



STATE OF MISSOURI  
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF: )  
 )  
JOSEPH DRAKE RITCHIE and )  
DRAKE INVESTMENT OPTIONS, LLC, ) Case No. AP-19-16  
 )  
 )  
*Respondents.* )

CONSENT ORDER

1. The Enforcement Section of the Missouri Securities Division of the Office of Secretary of State (“**Enforcement Section**”), through Enforcement Counsel Douglas M. Jacoby, has alleged that from at least August 2017 through August 2019 (“**Relevant Period**”), Joseph Drake Ritchie (“**Ritchie**”), through his Missouri-based limited liability company and investment adviser, Drake Investment Options, LLC (“**DIO LLC**” or “**Firm**”), employed a device, scheme or artifice to defraud investors by, among other things, falsely representing the nature of DIO LLC’s business in the Firm’s Form ADV. During the Relevant Period, Respondents’ advisory activities focused solely on managing ten distinct securities accounts – the majority of which were individual retirement accounts (IRAs) – for eight individual investors (“**Client Accounts**”). In the course of performing such services, Respondents engaged in dishonest or unethical business practices by, among other things, engaging in unsuitable trading in the Client Accounts, engaging in excessive trading of the Client Accounts, trading certain Client Accounts without proper written trading authority, commingling client funds with Ritchie’s personal funds, borrowing money from at least one client, making material untrue and misleading statements to clients, and failing to disclose DIO LLC’s most recent disciplinary history in the Firm’s Form ADV and that Respondents were not registered to provide investment advisory services in certain states in which several of the Firm’s clients resided.
2. Respondents and the Enforcement Section desire to settle the allegations and the matters raised by the Enforcement Section relating to the Respondents’ alleged violations contained in this Consent Order and in the Petition for Order to Cease and Desist and Order to Show Cause filed by the Enforcement Section on September 23, 2019.

### CONSENT TO JURISDICTION

3. Respondents and the Enforcement Section stipulate and agree that the Missouri Commissioner of Securities (“**Commissioner**”) has jurisdiction over Respondents and these matters pursuant to the Missouri Securities Act of 2003, Chapter 409, *et seq.*<sup>1</sup>
4. Respondents and the Enforcement Section stipulate and agree that the Commissioner has authority to enter this Order pursuant to Section 409.6-604(h) which provides:

“The commissioner is authorized to issue administrative consent orders in the settlement of any proceeding in the public interest under this act.”

### WAIVER AND EXCEPTION

5. Respondents waive Respondents’ rights to a hearing with respect to this matter.
6. Respondents waive any rights that Respondents may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order. Respondents specifically forever release and hold harmless the Missouri Office of Secretary of State, Secretary of State, Commissioner of Securities, and their respective representatives and agents from any and all liability and claims arising out of, pertaining to, or relating to this matter.
7. Respondents stipulate and agree with the Enforcement Section that, should the facts contained herein prove to be false or incomplete in a material way, the Enforcement Section reserves the right to pursue any and all legal or administrative remedies at its disposal.
8. Respondents specifically and voluntarily waive any rights to claim that they are unable to pay, now or at any time hereafter, any debt for disgorgement, civil penalty or other amount imposed in this Order.

### CONSENT TO COMMISSIONER’S ORDER

9. Respondents and the Enforcement Section stipulate and agree to the issuance of this Order without further proceedings in this matter, agreeing to be fully bound by the terms and conditions specified herein.
10. Respondents agree not to take any action or to make or permit to be made any public statement creating the impression that this Order is without factual basis. Nothing in this paragraph affects Respondents’ (a) testimonial obligations; (b) right to take legal or factual position in defense of litigation or in defense of other legal proceedings in which the Commissioner is not a party; or (c) right to make public statements that are factual.

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<sup>1</sup> Unless otherwise noted, all statutory references are to the 2016 Revised Statutes of Missouri.

11. Respondents agree that Respondents are not the prevailing party in this action since the parties have reached a good faith settlement.
12. Respondents neither admit nor deny the allegations made by the Enforcement Section, but consent solely for the purpose of this matter only and not for any other matter, to the Commissioner's Findings of Fact, Conclusions of Law, and Order as set forth below solely for the purposes of resolving this proceeding and any proceeding that may be brought to enforce the terms of this Order.

