 1 and Agent 2 first recommended and had MR invest approximately \$284,439.27 in the Muni Bond Fund.
56. Additionally, with the liquidated annuity funds in MR's bank account, Agent 1 and Agent 2 recommended and had MR invest in three Allianz EIAs, totaling approximately \$558,570.09. The purchase of the three Allianz EIAs subjected MR to a new surrender schedule of ten years for each EIA. MR would have been 82 years old at the end of the surrender period.
57. Agent 1 and Agent 2 stated that MR would receive an "upfront premium bonus" on the three Allianz EIAs to offset any surrender penalties of the three existing Prudential VAs. Neither Agent 1 nor Agent 2 disclosed to MR that MR would not fully realize this "upfront premium bonus" until MR met certain benchmarks and until MR was 96 years-old.
58. Agent 1 and Agent 2 provided inaccurate and misleading information on MR's three Allianz EIA applications, by, among other things, misrepresenting that:

⁵ Agent 1 and Agent 2 recommended and had MR purchase the Liberty Annuity in or around September 2009. The Liberty Life Annuity had a 12-year surrender period.

⁶ MR's total surrender penalty was \$14,859.56; however, the annuity contract contained a market value adjustment ("MVA") that totaled \$11,480.50, which lowered the total charge assessed against MR to \$3,379.08.

⁷ A 1035 exchange allows a client to replace an annuity without triggering a tax liability for the surrender of the existing contract.

- a. MR's net worth was \$3 million. This amount was significantly inflated and was \$1 million more than what Agent 1 and Agent 2 reflected as MR's net worth the year prior;
 - b. the funds to purchase each of the Allianz EIAs were from a "checking/sav." account and/or "cash," rather than generated from the sale of existing annuities; and
 - c. each Allianz EIA would not "replace or change an existing...annuity contract."
59. The Allianz EIAs purchased by MR in or about December 2011, comprised more than 55% of MR's liquid net worth.
 60. At the time of the sales of the three Allianz EIAs to MR, neither Agent 1 nor Agent 2 had completed the required annuity training by Allianz and had not completed the required annuity training by the states of Oklahoma and Texas.
 61. Agent 1 and Agent 2 submitted the three Allianz EIA applications and the Muni Bond Fund application to Wilbanks. During this time, Wilbanks never discussed the Allianz EIA investment recommendations or the Muni Bond Fund investment recommendation with MR, Agent 1, or Agent 2.
 62. Wilbanks received commissions from the purchase of the Muni Bond Fund totaling \$11,377.37. Of this amount, Agent 1 and Agent 2 received commissions totaling approximately \$4,588.79.
 63. Agent 2 received commissions from the purchases of the three Allianz EIAs totaling \$27,928.50 through TNP. Agent 2 subsequently split the commissions with Agent 1 by paying Agent 1 as an independent contractor of TNP. Agent 1 did not disclose TNP on CRD or to Wilbanks as an outside business activity.
 64. ADB received commissions from the sales of the three Allianz EIAs totaling \$2,792.85.
 65. Allianz rescinded all three of MR's contracts at the request of Allianz's Special Investigations Unit ("SIU") once Allianz discovered the falsified information on MR's applications. In addition to the rescissions, Allianz required Wilbanks's and Agent 2's commissions from the sale of the three EIAs be repaid to Allianz.
 66. From September of 2010, until 2012, Agent 1 and Agent 2 repeatedly encouraged MR to sell MR's home in an effort to obtain additional funds to purchase securities. MR did not act upon Agent 1's and Agent 2's advice.
 67. From September of 2010, until 2012, Agent 1 and Agent 2 suggested MR appoint Agent 1 as trustee of MR's trust in order to obtain additional funds from MR. Agent 2 sent MR paperwork for MR's signature to effectuate this appointment, violating Wilbanks policy requiring CCO pre-approval before a representative is designated as a trustee. Despite

facing substantial pressure from Agent 1 and Agent 2, MR did not act upon Agent 1's and Agent 2's advice.

