



STATE OF MISSOURI  
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF: )  
 )  
OZARK INVESTOR’S GROUP, LLC; )  
and HERMAN P. BECK, Individually ) Case No. AP-14-10  
and doing business as BACK 40 GROUP, INC., )  
 )  
Respondents. )

**FINAL ORDER TO CEASE AND DESIST  
AND ORDER AWARDING RESTITUTION AND COSTS**

Now on this twenty-first day of October, 2015, the Commissioner, having reviewed this matter, issues the following findings of fact, conclusions of law, and order:

**I. PROCEDURAL BACKGROUND**

1. On June 5, 2014, the Enforcement Section of the Missouri Securities Division (“Enforcement Section”), by and through Mary S. Hosmer, Tyler B. McCormick, and Jennifer J. Martin, submitted a Petition for an Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed (the “Petition”) in the above-styled matter.
2. On June 12, 2014, the Commissioner issued an Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed against Respondents (the “C&D Order”).
3. On June 19, 2014, Respondents received service of the C&D Order.
4. On July 16, 2014, the Commissioner issued an Order extending Respondents’ time to file a hearing request in compliance with 15 CSR 30-55.020, until August 1, 2014, at 5:00 p.m.

**Respondent Beck’s Answer**

5. On August 4, 2014, Respondent Herman Beck (“Beck”) filed an answer in this case and requested a hearing on his behalf.

6. In that answer, Respondent Beck both admitted and denied some of the Petition's assertions, while completely ignoring others.
7. Also in the answer, Respondent Beck—who is not an attorney. (Ans. p.1.)—requested a hearing on behalf of Ozark Investor's Group, LLC ("Ozark Investor's Group").

#### Subsequent Proceedings

8. Ultimately, Respondent Beck and the Enforcement Section submitted to the Commissioner a joint motion, asking the Commissioner to issue a final order and to have a hearing on restitution, costs, and civil penalties.
9. In that joint motion, Respondent Beck waived his right to a hearing in this matter, neither admitted nor denied the allegations made by the Enforcement Section but, for the purposes of resolving this proceeding, stipulated to the entry by the Commissioner of a Final Order in this matter.

#### Hearing

10. On June 3, 2015, a hearing was held before the Commissioner, with members of the Enforcement Section and Respondent Beck in attendance.
11. At the hearing, Shawn Hagerty, an investigator with the Enforcement Section, was sworn-in and testified about the investigation of the Respondents.
12. During Mr. Hagerty's testimony, the Enforcement Section presented four exhibits, copies of which had been previously provided to Respondent Beck and are attached to this order and incorporated by reference.
13. These exhibits purported to list those individuals who had given money to Respondent Beck for either shares in Back 40 Group, LLC ("Back 40") or units in Ozark Investor's Group. These exhibits listed individual names, addresses, and the number of shares or units that the individuals had purchased.
14. Mr. Hagerty testified that Exhibits 1 through 3 were lists that Respondent Beck himself had provided of investors in Back 40 or Ozark Investor's Group, while Exhibit 4 was a spreadsheet that Mr. Hagerty himself compiled.
15. Mr. Hagerty testified that he personally composed Exhibit 4 based upon Exhibits 1 through 3 and after conversations with Beck and other investors in Back 40 and Ozark Investor's Group.
16. Respondent did not object to these exhibits and, indeed, agreed that Exhibit 4 was a current list of "[his] investors." He also stated that he "sold" to the people on these lists.
17. Exhibits 1 through 4 were admitted into evidence.

18. The Enforcement Section's evidence was unchallenged: Respondent Beck did not examine the Enforcement Section's witness, called no witnesses, and did not testify himself. Respondent Beck presented no evidence regarding any potential exemptions for any securities offered or sold or for any activities as an agent.

## **II. FINDINGS OF FACT**

### **Respondents and Related Parties**

19. Respondent Beck is a 72 year-old Missouri resident with a last known address of 1 Redbud Lane, Hartshorn, Missouri 65479. Beck was the president, chairman of the board of directors, chief executive officer, and chief financial officer of Back 40. Beck is the general managing partner of Ozark Investor's Group. Beck is also the president, treasurer, and director of Nature's Pace Sanctuary, Incorporated. (Resp't's Ans. ¶ 1.)
20. Back 40 was a Missouri corporation formed on April 29, 2005, with a mailing address of 1 Redbud Lane, Hartshorn, Missouri 65479. Beck was the registered agent of Back 40, which was administratively dissolved on December 1, 2010. After Back 40 was administratively dissolved, Beck continued doing business as Back 40; however, Beck never filed a fictitious name registration for Back 40. (Resp't's Ans. ¶ 1.)
21. Ozark Investor's Group is a Missouri limited liability company organized on February 8, 2005. Beck is the registered agent of Ozark Investor's Group, which has a mailing address of 6044 Highway KK, Hartshorn, Missouri 65479. (Resp't's Ans. ¶ 1.)
22. At all times relevant to this matter, Beck, Back 40, and Ozark Investor's Group were not registered with the State of Missouri as investment advisers, investment adviser representatives, broker-dealers, or agents.
23. At all times relevant to this matter, there was no registration, granted exemption, or notice filing for the securities offered or sold by Beck, Back 40, or Ozark Investor's Group. (Resp't's Ans. ¶ 10.)
24. Between 2010 and 2011, Respondent Beck maintained a publically-accessible website that stated:
- a. Back 40 would issue 20,000 "stock warrants" for a "\$10,000 investment" (Pet. ¶ 9; Resp't's Ans. ¶¶ 8-9);
  - b. such an investment "could be worth over 24 times the amount of [the] investment" (Pet. ¶ 9; Resp't's Ans. ¶¶ 8-9); and
  - c. Back 40 "...plan[ned] on being listed on the stock market within 9 months." (Pet. ¶ 11; Resp't's Ans. ¶ 11.)
25. Back 40 issued "stock certificates" to its investors. (Resp't's Ans. ¶ 10.)