## COMMISSIONER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

### I. FINDINGS OF FACT

#### Respondents

13. Drake Investment Options, LLC is a Missouri limited liability company formed on May 4, 2011, with a last known principal place of business at 525 Autumn Bluff Drive, Ellisville, Missouri 63021.
14. A check of the Central Registration Depository ("**CRD**") indicates that, except for the period January 1, 2018 through April 27, 2018<sup>2</sup>, DIO LLC had been a Missouri-registered investment adviser from October 15, 2012 through December 31, 2019, assigned CRD#164785. The Firm did not renew its registration for 2020.
15. Joseph Drake Ritchie is a thirty-nine-year-old Missouri resident residing at 525 Autumn Bluff Drive, Ellisville, Missouri 63021.
16. A check of the CRD indicates that Ritchie is the sole organizer, sole managing member, sole investment adviser representative and chief compliance officer of DIO LLC and is assigned CRD#4925174.

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<sup>2</sup> DIO LLC's Missouri registration as an investment adviser lapsed on January 1, 2018, after the firm failed to timely renew its registration by the end of 2017. The registration failure, which was identified during the course of an on-site cycle examination conducted by the Examinations Section of the Securities Division of the Office of Secretary of State, resulted in DIO LLC operating as an unregistered investment adviser from January 1, 2018 through April 27, 2018. On August 23, 2018, after referral of the incident by the Examinations Section to the Enforcement Section, DIO LLC entered into a Consent Order, which included, among other things, a civil penalty of \$3,000. See Case No. AP-18-17, *In the Matter of Drake Investment Options, LLC*.

## Violative Conduct

### *Section 409.5-502(a)* *Prohibited Conduct in Providing Investment Advice*

17. During the Relevant Period, Ritchie prepared, signed and filed multiple Forms ADV<sup>3</sup> that fraudulently misrepresented the nature of DIO LLC's business. Among other things, Part 2A of the Forms ADV filed in 2017 represented that the Firm "generally limits its money management to mutual funds, equities, bonds, fixed income, debt securities, ETFs, real estate, REITs, insurance products including annuities, and government securities" ("**Item 4 Language**"), when, in reality, DIO LLC almost exclusively traded derivative securities – specifically, options on the S&P 500 Index (ticker: SPX), options on the S&P 500 ETF (ticker: SPY), and Mini-SPX Index options (ticker: XSP) – for all Client Accounts over which the Firm exercised discretionary trading authority.
18. In the Firm's 2018 Form ADV, dated August 6, 2018 ("**2018 Form ADV**"), the Firm did finally amend the Item 4 Language by inserting the word "Derivatives" but continued to hold itself out as advising on and transacting in the same diverse plethora of financial products despite having almost exclusively traded derivative instruments in all Client Accounts over which the Firm exercised discretionary trading authority for the previous year.
19. Despite the amendment to the Item 4 Language, from 2017 through 2018, in response to the question "Do you engage in derivative transactions on behalf of any of the separately managed account clients that you advise?" found in Item 5 of the Forms ADV<sup>4</sup>, the Firm repeatedly responded "No."
20. DIO LLC failed to file the required routine annual updating amendment to its Form ADV for 2019.
21. Notwithstanding four cursory references to "options writing" that appear throughout the remainder of the Firm's Forms ADV repeatedly from 2017 through 2018, including one such reference in which the Firm fails at its attempt to accurately define the term, it would have been impossible to reasonably conclude from the information presented in the Firm's Forms ADV that DIO LLC's advisory business focused solely on derivative investments. In particular, the variety of financial products the Firm represented as providing to investors in its Forms ADV from 2017 through 2018 was deceptive because it misrepresented - in such scope and in such stark contrast to reality - the true nature of DIO LLC's business and Ritchie, as DIO LLC's sole managing member, chief compliance officer and sole investment adviser representative, knew that DIO LLC's did not advise on or transact in such products.

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<sup>3</sup> The multiple filings include the filing of the annual amendment as well as filings to correct certain erroneous information on the form.

<sup>4</sup> This question appears to have been added to the Form ADV by the Securities and Exchange Commission in late October 2017.

*Section 409.4-412(d)(13)<sup>5</sup>*  
*Dishonest or Unethical Business Practices*

22. In the course of performing advisory services during the Relevant Period, Respondents engaged in dishonest or unethical business practices by, among other things, effecting unsuitable trades in Client Accounts, excessively trading Client Accounts, trading certain Client Accounts without proper written trading authority, commingling client funds with Ritchie's personal funds, borrowing money from at least one client, making material untrue and misleading statements to clients, failing to amend the Firm's 2018 Form ADV disclosing the August 23, 2018, Consent Order issued by the Missouri Securities Division ("**Securities Division**") of the Office of Secretary of State<sup>6</sup> and providing investment advisory services to several residents of Texas and Maryland without disclosing to the residents that Respondents were not registered to conduct such activities in those states.
23. During the Relevant Period, each Client Account over which Respondents exercised discretionary trading authority sustained substantial losses.
24. A review of the Client Account statements shows that during the Relevant Period, Respondents received \$40,806 in fees for managing the Client Accounts.
25. During the Relevant Period, while Respondents engaged in the aforementioned conduct, two of the Respondents' clients were elderly persons, as that term is defined in Section 409.6-604(d)(3)(B).