68. The Co-Chief Compliance Officer was aware of this proposed appointment and took no action to mitigate the substantial conflicts of interests that occurred due to this suggestion and would occur as a result of this appointment. Further, the Co-Chief Compliance Officer never discussed the ethical implications of this event. Acting as trustee, Agent 1 may have sole power to implement the purposes of the trust and make decisions concerning the investment, preservation, and distribution of financial assets. .
69. From September 2010, until 2012, Agent 1 and Agent 2 suggested MR appoint Agent 1 as guardian for MR's developmentally disabled adult son in order to obtain additional funds from the charitable trust for MR's son. Agent 1 considered becoming the guardian as "an opportunity to segue into future business activities." Ultimately, MR did not act upon Agent 1's and Agent 2's advice.
70. A reasonable inquiry would have exposed this proposed appointment evidenced from documents revealing MR's comments and questions about the trust.

Subsequent Events

71. In or around March 21, 2013, Wilbanks terminated Wilbanks' relationship with MR as of September 28, 2012.
72. In or around December 22, 2013, the President and Chief Executive Officer of Wilbanks, A. Wilbanks, sent an e-mail to Agent 1 that stated, in part, the following: "In my entire career, I have never seen anything so abusive to clients as these present cases..."
73. In or around December 31, 2013, two years after MR's annuity switches and Muni Bond Fund purchases by Agent 1 and Agent 2, Wilbanks provided Agent 1 and Agent 2 with a heightened supervision plan due to marketing practices and client investment recommendations. This plan required pre-approval for all client recommendations, variable annuity training, and reduction of pay-outs, among other conditions. Agent 1 and Agent 2 refused to sign the heightened supervision plan.
74. In or around January 8, 2014, A. Wilbanks sent an e-mail to Agent 1 and Agent 2, stating, in part, the following: "Your violations of the rules are completely clear and this is not subject to debate... Either sign the heightened supervision plan or we will terminate you Monday. That is your choice."
75. Agent 1 and Agent 2 left Wilbanks in January 2014.

Agent 1 OTR and Agent 2 OTR

76. On July 9, 2014, Agent 1 appeared before the Enforcement Section to give an on-the-record interview ("Agent 1 OTR"). On July 10, 2014, Agent 2 appeared before the

Enforcement Section to give an on-the-record interview (“Agent 2 OTR”). During the course of the Agent 1 OTR and Agent 2 OTR, Agent 1 and/or Agent 2 stated, among other things, the following:

- a. Agent 1 and Agent 2 have worked together since the late 1990s. During this time, Agent 1 performed a majority of the financial planning for clients, and Agent 2 completed the administrative and customer service functions;
- b. Wilbanks had no safeguards in place to ensure Agent 1 and Agent 2 had an adequate knowledge-base to recommend and/or sell financial products;
- c. Agent 1 and Agent 2 provided inaccurate information regarding MR’s net worth on investment applications and Wilbanks asset forms;
- d. Agent 1 was not licensed to conduct insurance business at the point of sale for MR’s three Allianz EIAs;
- e. Agent 2 shared commissions generated from the sale of the Allianz EIAs with Agent 1 through TNP, despite the fact that Agent 1 was not licensed and therefore could not receive such commissions;
- f. Agent 1’s income from TNP was not disclosed to Wilbanks as outside business activity;
- g. Agent 1 and Agent 2 brought no other applications and recommended no other products besides the three Prudential VA applications to the meeting with MR the day before the funeral for MR’s spouse;
- h. Agent 1 and Agent 2 did not disclose to MR all fees associated with a variable annuity, specifically the mortality and expense fee and why that fee was to be assessed against MR;
- i. Agent 1 and Agent 2 failed to disclose to MR the requirements necessary to fully realize the bonuses attached to the Allianz EIAs;
- j. Agent 1 and Agent 2 failed to disclose that the Allianz EIAs were intended to replace the variable annuities sold to MR approximately one year prior;
- k. Agent 1 considered becoming the guardian of MR’s disabled adult son, in part, as “it might be an opportunity to segue into future business activities...”;
- l. Agent 1 requested that Wilbanks register Agent 1 as an investment adviser representative in the state of Missouri, but Wilbanks failed to do so. Agent 1 performed investment advisory services in Missouri despite the lack of registration;

- m. Agent 1 and Agent 2 had no direct supervisors at Wilbanks;
- n. Wilbanks does not “have any special procedures related to seniors”;
- o. sales of EIAs would run through Wilbanks, with the assistance of ADB;
- p. Wilbanks did not review the WSPs with Agent 1 and/or Agent 2;
- q. Wilbanks never reviewed with Agent 1 and Agent 2 the findings from Agent 1’s and Agent 2’s audits. Rather, Wilbanks instructed Agent 1 and Agent 2 to sign that the audits were complete; and
- r. the Wilbanks’s infrastructure is “flawed... They’ve got two guys running this compliance department that are buried. These two guys are not only responsible for filing the in-house [responsibilities], these are the two guys that have to travel abroad and do the audits at different reps’ offices around the country... [How] can they carry the workload?”