26. The website did not disclose any information about the registration, or lack thereof, for Beck as an agent or any securities that Beck was offering or selling. (Pet. ¶ 10; Resp't's Ans. ¶ 10.)
27. Respondent Beck contacted business owners and "other people of substantial means" that he met through his community's chamber of commerce and in his "daily dealing" with people in his area, discussing investing with Back 40. (Pet. ¶ 19.b; Resp't's Ans. ¶ 19.a.)
28. Respondent Beck provided "potential investors" information about the Back 40 shares, such as a private placement memorandum. (Resp't's Ans. p. 1, ¶¶ 10, 13, 22, 28.)
29. Respondent Beck also provided "potential investors" information about the Ozark Investors Group units, such as, again, a private placement memorandum. (Resp't's Ans. p. 1, ¶¶ 10, 13, 19.b.)
30. Respondent Beck "personally" spoke to each individual who purchased Back 40 shares or Ozark Investor's Group units before their purchases, answering questions they may have had. (Resp't's Ans. ¶¶ 13, 19, 22, 25.)
31. One Ozark Investor's Group unit cost \$1,000, while the cost of Back 40 shares varied. (Resp't's Ans. ¶ 12; Ex. 4.)
32. In exchange for shares in Back 40, Respondent Beck received money—sometimes more than once—from 26 of the persons listed under "B40" in Exhibit 4.<sup>1</sup> (Resp't's Ans. ¶¶ 11, 20; Exs. 1-4.) Another person received Back 40 Shares from Respondent Beck in lieu of pay for her work for Back 40.
33. In exchange for units in Ozark Investor's Group, Respondent Beck received money from the 21 people listed under "Osage" in Exhibit 4. (Resp't's Ans. ¶¶ 17, 18; Exs. 1-4.)
34. Respondent Beck was not registered as an agent under the Missouri Securities Act. (Resp't's Ans. ¶ 6.)
35. In his answer, Respondent Beck claimed that he "never exceeded the limits presented in" Section 409.2-202(14), RSMo (Cum. Supp. 2014),<sup>2</sup> when offering or selling securities issued by Ozark Investor's Group or Back 40. (Pet. ¶ 7; Ans. ¶ 7.)
36. Respondent Beck has not provided the Commissioner with any documentary or testamentary evidence purporting to show how Section 409.2-202(14) applies to the transactions his answer refers to.

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<sup>1</sup> This number excludes units purchased by Ozark Investor's Group, Respondent Beck, and Respondent Beck's wife.

<sup>2</sup> Unless otherwise noted, all statutory references are to the 2013 cumulative supplement to the Revised Statutes of Missouri.

### **III. CONCLUSIONS OF LAW**

37. This Final Order is in the public interest and is consistent with the purposes of the Missouri Securities Act of 2003.

#### **The C&D Order against Respondent Ozark Investor's Group is Final**

38. **THE COMMISSIONER CONCLUDES** that, as a corporate entity, Respondents Ozark Investor's Group could only request a hearing under Section 409.6-604(b) through a licensed attorney. *See* Schenberg v. Bitzmart, Inc., 178 S.W.3d 543, 544 (Mo. App. E.D. 2005) (noting that, under Missouri law, a corporation cannot generally represent itself in legal matters and must act through licensed attorneys).<sup>3</sup>
39. **THE COMMISSIONER FURTHER CONCLUDES** that, because Respondent Beck is not an attorney, his request for a hearing on Ozark Investor's Group's behalf was legally invalid and did not constitute a request for a hearing by Ozark Investor's Group. *See* Palmore v. City of Pac., 393 S.W.3d 657, 663 (Mo. App. E.D. 2013) ("The normal effect of a representative's unauthorized practice of law is to dismiss the cause or treat the particular actions taken by the representative as a nullity.").
40. **THEREFORE, THE COMMISSIONER FURTHER CONCLUDES** that, because Respondent Ozark Investor's Group did not request a hearing within the time allowed by Section 409.6-604 and because the Commissioner never ordered such a hearing, the C&D Order against Ozark Investor's Group became final on July 14, 2014, by operation of law. *See* Section 409.6-604(b), RSMo.

