



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:)
)
RICHARD C. CHINNERY,) Case No. AP-15-02
)
Respondent.)

CONSENT ORDER

SUMMARY OF ENFORCEMENT SECTION'S ALLEGATIONS

1. The Enforcement Section of the Missouri Securities Division of the Office of Secretary of State ("Enforcement Section"), through Assistant Commissioner Mary S. Hosmer, has alleged that Richard C. Chinnery ("Respondent"), offered and sold unregistered, non-exempt securities, transacted business as an unregistered agent, and 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, and engaged in an act, practice, or course of business that would operate as a fraud or deceit in violation of Section 409.3-301, 409.4-402, and 409.5-501, RSMo. (Cum. Supp. 2013), and that this constitutes grounds to issue an order pursuant to Section 409.6-604, RSMo. (Cum. Supp. 2013).
2. Respondent and the Enforcement Section desire to settle the allegations and the matters raised by the Enforcement Section relating to the Respondent's alleged violations of Section 409.3-301, 409.4-402, and 409.5-501, RSMo. (Cum. Supp. 2013).

CONSENT TO JURISDICTION

3. Respondent and the Enforcement Section stipulate and agree that the Missouri Commissioner of Securities ("Commissioner") has jurisdiction over the Respondent and these matters pursuant to the Missouri Securities Act of 2003, Chapter 409, *et seq.*
4. Respondent and the Enforcement Section stipulate and agree that the Commissioner has authority to enter this Order pursuant to Section 409.6-604(h), RSMo. (Cum. Supp. 2013), 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. Respondent waives Respondent’s right to a hearing with respect to this matter.
6. Respondent waives any right that Respondent may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order. Respondent specifically forever releases and holds harmless the Missouri Office of Secretary of State, Secretary of State, Commissioner, and their respective representatives and agents from any and all liability and claims arising out of, pertaining to, or relating to this matter.
7. Respondent stipulates and agrees 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.

CONSENT TO COMMISSIONER’S ORDER

8. Respondent and the Enforcement Section stipulate and agree to the issuance of this Consent Order without further proceedings in this matter, agreeing to be fully bound by the terms and conditions specified herein.
9. Respondent agrees 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 Respondent’s (a) testimonial obligations; (b) right to take legal or factual positions in connection with litigation, arbitration, or other legal proceeding in which the Commissioner is not a party; or (c) right to make public statements that are factual.
10. Respondent agrees that Respondent is not the prevailing party in this action since the parties have reached a good faith settlement.
11. Respondent neither admits nor denies the allegations made by the Enforcement Section, but consents 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 Consent Order.

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

I. FINDINGS OF FACT

12. Richard C. Chinnery ("Chinnery") is a Missouri resident with an address on 17th Street in Lexington, Missouri 64067. Chinnery is registered through the Central Registration Depository ("CRD") with number 602679. A check of the CRD records indicates that Chinnery was registered as an investment adviser representative with United Advisors Corporation ("United Advisors") from January 23, 2009, to March 6, 2009. Since 2009 Chinnery has not been registered in Missouri to sell securities or offer investment advice.
13. Custom Sales and Marketing, Inc. ("Custom Sales") was a Missouri corporation organized on March 1, 1999, with an address of 3946 Redwood Drive, Suite E, Independence, Missouri 64055. Custom Sales did business as (d/b/a) Custom Planners. Chinnery was listed as the registered agent for Custom Sales. Custom Sales' business registration expired June 6, 2011, for failing to maintain a registered agent.

Missouri Resident (MR)

14. In 2009, a 68 year-old Cabool, Missouri resident ("MR") received \$105,000 from an inheritance and talked with Chinnery about investing these funds.
15. Chinnery told MR, among other things, that:
 - a. Chinnery could invest MR's funds;
 - b. Chinnery and his wife had invested and made money with an investment group;
 - c. these were "secret" investments; and
 - d. the funds invested would double within one year.
16. In 2009, MR invested \$105,000 with Chinnery. Chinnery provided MR with promissory notes for these funds.
17. Chinnery never provided MR the name of the company where MR's funds would be invested.
18. Chinnery never provided MR with information about how these funds would be invested.
19. Chinnery never discussed with MR any potential risks associated with this investment.
20. Chinnery never told MR of any duties or responsibilities MR had with respect to this investment.