Co-Chief Compliance Officer OTR

77. On August 14, 2014, the Co-Chief Compliance Officer at Wilbanks, appeared before the Enforcement Section to give an on-the-record interview (“Co-Chief Compliance Officer OTR”). During the course of the Co-Chief Compliance Officer OTR, the Co-Chief Compliance Officer stated, among other things, the following:
- a. what Agent 1 and Agent 2 did to MR was exactly what Agent 1 and Agent 2 were trying to do with five or six Oklahoma clients later that year;
 - b. Wilbanks compliance performed no independent verification of disclosure documents, applications, outside business activities, or any documents submitted to Wilbanks by its representatives. If the agents and/or representatives did not disclose everything to Wilbanks, the firm had no knowledge of the above;
 - c. Wilbanks lacked adequate policies and procedures to track EIA purchases aside from commissions, and it did not have a system in place to determine suitability of such investment recommendations by its agents and/or representatives;
 - d. Wilbanks’s policies and procedures mandated that compliance personnel either approve or disapprove EIA transactions in writing. However, the Co-Chief Compliance Officer stated that he had never approved or disapproved such transactions, including MR’s EIA investments;
 - e. Wilbanks claimed to have had five individuals who supervised agents and/or representatives. However, according to the Co-Chief Compliance Officer, there were really two main compliance officers;

- f. Wilbanks had no supervisors outside of the Co-Chief Compliance Officer and in-house counsel;
- g. A. Wilbanks was not significantly involved in the day-to-day operations of the firm, as A. Wilbanks' activities were limited to organizing the annual conference, recruiting, obtaining vendor support, and helping to re-write the firm's WSPs;
- h. The General Counsel only worked part-time for the firm, "very part time", as he left his full-time position with Wilbanks to work for the United States Air Force. The General Counsel's primary job duties were to perform due diligence reviews on products such as non-traded REITs and DPP programs;
- i. The General Counsel was replaced when the General Counsel took a job with the United States Air Force;
- j. According to Wilbanks' compliance manual, the compliance officers, although limited in number, shared a multitude of responsibilities that were not specifically assigned among the parties. When asked about the division of compliance responsibilities, the Co-Chief Compliance Officer indicated that the responsibilities were not specifically delegated;
- k. The Co-Chief Compliance Officer, in regards to his workload, identified that, "I'm Bozo the Clown... [I] can keep four balls up in the air at a time, but there's seven balls. So there's always going to have to be something on the ground ... [y]ou have to trade everything out... [I'm] a little bit overwhelmed.";
- l. The Co-Chief Compliance Officer acknowledged that he failed to reasonably follow-up on "red flags" in connection with MR's account by stating, among other things:
 - i. it should have raised a red flag that the date of the 2010 annuity sales were several days after the death of MR's spouse;
 - ii. that he was always taught that money should sit for six months after someone dies;
 - iii. that Wilbanks probably should have caught the dates right after the death;
 - iv. that he found the situation to be disturbing; and
 - v. numerous un-initialed scratch-outs appeared on the MR product and/or investment applications. Specifically, MR's net worth increased from \$2 million to \$3 million from 2010, to 2011. Wilbanks compliance never questioned this change, nor did it discuss this change with Agent 1, Agent 2, or MR. The Co-Chief Compliance Officer indicated that those

alterations should have raised a red flag, but that he must have just missed those edits;

- m. Wilbanks allowed Agent 1, who was an unlicensed insurance agent in Missouri, to receive commissions from the sales of three Allianz EIAs. Wilbanks, through the Co-Chief Compliance Officer's testimony, had no knowledge of Agent 1's insurance status in Missouri. The Co-Chief Compliance Officer indicated that if the firm had known about Agent 1's lack of insurance licensure in Missouri, Wilbanks would not have approved the sales; and
 - n. The Co-Chief Compliance Officer attested to the fact that Wilbanks's policies and procedures prohibit splitting commissions with an unlicensed agent and/or representative. When asked what procedures Wilbanks had in place to ensure agents are following those policies, the Co-Chief Compliance Officer responded that he would have to plead ignorance to that.
78. In a prior Consent Order, Agent 1 and Agent 2 consented to findings by the Commissioner that they engaged in dishonest and unethical practices by making unsuitable investment recommendations, making misleading representations, and engaging in unfair sales practices in violation Section 409.4-412. Agent 1 and Agent 2 were censured, their registrations were conditioned, and they were ordered to pay \$20,000 in restitution.

