



STATE OF MISSOURI  
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:

ATM PROFIT CENTERS, LLC	)	Case No. AP-05-05
a/k/a ATM PROFIT CENTERS;	)	
	)	
and	)	
	)	
STEPHEN D. DURFEE	)	
a/k/a STEVE DURFEE,	)	
	)	

Respondents.

Serve: ATM Profit Centers, LLC. and Stephen D. Durfee a/k/a Steve Durfee  
At: 419 Auber Drive  
Manchester, Missouri 63011

**SUMMARY ORDER TO CEASE AND DESIST  
AND ORDER TO SHOW CAUSE WHY CIVIL PENALTIES AND COSTS  
SHOULD NOT BE IMPOSED**

**FINDINGS OF FACT**

1. ATM Profit Centers, LLC a/k/a ATM Profit Center (“ATM”) is a limited liability corporation organized and operating in the State of Missouri.
2. Stephen D. Durfee a/k/a Steve Durfee (“Durfee”) purports to be the owner of ATM and has a last known address at 419 Auber Drive, Manchester, Missouri 63011.
3. As used in this Cease and Desist Order, the term “Respondents” refers to ATM and Durfee.
4. Sometime prior to April 14, 2004, the Missouri Securities Division (the “Division”) received information from the State of Texas indicating that Durfee had offered or sold unregistered securities in the form of investment contracts from the State of Missouri. The securities involved a passive investment opportunity requiring the “purchase” of equipment. The Texas Securities Board issued a Cease and Desist Order against the Texas entities

involved in the offering, Durfee was not named in this Texas Order.

5. On April 14, 2004, an investigator for the Division discovered that Durfee and ATM maintained a website at [www.atmprofitcenters.com](http://www.atmprofitcenters.com). The website stated in part:

“ATM PROFIT CENTERS”

“There’s money in cashless ATM Scrip Machines”

“41% Annual Returns.”

“Monthly Checks.”

“A Passive (no work required) Business Investment.”

“100% tax deductible or tax deferred income with IRA rollover.”

“If you’re not happy with your stock market investments, tax free or corporate bonds, dividends, CDs annuities, money market, mutual fund IRAs and want monthly residual income from Income Producing Assets then you’ve come to the right place.”

“Our business is totally passive, there is no work required by the owner, and this is a one-time investment.”

“The ATM business has documented, demonstrable and likely to continue cash flow in the form of monthly checks to owner/investors of no less than \$41 per year, year after year for each \$100 investment.”

“Passive Investors and Aggressive Reps Wanted”

“Call or E-mail today: 1+800-557-3740 [~stevedurfee@aol.com](mailto:~stevedurfee@aol.com) To Learn More about ATM Profit Centers.”

6. On or about April 19, 2004, the Division sent a letter of inquiry via certified mail to Durfee requesting a claim of exemption from registration or exception from definition of a security upon which Durfee relied in offering and/or selling unregistered securities in or from the State of Missouri. The letter also requested additional information about the offers, and advised Durfee that failure to respond constituted proper ground for the entry of an order by the Commissioner.
7. Subsequently, the Division received an undated response from Durfee, acknowledging that he was involved in an offering in Texas that was “shut down” by the State of Texas for conducting a “Ponzi Scheme” and violating Texas Securities laws. Durfee stated that he did not offer securities but did sell a Card Payment Terminal, which was a debit POS machine, and that ATM provided “24/7 service and support for the equipment and bank processing for the machine.”

8. Durfee's letter also stated, "[t]here is typically a \$1.50 surcharge when someone uses our 'cashless' ATM and that surcharge is split with the merchant, our processing bank and ATM Profit Centers. I assume we are a common enterprise but we function much like a credit card machine/merchant account...."
9. On October 4, 2004, an investigator with this Division contacted Durfee via telephone and discussed the offering with Durfee. Durfee maintained that he simply sold and set up POS terminals. Durfee acknowledged that he was responsible for the website at [www.atmprofitcenters.com](http://www.atmprofitcenters.com), but stated that it should have been taken down.
10. Durfee sent the Division a copy of a letter dated October 7, 2004, addressed to a Rich Dander that purported to request that the website be taken down.
11. On December 10, 2004, an investigator with this Division found that the website at [www.atmprofitcenters.com](http://www.atmprofitcenters.com) was still actively soliciting investors and was essentially unchanged since April 14, 2004.
12. The investments offered by Respondents are investment contracts. Individuals are asked to invest in a common enterprise with the expectation of profits to be derived primarily from the efforts of a person other than the investor. The Investors' only efforts would be to put forth the money required for the investment. All other significant efforts, both managerial and entrepreneurial, would come from the performance of parties other than the investor.
  - a. Potential investors were required to invest money.

Potential investors were told that for a \$100 investment they could earn a return for this investment every year.

- b. The investment was a common enterprise.

Durfee stated in a letter to the Division that he assumed the business was a common enterprise and went on to state that, "there is typically a \$1.50 surcharge when someone uses our 'cashless' ATM and that surcharge is split with the merchant, our processing bank and ATM Profit Centers."

- c. Potential investors were told that they would make a profit from the investments.

The materials on the site stated that:

"The ATM business has documented, demonstrable and likely to continue cash flow in the form of monthly checks to owner/investors of no less than \$41 per year, year after year for each \$100 investment."

"There's money in cashless ATM Scrip Machines"



“41% Annual Returns.”

“Monthly Checks.”

- d. Investors’ profits were to have been derived primarily from the efforts of a person other than the investor.

The materials described the investment as, “A Passive (no work required) Business Investment.”