II. CONCLUSIONS OF LAW

26. **THE COMMISSIONER CONCLUDES** that Respondents engaged in dishonest and unethical practices in the investment business in the State of Missouri in violation of Section 409.4-412(d)(13).
27. **THE COMMISSIONER CONCLUDES** that Respondents employed a device, scheme, or artifice to defraud another person and engaged in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person in the State of Missouri, in violation of Section 409.5-502(a).
28. **THE COMMISSIONER CONCLUDES** that the violations above are sufficient to issue an order in accordance with Section 409.6-604.
29. The Commissioner, after consideration of the stipulations set forth above and on consent of the Respondents and the Securities Division, finds and concludes that the Commissioner has jurisdiction over Respondents in this matter and that the following order is in the public interest, necessary for the protection of public investors, and consistent with the purposes intended by Chapter 409.

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<sup>5</sup> Specifically, conduct identified in 15 CFR 30-51.172(A), (B), (F), (G), (J), (M)(2), and (U).

<sup>6</sup> See FN2 above.

### III. ORDER

**NOW, THEREFORE**, it is hereby ordered that:

30. Respondents, their respective agents, employees and servants, and all other persons participating in the above-described alleged violations with knowledge of this Order are permanently enjoined and restrained from engaging in violations of Sections 409.4-412(d)(13) and 409.5-502(a).
31. Respondents shall disgorge to the Securities Division \$40,806 in management fees paid to Respondents during the Relevant Period. This amount shall be payable to the Missouri Secretary of State's Investor Restitution Fund, and the Commissioner will take reasonable and necessary action to distribute such funds to the investors listed in Exhibit A. This amount shall be sent to the Missouri Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101 by July 13, 2020.
32. Respondents shall pay, jointly and severally, to the Missouri Secretary of State's Investor Education and Protection Fund the sum of \$60,000. This amount shall be payable to the Missouri Secretary of State's Investor Education and Protection Fund. This amount shall be sent to the Missouri Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101 by July 13, 2020.
33. Respondents shall pay, jointly and severally, to the Missouri Secretary of State's Investor Education and Protection Fund the sum of \$1,000 toward the cost of this investigation. This amount shall be payable to the Missouri Secretary of State's Investor Education and Protection Fund. This amount shall be sent to the Missouri Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101 by July 13, 2020.
34. Respondents are permanently **BARRED** from operating as an investment adviser and/or investment adviser representative in the State of Missouri.
35. Solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the findings in this Order are true and admitted by Respondents, and further, any debt for disgorgement, civil penalty or other amount due by Respondents under this Order is a debt for the violation by Respondents of the securities laws of the State of Missouri or a regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).
36. Respondents shall pay their own costs and attorneys' fees with respect to this matter.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,  
MISSOURI THIS 4<sup>th</sup> DAY OF JUNE, 2020.



JOHN R. ASHCROFT  
SECRETARY OF STATE

David M. Minick  
DAVID M. MINNICK  
COMMISSIONER OF SECURITIES

Consented to by:  
MISSOURI SECURITIES DIVISION

[Signature]  
Douglas M. Jacoby  
Enforcement Counsel

JOSEPH DRAKE RITCHIE

By

Joseph Drake Ritchie

Title

Owner

DRAKE INVESTMENT OPTIONS, LLC

By

Joseph Drake Ritchie

Title

Owner

Wm P. Grant #25003

ATTORNEY FOR JOSEPH DRAKE RITCHIE and  
DRAKE INVESTMENT OPTIONS, LLC.

CONSENT - EXHIBIT A  
AP-19-16 / I2019-0029

IN THE MATTER OF:      DRAKE INVESTMENT OPTIONS, LLC, and  
   JOSEPH DRAKE RITCHIE,  
   Respondents.

MR1:                    \$ 643.00

TR1:                    \$ 362.00

MR2:                    \$ 3,215.00

MD1:                    \$ 475.00

MR3:                    \$ 18,884.00

MR4:                    \$ 17,227.00