



STATE OF MISSOURI  
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF: )  
 )  
JAMES RICHEY ) Case No. CD-03-12  
d/b/a GBY FAMILY TRUST, )  
 )  
Respondent. )  
  
Serve at: 214 S. 4<sup>th</sup> Street  
Princeton, IN 47670

**ORDER TO CEASE AND DESIST**

On the 18th day of June 2003, Mary Hosmer, Assistant Commissioner for Enforcement, submitted a petition for a cease and desist order. After reviewing the petition, the Commissioner issues the following findings of fact, conclusions of law and order:

**FINDINGS OF FACT**

1. James Richey is an individual with an address at 214 S. 4<sup>th</sup> Street, Princeton, Indiana 47670. At all times pertinent hereto, Richey was doing business as GBY Family Trust.
2. John A. Locher, II is an individual with a last known address at 4109 West Elgin Street, Broken Arrow, OK 74012.
3. JLT Family Trust is represented as an Oklahoma entity with a last-known address at 5057 S. 76<sup>th</sup> E. Avenue, Suite B, Tulsa, Oklahoma 74145. At all times pertinent hereto, Locher was doing business as JLT Family Trust.
4. As used in this Cease and Desist Order, the term "Respondent" refers to Richey.
5. Between April 30, 1998 and April 15, 1999, Richey contacted at least 4 Missouri residents concerning an investment with JLT. Richey told these Missouri residents, among other things, that:
  - a. Their funds would be pooled with other investors' funds by GBY and invested in JLT;
  - b. They would earn an annual return between 12-120%; and

- c. The principal would be guaranteed by a proportionate share of a U.S. Treasury Bill.
6. The four Missouri residents invested a total amount of \$30,000 in JLT through GBY. Richey deposited at least \$9,800 of the funds received from these Missouri residents into Richey's personal checking accounts.
  7. From July 1998 to February 1999, Richey purports to have made four loans totaling \$175,000 to the JLT Family Trust.
  8. Richey's investments with JLT are memorialized by Loan Approval Forms executed by JLT Family Trust and John Locher as Manager of the Trust. These Loan Approval Forms indicated that Richey, personally, was the "Lender" to JLT. None of the Missouri investors were listed on these documents.
  9. Richey deposited at least four checks totaling \$14,700 from JLT Trust into his personal checking account.
  10. On or about June 8, 2000, John Locher pled guilty to Conspiracy to Commit Securities Fraud under 18 U.S.C. Section 371 in connection with securities sold by the JLT Family Trust. Locher served eight months in a residential community corrections center in Oklahoma and is currently serving a five-year probation term.
  11. On or after May 7, 2000, Richey submitted a victim restitution claim for \$175,000 in the above-described criminal matter. In this claim Richey did not submit the names of any of his Missouri investors. Richey has received an unknown amount of victim restitution since May 2000.
  12. On January 5, 2001, the Missouri Securities Division sent a letter of inquiry to Richey. The letter requested information about the above-addressed offers and sales of securities and requested statements of the claims of exemption or exceptions from definition upon which Richey relied in offering and selling the above-described securities.
  13. On or about January 19, 2001, Richey provided a partial response during a telephone conversation with a Division investigator, and faxed additional information to the Division on January 30, 2001. Richey did not claim an exemption or exception from definition upon which he relied in offering or selling the above-described securities to Missouri investors.
  14. A check of the records maintained by the Missouri Commissioner of Securities confirmed no registration, granted exemption or notice filing indicating status as a "federal covered security" for any of the securities offered by the Respondents in the State of Missouri.
  15. A check of the records maintained by the Commissioner confirmed no registration for Respondents to sell securities in the State of Missouri.