#### **Respondent Beck Engaged in Multiple Violations of Offering and Selling Unregistered, Non-Exempt Securities in Violation of Section 409.3-301**

41. **THE COMMISSIONER CONCLUDES** that, based on the facts in paragraphs 20, 24, 25, 31, and 32 above and in Exhibits 1 through 4, the shares in Back 40 were *securities* as that term is defined under Section 409.1-102(28).
42. **THE COMMISSIONER FURTHER CONCLUDES** that, based on the facts in paragraphs 21, 31, and 33 above, the units in Ozark Investor's Group were also securities. *See* Section 409.1-102(28)(E) (including as a security interests in a limited liability company).
43. **THE COMMISSIONER FURTHER CONCLUDES** that, based on paragraphs 24 and 27 through 30 above, Respondent Beck *offered to sell*, as that term is defined under

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<sup>3</sup> The Commissioner hereby takes official notice of Missouri statutes and case law. *See* Sections 490.080 (allowing Missouri courts to "take judicial notice of the common law and statutes") and 536.070(5) (allowing an administrative agency to "take official notice of all matters of which the courts take judicial notice"). *See also*, Moore v. Missouri Dental Bd., 311 S.W.3d 298, 310 (Mo. App. W.D. 2010) (stating that the agency "was entitled, and was in fact required, to take official notice of Missouri statutes").

Section 409.1-102(26), Back 40 shares and Ozark Investor’s Group units in the State of Missouri.

44. **THE COMMISSIONER FURTHER CONCLUDES** that, based on paragraphs 25 and 31 through 33 above, as well as Exhibits 1 through 4, Respondent Beck *sold* (as that term is defined under Section 409.1-102(26)) securities—specifically either Back 40 shares or Ozark Investor’s Group units—to those people listed on Exhibit 4.
45. **THE COMMISSIONER FURTHER CONCLUDES** that, by offering no evidence as to any eligible exemptions, Respondent Beck did not carry his burden that any of the above offers or sales qualified for any exemption, exception, pre-emption, or exclusion from the requirements of Section 409.3-301. *See* Section 409.5-503, (“In a[n] . . . administrative proceeding under this act, a person claiming an exemption, exception, preemption, or exclusion has the burden to prove the applicability of the claim.”).
46. **THEREFORE, THE COMMISSIONER CONCLUDES** that Respondent Beck violated Section 409.3-301 when he offered or sold securities in the State of Missouri to those people listed on Exhibit 4.

#### **IV. ORDER**

**NOW THEREFORE**, it is hereby ordered that Respondents Beck and Ozark Investor’s Group, their agents, employees and servants, and all other persons participating in or about to participate in the above-described violations with knowledge of this Final Order are prohibited from violating or materially aiding in any violation of Section 409.3-301 by offering or selling Ozark Investor’s Group units without registering the units under the Missouri Securities Act of 2003.

**IT IS FURTHER ORDERED** that, pursuant to Section 409.6-604(d), Respondents shall pay restitution and interest in the amount of \$423,924 for multiple violations of Sections 409.3-301. This amount shall be paid within 30 days from the date of this Final Order and shall be made payable to the Missouri Secretary of State’s Investor Restitution Fund. Respondents shall deliver, or cause to be delivered, this payment to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101. The Commissioner will take reasonable and necessary actions to distribute all such funds to the investors listed in Exhibits 1 through 4.

**IT IS FURTHER ORDERED** that, pursuant to Section 409.6-604(e), Respondents shall pay costs of the investigation in this matter in the amount of \$8,762. This amount shall be paid within 30 days from the date of this Final Order and shall be made payable to the Investor Education and Protection Fund. Respondents shall deliver, or cause to be delivered, this payment to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101.

**IT IS FURTHER ORDERED** that Respondents shall each pay their own costs and attorney’s fees in this matter.

**[This section intentionally left blank.]**

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,  
MISSOURI THIS TWENTY-FIRST DAY OF OCTOBER, 2015.



JASON KANDER  
SECRETARY OF STATE

*Andrew M. Hartnett*

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ANDREW M. HARTNETT  
COMMISSIONER OF SECURITIES

CERTIFICATE OF SERVICE

I hereby certify that on this 21 day of October, 2015, a copy of the foregoing Final Order to Cease and Desist in the above styled case was **mailed by e-mail to herm.naturespace@earthlink.com and certified U.S. mail to:**

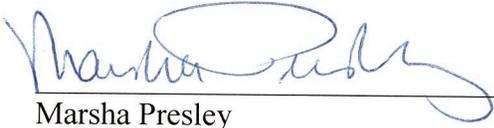
Ozark Investor's Group, LLC  
Herman P. Beck, Registered Agent  
P.O. Box 8  
Hartshorn, Missouri 65479

and

Herman P. Beck  
P.O. Box 8  
Hartshorn, Missouri 65479

**and by hand delivery to:**

Tyler B. McCormick  
Enforcement Counsel  
Missouri Securities Division

  
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Marsha Presley  
Securities Office Manager