



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:) Case No. AP-15-22
)
W&M CAPITAL MANAGEMENT, LLC, CRD 166094; and)
HARRY ALLEN WARD, CRD 5614564,)
)
Respondents.)

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 Harry Allen Ward ("Ward") and W&M Capital Management, LLC ("W&M") engaged in dishonest or unethical practices, and that this activity constitutes grounds to issue an Order under Sections 409.4-412 and 409.6-604, RSMo. (Cum. Supp. 2013).
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.

CONSENT TO JURISDICTION

3. Respondents 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. Respondents 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. Respondents waive Respondents' right to a hearing with respect to this matter.
6. Respondents waive any right 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, 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, the Enforcement Section reserves the right to pursue any and all legal or administrative remedies at its disposal.

CONSENT TO COMMISSIONER'S ORDER

8. Respondents 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. 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 positions 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.
10. Respondents agree that Respondents are not the prevailing party in this action since the parties have reached a good faith settlement.
11. Respondents neither admit nor deny the allegations made by the Enforcement Section, but consent 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

A. Respondents and Related Parties

12. W & M was a Missouri-registered investment adviser with a mailing address of 4502 State Highway 153, Gideon, Missouri, 63848. W&M was registered in Missouri through the Central Registration Depository ("CRD") with number 166094. W&M was

registered in Missouri from April 3, 2013, until December 31, 2014, when W&M did not renew its Missouri registration.

13. Ward was a Missouri-registered investment adviser representative (“IAR”) and was registered in Missouri through the CRD with number 5614564. A check of the CRD indicates that Ward was registered in Missouri with W&M from April 4, 2013, until December 31, 2014, when Ward did not renew his registration. Ward was a Missouri-registered broker-dealer agent and IAR with ProEquities, Inc. (“ProEquities”) during the period April 20, 2011, through September 7, 2012.
14. A check of the records maintained by the Missouri Department of Insurance, Financial Institutions & Professional Registration (“DIFP”) indicates that Ward’s Missouri insurance producer’s license number 9167240, expired on April 12, 2013.
15. Bankers Life and Casualty Company (“Bankers”) is a Missouri-licensed insurance company with National Association of Insurance Commissioners (“NAIC”) number 61263. Bankers has a main address of 111 East Wacker Drive, Suite 2100, Chicago, Illinois 60601.
16. ProEquities, Inc. (“ProEquities”) is a Missouri-registered broker-dealer with Central Registration Depository (“CRD”) number 15708. ProEquities’ main address is 2801 Highway 280 South, Birmingham, Alabama, 35223.
17. Manzur Ahmed Mazumder (“Mazumder”) is a Missouri resident with a last known address of 63 Sena Fawn Drive, Apartment A2, Cape Girardeau, Missouri, 63701. A check of the CRD indicates that at all times relevant to this matter, Mazumder was not registered as an agent or investment adviser representative in the state of Missouri. For the period October 2, 2012, through February 5, 2014, Mazumder was employed as a non-registered person by NYLife Securities, LLC, and has a CRD number of 2780858. Mazumder was contractually appointed with Bankers for the purpose of selling insurance products from June 20, 2011, to July 5, 2012. Mazumder has CRD number 2780858 but has never been securities registered.¹
18. A check of the records maintained by the DIFP indicates that Mazumder’s Missouri insurance producer’s license number 8074013 expired on June 17, 2015.
19. MSM Capital Holdings, Inc. (“MSM Capital”) is a Missouri corporation organized on October 12, 2010. The current registered agent for MSM Capital is Mazumder with an address of 63 Sena Fawn Drive, Suite A2, Cape Girardeau, Missouri, 63701. A check of the CRD indicates that at all times relevant to this matter, MSM Capital was not registered as a broker-dealer or investment adviser in the State of Missouri.
20. T.D. Ameritrade, Inc. (“TDA”) is a Missouri registered broker-dealer with a home office address of 200 South 108th Avenue, Omaha, Nebraska, 68154. TDA is a discount broker-

¹ Mazumder was a subject of an Order to Cease and Desist issued by the Commissioner on November 18, 2013 (*In the Matter of MSM Capital Holdings, Inc. and Manzur Ahmed Mazumder, AP-13-18*).

dealer and is registered in Missouri through the CRD with number 7870.