13. The website did not disclose that Durfee was not registered as an agent and that the securities were not registered. In addition, the website did not disclose that Durfee had been involved in a prior offering that had been the subject of a cease and desist order from the Texas Securities Division.
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 the securities offered by the Respondents in the State of Missouri.
15. The securities offered by Respondents were not federal covered securities.
16. At no time pertinent hereto, were Respondents registered to offer and/or sell securities in the State of Missouri.
17. Respondents offered unregistered, non-exempt securities, in the form of investment contracts to Missouri residents and residents of other states from the State of Missouri.
18. In connection with the offer, sale or purchase of a security to a Missouri resident, Respondents omitted to state material facts necessary in order to make the statements made not misleading, as follows:
  - a. That Respondent Durfee was not registered to sell securities in Missouri;
  - b. That the ATM investments were not registered securities; and
  - c. That Durfee was involved in a prior securities offering that had been the subject of a cease and desist order from the Texas Securities Division.
19. This Order is in the public interest.

### **CONCLUSIONS OF LAW**

1. §409.1-102, RSMo Cumulative Supp. 2003 (hereafter “the 2003 Act”) includes “investment contracts” within the definition of a security. Pursuant to §409.1-102(28)(D) of the 2003

Act, investment contract includes “an investment in a common enterprise with the expectation of profits to be derived primarily from the efforts of a person other than the investor ...” The interests offered and sold by Respondents as described in the above findings of fact constitute securities.

2. §409.3-301 of the 2003 Act provides that it is unlawful for any person to offer or sell any security in this state unless (1) The security is a federal covered security; (2) The security, transaction, or offer is exempted from registration under sections 409.2-201 to 409.2-203; or (3) The security is registered under this act. The conduct described in the above findings of fact constitutes a violation of this section.
3. §409.4-402(a) of the 2003 Act provides that it is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this act as an agent or is exempt from registration as an agent under subsection (b). The conduct described above constitutes a violation of this section.
4. §409.5-501 of the 2003 Act provides that it is unlawful for a person, in connection with the offer, sale or purchase of any security, directly or indirectly (1) to employ a 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 an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person. The conduct described in the above findings of fact constitutes a violation of this section.
5. §409.5-503 of the 2003 Act provides that the person claiming an exemption, exception, preemption, or exclusion has the burden of proving the applicability of the claim. As described in the above findings of fact, Respondents failed to prove any exemptions, exceptions, preemption, or exclusions.
6. §409.6-602(b) of the 2003 Act provides that, for the purpose of an investigation under the act, the commissioner or its designated officer may administer oaths and affirmations, subpoena witnesses, seek compulsion of attendance, take evidence, require the filing of statements and require the production of any records that the commissioner considers relevant or material to the investigation.
7. §409.6-604(a) of the 2003 Act 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;

- (2) Issue an order denying, suspending, revoking, or conditioning the exemptions for a broker-dealer under section 409.4-401(b)(1)(D) or (F) or an investment advisor under section 409.4-403(b)(1)(C); or
- (3) Issue an order under section 409.2-204.

8. §409.6-604(d) of the 2003 Act 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.

9. §409.6-604(e) of the 2003 Act provides:

In a final order ... the commissioner may charge the actual cost of an investigation.

10. The offer or sale of unregistered securities as described in the above findings of fact constitutes an illegal act, practice or course of business under §409.6-604(a) of the 2003 Act.
11. Transacting business as an unregistered agent as described in the above findings of fact constitutes an illegal act, practice or course of business under §409.6-604(a) of the 2003 Act.
12. The Missouri Commissioner of Securities is empowered to issue such orders as he may deem just. §409.6-604(a) of the 2003 Act.

## **ORDER**

**NOW, THEREFORE,** it is hereby ordered that Respondents, their agents, employees and servants with knowledge of this order are immediately prohibited from:

- A. Offering or selling securities in the form of investment contracts in or from the State of Missouri;
- B. Violating or materially aiding in the violation of §409.4-402(a) of the 2003 Act by transacting business as an agent without an effective registration;
- C. Violating or materially aiding in the violation of §409.3-301 of the 2003 Act by

offering or selling a security that was not: (1) a federal covered security; (2) exempted from registration under sections 409.2-201 to 409.2-203; and (3) registered under this act; and

- D. Violating or materially aiding in the violation of §409.5-501 of the 2003 Act by (1) employing a device, scheme or artifice to defraud; (2) making any untrue statement of a material fact or omitting 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) engaging in acts, practices or courses of business that operates or would operate as fraud or deceit upon another person.

**IT IS FURTHER ORDERED** that the Enforcement Section has petitioned for civil penalties, and specifically, the award of five thousand dollars (\$5,000), against Respondents in this proceeding. The commissioner will issue a final order awarding this penalty, unless Respondents request a hearing and show cause why the penalty should not be imposed.

**IT IS FURTHER ORDERED** that the Enforcement Section has petitioned for costs of investigation and prosecution of this proceeding against Respondents. The Commissioner will issue a final order awarding at least one thousand dollars (\$1,000) to the credit of the Investor Education and Protection Fund, unless Respondents request a hearing and show cause why the award should not be charged against the Respondents.

**IT IS FURTHER ORDERED** that Respondents immediately remove the website located at [www.atmprofitcenters.com](http://www.atmprofitcenters.com).

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 8th DAY OF February, 2005.



ROBIN CARNAHAN  
SECRETARY OF STATE

  
DAVID B. COSGROVE  
COMMISSIONER OF SECURITIES