16. In connection with the offer, sale or purchase of securities to Missouri residents, Respondents omitted to state the following material facts:
  - a. That the securities were not registered in the state of Missouri;
  - b. That Richey was not registered to sell securities in the State of Missouri;
  - c. That GBY was not registered as a broker-dealer in the State of Missouri;
  - d. That some of the investors' money would be commingled with Richey's personal funds; and
  - e. That the investments made in JLT would be in Richey's name.
17. In connection with the offer, sale or purchase of securities to Missouri investors, Respondents made the following untrue statements of material fact:
  - a. Investors would receive a minimum annual return of 12% paid monthly, with a possible bonus up to 10% per month; and
  - b. Investors' principal would be guaranteed by a proportionate share of a U.S. Treasury Bill.
18. This Order is in the public interest.

### **CONCLUSIONS OF LAW**

1. Section 409.401(o), RSMo Cumulative Supp. 2002, includes "any note" and "evidence of indebtedness" within the definition of a security. The investments described in the above findings of fact constitute securities.
2. Section 409.101, RSMo 2000, provides that it is unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly
  - (1) to employ any device, scheme, or artifice to defraud,
  - (2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or
  - (3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

Respondents omitted to state material information necessary in order to make statements made, in the light of the circumstances under which they were made, not misleading. Respondents made untrue statements of material fact in connection with the offer, sale or purchase of a security.

3. Section 409.201, RSMo 2000, provides that it is unlawful for any person to transact business in this state as a broker-dealer or agent unless he is registered under sections 409.101 to 409.419. Respondents' conduct described in the above findings of fact constitutes violations of this section.
4. Section 409.201, RSMo 2000, provides that it is unlawful for any issuer to employ an agent unless he is registered as an agent under Sections 409.101 to 409.419. Respondents' conduct described in the above findings of fact constitutes violations of this section.
5. Section 409.301, RSMo 2000, provides that it is unlawful for any person to offer or sell any security in this state unless (1) it is registered under this act; (2) the security or transaction is exempted under section 409.402; or (3) it is a federal covered security. The conduct described in the above findings of fact constitutes violations of this section.

## **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 are prohibited from:

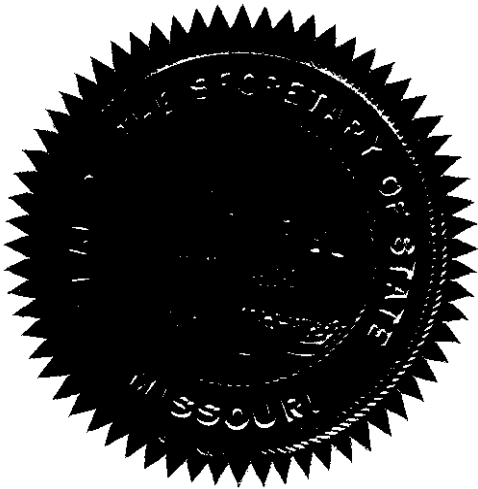
- A. Offering or selling notes or other evidences of indebtedness in JLT;
- B. Violating §409.101, RSMo 2000, by omitting to state, in connection with the offer, sale or purchase of these securities to Missouri residents, the following material facts:
  1. That the securities were not registered in the state of Missouri;
  2. That Richey was not registered to sell securities in the State of Missouri;
  3. That GBY was not registered as broker-dealers in the State of Missouri;
  4. That investors' money would be commingled with Richey's personal funds; and
  5. That the investments made in JLT would be in Richey's name.

- C. Violating §409.101, RSMo 2000, by making, in connection with the offer, sale or purchase of a security, the following untrue statements of material fact:
1. Investments would earn a minimum annual return of 12% paid monthly, with a possible bonus up to 10% per month; and
  2. Investors' principal would be guaranteed by proportionate shares of a U.S. Treasury Bill.
- D. Violating §409.301, RSMo 2000 by offering or selling any security without registration, an effective exemption from registration or that is a federal covered security; and
- E. Offering or selling any other security in violation of Sections 409.101, 409.201 or 409.301, RSMo 2000.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,  
MISSOURI THIS 21<sup>st</sup> DAY OF July, 2003.

MATT BLUNT  
SECRETARY OF STATE



A handwritten signature in black ink, appearing to read "Douglas M. Ommen", is written over a horizontal line.

DOUGLAS M. OMMEN  
COMMISSIONER OF SECURITIES