B. Enforcement Section Investigation

21. While contracted with Bankers and while Ward was employed with ProEquities, Mazumder, Ward and another Bankers agent presented an investment strategy that included the purchase of universal life (the “UL Policies”) and long-term care policies to two elderly Cape Girardeau, Missouri residents (“MR1” and “MR2”).
22. MR1 and/or MR2 told Mazumder and Ward that MR1 and MR2 could not afford the premium payments on these UL Policies and the long-term care policies.
23. Mazumder and Ward told MR1 and MR2 that by using a “covered call strategy”² in a ProEquities Trading Account, Mazumder and Ward could generate enough income to cover the premium payments on the UL Policies.
24. MR1 and MR2 set up a brokerage account at ProEquities through Ward (“ProEquities Trading Account”) to generate income to pay for the insurance policies through a covered call strategy.
25. The “covered call strategy” and numerous securities trades effected by Ward and Mazumder in the ProEquities Trading Account to fund the insurance purchases were unsuitable for MR1 and MR2 in light of the investors’ age, financial situation, time horizon, investment objectives, risk tolerance and the needs of the investors. In addition, the investment strategy failed to achieve its objective and did not generate the income necessary to pay the premiums on the UL Policies and the long-term care policies.
26. The “covered call strategy” resulted in losses for MR1 and MR2 in excess of \$70,000 in the ProEquities Trading Account.
27. Ward earned and was paid a total of \$1,880 in commissions on the ProEquities Trading Account of MR1 and MR2.
28. Prior to their signing an agreement with W&M, Mazumder transferred MR1 and MR2’s ProEquities Trading Account to an account at TDA and also set up a trading account for the son and daughter-in-law of MR1 and MR2 (“MR3 and MR4”) at TDA. Mazumder continued using this covered call strategy at TDA and lost additional funds in MR1’s, MR2’s, MR3’s, and MR4’s TDA trading accounts.
29. Subsequent to the losses in the ProEquities Trading Account, MR1, MR2, MR3, and MR4 signed investment advisory agreements with W&M.

² A covered call is an income-producing strategy to sell, or “write”, call options against shares of stock already owned.

30. On September 29, 2014, Ward appeared at the Enforcement Section for an on-the-record statement (“Ward OTR”). During the Ward OTR, Ward stated, among other things, that:
- a. Ward met Mazumder sometime in 2011, while Ward was employed as a securities agent at ProEquities and an insurance agent for Bankers. Mazumder was also an insurance agent for Bankers;
 - b. after Mazumder and another Banker’s agent met with MR1 and MR2, Mazumder asked Ward to accompany Mazumder and the other Bankers agent to MR1 and MR2’s home to talk about trading in covered calls in a securities account;
 - c. at this meeting, Ward told MR1 and MR2 that the covered call strategy was safe and could generate sufficient profit to pay for MR1’s and MR2’s insurance premiums;
 - d. Ward left ProEquities and Bankers in 2012;
 - e. after leaving ProEquities, Ward believed that MR1 and MR2 were still doing business with Mazumder and that Mazumder was trading MR1’s and MR2’s accounts at TDA using a covered call strategy;
 - f. Ward and Mazumder started W&M in or around October of 2012 for the purpose of offering investment advice to the public;
 - g. the address initially used for W&M was Mazumder’s apartment address in Cape Girardeau and the telephone was answered by Mazumder. The office address was eventually moved to a commercial building in Cape Girardeau;
 - h. Mazumder was sixty percent (60%) owner of W&M and Ward was forty percent (40%) owner of W&M;
 - i. Mazumder was to provide the trading expertise to W&M;
 - j. Mazumder was to handle the trading in a TDA account for W&M’s own trading through MSM Capital, and any profits generated by W&M were to be divided between Ward and Mazumder based on their respective percentages of ownership;
 - k. Mazumder told Ward that Mazumder could bring \$7 million dollars to W&M;
 - l. Ward understood this to mean clients who would be paying investment advisory fees to W&M;
 - m. in or around September 2013, Ward realized that a substantial amount of money was missing from both W&M’s TDA account and a Bank of America account;

- n. Ward confronted Mazumder about the missing funds and Mazumder told Ward that Mazumder had lost a substantial amount of these funds by making losing trades;
 - o. subsequently, Ward found that some funds were transferred out of W&M's TDA and Bank of America accounts to other accounts Mazumder controlled, including a US Bank account in the name of MR1 and MR2;
 - p. Mazumder used some of the funds to pay off Mazumder's credit cards;
 - q. Ward spoke with MR3 who stated that Mazumder had lost between \$300,000 to \$500,000 by trading in covered calls in the TDA accounts for MR1, MR2, MR3, and MR4; and
 - r. Ward spoke to Mazumder about these losses for these individuals. Mazumder stated that he had made "bad trades after bad trades after bad trades."
31. Ward, through counsel, supplied records to the Enforcement Section indicating that Ward is unable to pay full restitution in this matter because: (a) he is more than sixty years old; (b) he does not have current full-time employment; (3) he has limited income and assets; and (4) his income and assets are unlikely to change in the near future due to the preceding factors.