21. Chinnery invested some of MR's funds in a Ponzi scheme out of Florida and these funds were subsequently lost.
22. At least some of MR's investment funds were commingled with Chinnery's insurance business and personal funds in a bank account Chinnery controlled and used, among other things, for Chinnery's personal expenditures.
23. During the time Chinnery offered and sold some of the promissory notes to MR, Chinnery was not registered in the State of Missouri as a broker-dealer, broker-dealer agent, investment adviser, or issuer agent. In addition, these promissory notes were not registered as securities in Missouri or exempt from such registration.
24. On June 23, 2015, Chinnery, through counsel, supplied records to the Enforcement Section that Chinnery is unable to pay full restitution in this matter because: 1) he is 78 years old; 2) he is not currently employed; 3) he has limited income and assets; and 4) his income and assets are unlikely to change in the near future because of his age and health.

II. CONCLUSIONS OF LAW

25. The Commissioner finds Respondent offered and sold unregistered, non-exempt securities, transacted business as an unregistered agent in the state of Missouri, and 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 and in engaging in an act, practice, or course of business that would operate as a fraud or deceit, in violation of Sections 409.3-301, 409.4-402, and 409.5-501, RSMo. (Cum. Supp. 2013), and that this conduct constitutes grounds to issue an order pursuant to Section 409.6-604 RSMo. (Cum. Supp. 2013).
26. The Commissioner, after consideration of the stipulations set forth above and on the consent of Respondent and the Enforcement Section, finds and concludes that the Commissioner has jurisdiction over Respondents and 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, RSMo. (Cum. Supp. 2013).

III. ORDER

NOW, THEREFORE, it is hereby Ordered that:

1. Respondent Chinnery is prohibited from applying as an agent or investment adviser representative in the State of Missouri for a period of 10 years.

2. Respondent, his agents, employees and servants, and all other persons participating in the above-described violations with knowledge of this order are permanently enjoined and restrained from offering and selling unregistered, non-exempt securities, transacting business as an unregistered agent, omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and in engaging in an act, practice, or course of business that would operate as a fraud or deceit in violation of Sections 409.3-301, 409.4-402, and 409.5-501, RSMo. (Cum. Supp. 2013).
3. Respondent is ordered to pay \$10,000 restitution in this matter. This amount will be paid in 20 equal monthly installments of \$500 each beginning on January 1, 2016, with the final payment due on August 1, 2017. These payments will be sent to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101, and shall be payable to the Missouri Secretary of State's Investor Restitution Fund. These payments will be distributed by that Fund to the investor identified in Exhibit A. If Respondent fails to make any payment described in this Paragraph, the full amount remaining shall be immediately due and payable and the Commissioner may refer this matter for enforcement as provided in Sections 409.6-603 and 409.6-604, RSMo. (Cum. Supp. 2013). Should Respondent not find employment by January 1, 2016, he may request a further delay in the commencement of the payment plan.
4. Respondent shall pay a civil penalty in the amount of \$10,000, for multiple violations of Sections 409.3-301, 409.4-402, and 409.5-501, RSMo. (Cum. Supp. 2013). The full amount of this penalty will be suspended provided Respondent complies with the terms of the Consent Order and does not violate the Missouri Securities Act for a period of 10 years.
5. Respondent is ordered to pay \$5,000 as the cost of this investigation. The full amount of this penalty will be suspended provided Respondent complies with the terms of the Consent Order and does not violate the Missouri Securities Act for a period of 10 years.
6. Upon Respondent's failure to comply with the terms of this Consent Order, the suspended payments in paragraphs 4 and 5 above shall become immediately payable by operation of law, and such immediately due payments shall be in addition to all other penalties then available under the law. The Commissioner may take all available actions to enforce this Consent Order.
7. Upon Respondent's satisfaction of the terms of this Consent Order, the suspended payments shall be waived.
8. Respondent shall pay his 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 2ND DAY OF SEPTEMBER, 2015.



JASON KANDER
SECRETARY OF STATE

Andrew M. Hartnett

ANDREW M. HARTNETT
COMMISSIONER OF SECURITIES

Consented to by:

THE ENFORCEMENT SECTION OF THE
MISSOURI SECURITIES DIVISION

M. S. Hosmer

Mary S. Hosmer
Assistant Commissioner of Securities

Richard C. Chinnery

Richard C. Chinnery

Approved as to Form:

Victoria Westerhaus

Victoria Westerhaus, Attorney for Respondent
Richard C. Chinnery