II. COMMISSIONER'S DETERMINATIONS AND FINDINGS

Multiple Violations of Failure to Supervise

79. **THE COMMISSIONER DETERMINES** that Respondents failed to reasonably supervise an agent, investment adviser representative, or other individual subject to the Respondents' supervision and committed a violation of the Missouri Securities Act or rule adopted or order issued under the Missouri Securities Act within the previous ten years by, among other things:
- a. failing to establish current procedures and systems for supervising the activities of agents that are reasonably designed to achieve compliance with applicable state and federal securities laws and regulations, and the rules of the FINRA, including:
 - i. adequate policies and procedures to reasonably determine sources of funds for purchases made for MR. While all variable annuity and EIA applications were required to be submitted to Wilbanks, agents and/or representatives were not required to submit documents concerning the liquidation of these products, and Wilbanks had no arrangement with the product vendors to alert Wilbanks when liquidations occurred. Thus, Wilbanks had no method established to detect liquidations other than voluntary compliance by the representatives;

- ii. adequate policies and procedures to verify that account forms and applications, as well as disclosure documents, were accurate. Wilbanks failed to detect significant changes in liquid net worth figures. Notably, MR's listed net worth rose by \$1 million between 2009 and 2011. Wilbanks failed to detect that MR's liquid net worth was significantly inflated in 2010 and 2011. Furthermore, Wilbanks never questioned those amounts and the firm never discussed them with Agent 1, Agent 2, or MR;
 - iii. adequate policies and procedures to verify disclosure documents, applications, outside business activities, or any documents submitted to Wilbanks by its representatives;
 - iv. adequate policies and procedures to track EIA purchases aside from commissions. Wilbanks had no system in place to determine the suitability of EIA recommendations by its representatives. Wilbanks exercised no reasonable diligence to ascertain suitability of any products and/or investment, individually or as a whole, for MR, such as:
 - 1. Wilbanks's compliance reviewed no other products and/or funds in which MR was invested to determine suitability of a particular product for MR;
 - 2. Wilbanks's compliance reviewed no other client information to determine suitability for MR's investments other than the product application;
 - 3. Wilbanks did not perform any independent verification on information included on MR's new account applications or disclosure documents; and
 - 4. Wilbanks did not review the liquidation recommendations and/or documents with regard to variable annuities and EIAs for MR;
 - v. adequate policies and procedures to detect churning, twisting, and/or switching annuities;
 - vi. adequate policies and procedures to detect and monitor financial problems of its agents and/or representatives. Wilbanks had no knowledge that Agent 1 filed for bankruptcy in 2005;
- b. failing to reasonably implement the procedures and systems, including:
- i. Agent 1 and Agent 2 recommended and sold three Allianz EIAs without those agents and/or representatives having the required annuity training by the states of Oklahoma and Texas, and/or Allianz;

- ii. Agent 1, who was not licensed as an insurance agent in Missouri, received commissions from the sales of three Allianz EIAs. Wilbanks's policies prohibited splitting commissions with an unlicensed agent and/or representative; however, Wilbanks had no knowledge of Agent 1's insurance license status in Missouri, and Wilbanks did not have procedures had in place to ensure agents followed those policies; and
- iii. Wilbanks's policies mandated that compliance personnel either approve or disapprove EIA transactions in writing. However, the Co-Chief Compliance Officer stated that he had never approved or disapproved such transactions, including MR's EIA investments.
- c. failing to provide appropriate initial and periodic refresher training to supervisors, employees, and agents regarding the procedures and systems.
- d. failing to reasonably follow up on indications of wrongdoing, "red flags", including:
 - i. the date of the 2010 annuity sales were several days after the death of MR's spouse;
 - ii. numerous un-initialed scratch-outs appeared on the MR product and/or investment applications;
 - iii. placing of more than 85% of MR's liquid net worth into three Prudential VAs;
 - iv. changes in MR's net worth over the course of one year. Specifically, MR's net worth increased from \$2 million to \$3 million from 2010 to 2011. Wilbanks compliance never questioned this change nor did it discuss this change with Agent 1, Agent 2, or MR;
 - v. MR's source of funds on Wilbanks's account forms listing the source as MR's checking/savings account funds;
 - vi. placing more than 55% of MR's liquid net worth into the Allianz EIAs
 - vii. the attempt to be designated as trustee of MR's trust without CCO approval;
 - viii. the frequency with which Agent 1 and Agent 2 were liquidating and selling annuities; and
 - ix. the splitting of commissions between Agent 1 and Agent 2.