II. CONCLUSIONS OF LAW

32. The Commissioner finds the Respondent W&M employed an agent who engaged in dishonest or unethical practices and that this conduct constitutes grounds to issue an order against the Respondent W&M pursuant to Sections 409.4-412 and 409.6-604 RSMo. (Cum. Supp. 2013). In addition, Respondent W&M failed to reasonably supervise Ward and that this conduct constitutes grounds to issue an order against the Respondent W&M pursuant to Section 409.4-412(d)(9), RSMo. (Cum. Supp. 2013).
33. The Commissioner finds that Respondent Ward made recommendations to a client that were unsuitable, and that such acts constitute grounds to issue an order against the Respondent under Section 409.4-412(d)(13), RSMo. (Cum Supp. 2013) and pursuant to Sections 409.4.-412 (Cum. Supp. 2013).
34. The Commissioner, after consideration of the stipulations set forth above and on the consent of Respondents 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. W&M is BARRED from registering as an investment adviser or a broker-dealer in the State of Missouri.
2. Ward agrees not to apply for registration in the State of Missouri as a broker-dealer agent for a period of 10 years.
3. At any time that Ward should re-apply for registration as an investment adviser representative or broker-dealer agent in the State of Missouri, Ward agrees to the following conditions:
 - a. Ward shall not serve as a supervisor;
 - b. Ward shall not serve as a branch manager;
 - c. Ward shall not use any investment strategy not supervised by his employing firm;
 - d. Ward shall not have, or seek approval for, any outside business that is securities or investment related unless Ward provides immediate written notice of, and receives approval for, such outside business from his supervisor. The name and address of Ward's outside business and the approval form from Ward's supervisor shall be immediately sent to the Securities Division; and
 - e. Ward shall not act as an insurance agent without being licensed by the appropriate state agency.
4. Ward will only work at a firm in the securities industry that will provide heightened supervision of Ward's activities for a period of 3 years from the date that Ward is registered in the State of Missouri. This heightened supervision shall include, among other things, the following:
 - a. Ward's branch office shall be the focus of an annual internal audit;
 - b. Ward's supervisor shall meet quarterly with Ward to review all outside business conducted by Ward;
 - c. Ward's supervisor will send the terms of Ward's heightened supervision in writing to the Securities Division, and any updates or changes in such supervision shall be communicated to the Securities Division; and
 - d. all trades and new accounts for any Ward customer will be pre-approved by Ward's supervisor.

5. Ward is ordered to pay disgorgement to the investors as identified by the Enforcement Section in the amount of \$1,880.
6. The disgorgement payment totaling \$1,880 shall be sent within 60 days of the effective date of this Consent Order to the Securities Division at 600 West Main Street, P.O. Box 1276, Jefferson City, Missouri 65101, and shall be payable to the Missouri Secretary of State's Investor Restitution Fund. This payment will be distributed by that fund to the investors identified in Exhibit 1.
7. Respondents shall pay to the Missouri Secretary of State's Investor Education and Protection Fund the sum of \$10,000. This payment shall be suspended provided that Respondents are in compliance with the securities act and this order.
8. Each Respondent shall pay \$2,500 as the cost of this investigation. W&M's portion of the costs shall be suspended, provided that W&M is in compliance with the securities act and this order. Ward's portion of the costs shall be suspended unless and until Ward becomes registered with the State of Missouri. Within 18 months of Ward's registration as an investment adviser representative or broker-dealer agent in the State of Missouri, Ward will pay Ward's portion of the costs totaling \$2,500. Any payment made shall be payable to the Investor Education and Protection Fund and shall be sent to the Securities Division, 600 West Main Street, P.O. Box 1276, Jefferson City, Missouri 65102. If Ward has not become registered as an investment adviser representative or broker-dealer agent in the State of Missouri as of or by January 1, 2019, the costs suspended hereunder shall be fully and finally waived. Nothing herein shall be construed to prevent Respondent Ward from petitioning the Commissioner to reduce or fully waive the amounts stated hereunder, and the Commissioner and the Division expressly acknowledge that Respondent Ward may so petition.
9. Upon either Respondent's failure to comply with the terms of this Consent Order, the suspended payments in paragraphs 7 and 8 shall become immediately payable by the failing Respondent and under operation of law, and such immediately due payments shall be in addition to all other penalties then available under the law. If, on the date which is 5 years from the date of this Consent Order, Respondents have not failed to comply with the terms of this Consent Order, the suspended payments in paragraph 7 and 8 shall be fully and finally waived.
10. 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 14th DAY OF July, 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

Mary S. Hosmer

Mary S. Hosmer
Assistant Commissioner of Securities

W&M Capital Management, LLC

BY: *W&M Capital Management LLC Harry Allen Ward*

Harry Allen Ward, Authorized Signatory

Harry Allen Ward

Harry Allen Ward