- e. failing to have a designated supervisor responsible for supervision with adequate time and resources to allow the supervisor to effectively execute his/her duties. From 2010, through 2012, two compliance officers had sole responsibility for supervising and auditing between 80 to 120 agents and representatives in approximately 25 different states. Wilbanks did not tailor its supervisory structure to address the supervisory challenges of such geographically dispersed offices. Because of the lack of supervisory infrastructure, compliance officers did not carry out all functions that Wilbanks's written supervisory procedures described; and failed to prevent violations of the Missouri Securities Act, among other things, by Agent 1 and Agent 2;
80. Respondents were registered in the state of Missouri at the time these activities occurred.
81. Respondents committed several violations of Section 409.4-412(d)(9), RSMo. (2016).⁸
82. Respondents failure to reasonably supervise constitutes grounds to discipline Respondents, and such conduct is therefore, subject to the Commissioner's authority under Section 409.4-412.

Multiple Violations of Engaging in Dishonest and Unethical Practices

83. **THE COMMISSIONER FURTHER DETERMINES** that Respondents engaged in dishonest and unethical practices in the securities, investment, and/or insurance business within the previous ten years by, among other things:
- a. recommending to a customer the purchase, sale or exchange of any security or other investment without reasonable grounds to believe that this transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the registrant, including:
 - i. recommending VAs, EIAs, and the Muni Bond Fund to MR without reasonable grounds to believe that the recommendations and sales were suitable;
 - ii. recommending MR liquidate each of the Prudential VAs 15 months after the purchase dates;
 - iii. recommending MR liquidate the Liberty Annuity 27 months after the purchase date;
 - iv. recommending MR liquidate funds from each of the three Prudential VAs and the Liberty Annuity and place the funds in MR's bank account;

⁸ Unless otherwise noted, all statutory references are to the 2016 Revised Statutes of Missouri.

- v. recommending MR replace each of the Prudential VAs and Liberty Annuity with the Allianz EIAs;
 - vi. recommending MR place more than 85% of MR's liquid net worth into three Prudential VAs
 - vii. recommending MR place more than 55% of MR's liquid net worth into the Allianz EIAs; and
 - viii. recommending MR invest in the Muni Bond Fund primarily for aggressive investors able to withstand volatility;
- b. making false, misleading, deceptive, exaggerated or flamboyant representations or predictions in the solicitation or sale of a security, including:
- i. misrepresenting that MR would receive an "upfront premium bonus" on the three Allianz EIAs to offset any surrender penalties of the three existing Prudential VAs;
 - ii. misrepresenting MR's net worth on Wilbanks's account forms in order to give the appearance that the recommended products were suitable;
 - iii. misrepresenting MR's net worth on each of the Allianz EIA applications so to give the appearance that the recommended products were suitable;
 - iv. misrepresenting the source of funds on each of the Allianz EIA applications to mislead Allianz compliance; and
 - v. misrepresenting on each of the Allianz EIA applications that MR's purchases of the three Allianz EIAs would not replace an existing annuity, when, in fact, the Allianz EIAs replaced the Prudential VAs;
 - vi. failing to disclose all the fees associated with a variable annuity, specifically the mortality and expense fee and why that fee was to be assessed against MR;
 - vii. failing to disclose the requirements necessary to fully realize the bonuses attached to the Allianz EIAs; and
 - viii. failing to disclose that the Allianz EIAs were intended to replace the variable annuities sold to MR approximately one year prior.
- c. effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive or fraudulent device, practice, plan, program, design or contrivance, including:

- i. liquidating each of the three Prudential VAs and the Liberty Annuity prematurely in order to generate commissions from subsequent recommendations and sales;
 - ii. attempting to become trustee of MR's trust and guardian of MR's disabled adult son, as a way to segue into future business activities;
 - iii. engaging in unlicensed insurance business and splitting commissions generated from the sale of the Allianz EIAs; and
 - iv. employing or associated with an unregistered investment adviser performing unregistered investment advisory services in Missouri.
84. Respondents were registered in the state of Missouri at the time these activities occurred.
85. Respondents committed several violations of Section 409.412(d)(13).
86. Respondents' dishonest and unethical activities constitute grounds to discipline Respondents, and such conduct is therefore, subject to the Commissioner's authority under Sections 409.4-412.

Multiple Violations of Making an Untrue Statement, Omitting to State Material Facts or Engaging in An Act, Practice, or Course of Business that Would Operate as a Fraud or Deceit Upon Another Person in Connection with the Offer or Sale of a Security

87. **THE COMMISSIONER FURTHER DETERMINES** that Respondents materially aided Agent 1's and Agent 2's conduct in violation of Section 409.5-501.
88. In connection with the offer, sale or purchase of securities, Agent 1 and Agent 2 made untrue statements or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, telling MR that:
 - a. the costs associated with the upfront premium bonus on the Allianz EIAs, how MR could realize the benefits from those bonus features, and the length of time between the purchase date and the date upon which MR could realize those bonuses;
 - b. how the high concentration of illiquid assets in the Prudential VAs and Allianz EIAs would affect MR's financial situation;
 - c. how the lengthy surrender periods on the Prudential VAs and Allianz EIAs would affect MR's financial situation;
 - d. the terms and conditions of the Allianz EIAs, including, but not limited to, the high fees, costs, and surrender schedules; and

- e. the market risks associated with the Allianz EIAs.
89. These statements, in light of the circumstances under which they were made, were misleading statements because Respondents failed to disclose the following material facts that could impact the return and the viability of MR's investment:
- a. the potential tax penalties and substantial surrender charges from the liquidations of the Prudential VAs and Liberty Annuity to purchase, among other things, securities;
 - b. the potential tax penalties and substantial surrender charges with regard to the liquidation of the Prudential VAs to purchase, among other things, securities;
 - c. that MR would not fully realize this "upfront premium bonus" until MR met certain benchmarks and until MR was 96 years-old;
 - d. all the fees associated with a variable annuity, specifically the mortality and expense fee and why that fee was to be assessed against MR;
 - e. the requirements necessary to fully realize the bonuses attached to the Allianz EIAs; and
 - f. that the Allianz EIAs were intended to replace the variable annuities sold to MR approximately one year prior;
 - g. in or around 2005, Agent 1 filed for bankruptcy in the United States Bankruptcy Court for the Western District of Oklahoma; and
 - h. in 2007, the ODS censured Wilbanks Securities.
90. **THE COMMISSIONER FURTHER DETERMINES** that in connection with the offer, sale or purchase of a security, Respondents, engaged in an act, practice or course of business that would operate as a fraud or deceit upon a person, among other things:
- a. misleading MR by indicating the December 2011 meeting was only to conduct an annual review of MR's account;
 - b. misrepresenting MR's net worth by distorting MR's net worth on Wilbanks's account forms as \$3 million in order to give the appearance that the recommended products were suitable;
 - c. misrepresenting MR's source of funds misconstruing MR's source of funds on Wilbanks account forms by listing the source as MR's checking/savings account funds, bypassing the 1035 exchanges and concealing the prohibited liquidation of annuities for the purchase of the new annuities;

- d. each Allianz EIA would not “replace or change an existing . . . annuity contract”.
91. At the time Respondents engaged in this conduct, MR was more than 60 years-old and was considered an elderly person as that term is defined under Section 409.6-604(d)(3)(B).
92. Respondents materially aided Agent 1 and Agent 2 who made untrue statements of material fact, omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, or engaged in an act, practice, or course of business that would operate as a fraud or deceit upon another person in violation of Section 409.5-501.
93. Respondents conduct in violation of Section 409.5-501 constitutes an illegal act, practice, or course of business, and such conduct is, therefore, subject to the Commissioner’s authority under Section 409.6-604.
94. This order is in the public interest and is consistent with the purposes of the Missouri Securities Act of 2003. See Section 409.6-605(b).

III. ORDER

NOW, THEREFORE, it is hereby ordered that Respondents, their agents, employees and servants, and all other persons participating in or about to participate in the above-described violations with knowledge of this order be prohibited from violating or materially aiding in any violation of:

- A. Section 409.4-412(d)(9) by failing to supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individual was subject to the person’s supervision and committed a violation of 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;
- B. Section 409.4-412(d)(13) by engaging in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance, or insurance business within the previous ten years; and
- C. Section 409.5-501 by, in connection with the offer or sale of securities, making an untrue statement of a material fact or omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading or engaging in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

IV. STATEMENT

Pursuant to Section 409.4-412, the Commissioner hereby states that he will determine whether to grant the Enforcement Section's request for:

- A. \$50,000 civil penalty against each Respondent for several violations of Sections 409.4-412(d)(9) and 409.4-412(d)(13);
- B. an order censuring Respondents for several violations of Section 409.4-412; and
- C. an order conditioning or limiting the registrations of Respondents for several violations of Section 409.4-412.

Pursuant to Section 409.6-604, the Commissioner hereby states that he will determine whether to grant the Enforcement Section's request for:

- A. \$15,000 civil penalty against each Respondent for multiple violations of Section 409.5-501, when at least one of these violations was committed against an elderly person, in a final order, unless Respondents request a hearing and show cause why the penalties should not be imposed;
- B. an order against Respondents to pay, jointly and severally, restitution in the amount of \$18,000 or more for any loss, including any actual damages that may have been caused by the conduct, and interest at the rate of 8% per year from the date of the violation causing the loss or disgorge any profits arising from the violations of Section 409.5-501, in the final order, unless Respondents request a hearing and show cause why this restitution or disgorgement should not be imposed; and
- C. an order against Respondents to pay, jointly and severally, the costs of the investigation in this proceeding, after a review of evidence of the amount submitted by the Enforcement Section.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,
MISSOURI THIS 11th DAY OF DECEMBER, 2017.



JOHN R. ASHCROFT
SECRETARY OF STATE



DAVID M. MINNICK
COMMISSIONER OF SECURITIES



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:

WILBANKS SECURITIES, INC., CRD No. 40673;
AARON WILBANKS & ASSOCIATES, INC., CRD
No. 118304; and AARON B. WILBANKS, CRD
No. 1983697,

Case No.: AP-17-31

Respondents.

Serve:

Wilbanks Securities, Inc.
4334 NW Expressway, Suite 222
Oklahoma City, Oklahoma 73116

Aaron Wilbanks & Associates, Inc.
4334 NW Expressway, Suite 222
Oklahoma City, Oklahoma 73116

and

Aaron B. Wilbanks
4334 NW Expressway, Suite 222
Oklahoma City, Oklahoma 73116

NOTICE

TO: Respondents and any unnamed representatives aggrieved by this Order:

You may request a hearing in this matter within thirty (30) days of the receipt of this Order pursuant to Section 409.6-604(b), 409.4-412(f), RSMo. (2016), and 15 CSR 30-55.020. Any request for a hearing before the Commissioner must contain:

- a. a brief statement of the facts;
- b. a summary of the factual and legal issues involved;
- c. a request for relief;
- d. suggestions in support of the relief sought, including the relevant statutes;

- e. the name of the party requesting the hearing; and
- f. the name of the attorney representing the party, if any.

Within fifteen (15) days after receipt of a request in a record from a person or persons subject to this order, the Commissioner will schedule this matter for a hearing.

A request for a hearing must be mailed or delivered, in writing, to:

David M. Minnick, Commissioner of Securities
Office of the Secretary of State, Missouri
600 West Main Street, Room 229
Jefferson City, Missouri, 65102

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of December, 2017, a copy of the foregoing Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, Costs and Other Administrative Relief Should Not Be Imposed in the above styled case was **mailed by certified U.S. mail to:**

Wilbanks Securities, Inc.
4334 NW Expressway, Suite 222
Oklahoma City, Oklahoma 73116

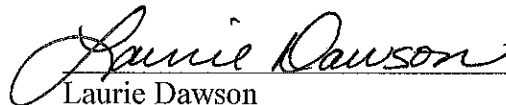
Aaron Wilbanks & Associates, Inc.
4334 NW Expressway, Suite 222
Oklahoma City, Oklahoma 73116

and

Aaron B. Wilbanks
4334 NW Expressway, Suite 222
Oklahoma City, Oklahoma 73116

and hand delivered to:

Derek Green, Enforcement Counsel
Securities Division
Missouri Secretary of State's Office
600 West Main Street, Room 229
Jefferson City, Missouri 65101



Laurie Dawson
Securities Office Manager