



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:)
)
MWA FINANCIAL SERVICES, INC.,) Case No. AP-16-02
CRD No. 11263,)
)
Respondent.)

CONSENT ORDER

SUMMARY OF THE SECURITIES DIVISION’S ALLEGATIONS

1. The Missouri Securities Division of the Office of the Secretary of State (“Division”) has alleged that Kenneth Edward Volkerding, an agent of MWA Financial Services, Inc. (“Volkerding”) engaged in dishonest and unethical practices when he recommended that a Missouri investor liquidate a \$500,000.00 individual retirement account and purchase a single Modern Woodmen of America fixed rate annuity, completing the application for that annuity without sufficiently determining what the investor’s net worth actually was, and in some cases knowingly entering inaccurate information in order to pass suitability review, in violation of Section 409.4-412(d)(13), RSMo (Cum. Supp. 2013).¹ The Missouri Securities Division of the Office of Secretary of State (“Division”) has alleged that MWA Financial Services, Inc. (“MWAFS”) has failed to reasonably supervise Volkerding in this transaction, in violation of Section 409.4-412(d)(9).
2. Respondent MWAFS and the Division desire to settle the allegations and the matters raised by the Division relating to Respondent’s alleged violations of Sections 409.4-412(d)(9) and 409.4-412(d)(13).

CONSENT TO JURISDICTION

3. Respondent and the Division stipulate and agree that the Missouri Commissioner of Securities (“Commissioner”) has jurisdiction over Respondent and these matters pursuant to the Missouri Securities Act of 2003, Chapter 409, *et seq.*

¹ Unless otherwise noted, all statutory references are to the 2013 cumulative supplement to the Revised Statutes of Missouri.

4. Respondent and the Division stipulate and agree that the Commissioner has authority to enter this Order pursuant to Section 409.6-604(h), 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 rights to a hearing with respect to this matter.
6. Respondent waives any rights 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 Division that, should the facts contained herein prove to be false or incomplete, the Enforcement Section reserve the right to pursue any and all legal or administrative remedies at its disposal.

CONSENT TO COMMISSIONER’S ORDER

8. Respondent and the Division 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 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. Respondent and Division agree that there is no prevailing party in this action since the parties have reached a good faith settlement.
11. Respondent does not have sufficient evidence to either admit or deny the allegations made by the Division, 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.
12. Modern Woodmen of America, issuer of the fixed annuity in question, agrees that it will, in response to the agreement between Respondent and Division, surrender the fixed annuity and waive surrender charges as requested by the Division.

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

I. FINDINGS OF FACT

13. MWAFS has been a Missouri registered broker-dealer since November 2001, and has a home office address of 1701 1st Avenue, Rock Island, Illinois 61201. MWAFS is registered in Missouri through the Central Registration Depository ("CRD") with number 112630.
14. Volkerding has been a Missouri registered broker-dealer agent with MWAFS since October 2004. Volkerding is registered in Missouri through the CRD with number 1018371, and is located at 1427 Thomas Drive, Suite A, Cape Girardeau, Missouri 63701.

Missouri Resident ("MR")

15. On or around December 10, 2013, a Bloomfield, Missouri, resident ("MR") learned that MR's spouse (the "Spouse") passed away unexpectedly in a cave diving accident in Mexico. MR was 57 years old at the time.
16. On December 21, 2013, after experiencing difficulties recovering the Spouse's remains from Mexico, MR held a funeral service for the Spouse.
17. Between December 25, 2013 and January 1, 2014, MR received a telephone call from Volkerding, who purportedly contacted MR to schedule an appointment to transfer an MWA Flexible Premium Deferred Annuity ("Annuity 1"), worth approximately \$79,000.00, from the Spouse's name to an individual retirement account ("IRA") in MR's name as the surviving spouse.
18. The meeting with MR and Volkerding was scheduled for January 2, 2014, twelve days after the Spouse's funeral, at MR's residence in Bloomfield, Missouri.
19. On January 2, 2014, Volkerding and another MWA agent met with MR at MR's residence. MR executed the transfer documents for Annuity 1 via hand-written signature.
20. Also on January 2, 2014, Volkerding solicited MR to purchase another annuity with \$500,000 that was the death benefit of MR's deceased husband's IRA ("Annuity 2"). In order to complete the purchase of Annuity 2, Volkerding used MR's electronic signature to execute the documents.
21. The January 2, 2014 meeting took no longer than one and a half hours.
22. The Division alleges that during the January 2, 2014 meeting, Volkerding did not submit accurate information regarding MR's suitability profile as a part of the Annuity 2 application.
23. MWAFS approved the transfer of Annuity 1 and the purchase of Annuity 2.

24. On February 13, 2014, Volkerding provided MR with an annuity certificate and policy wallet for Annuity 2.

II. CONCLUSIONS OF LAW

25. The Commissioner finds that Respondent's action set forth above constitutes grounds to issue this Order pursuant to Sections 409.4-412(d)(9) and 409.6-604.
26. The Commissioner, after consideration of the stipulations set forth above and on consent of the Respondent and the Division, finds and concludes that the Commissioner has jurisdiction over Respondent in 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.

I. ORDER

NOW, THEREFORE, it is hereby Ordered that:

1. Respondent, its agents, employees and servants, and all other persons participating in the above-alleged violations with knowledge of this order are permanently enjoined and restrained from violating Section 409.4-412(d)(9).
2. Modern Woodmen of America shall waive the surrender charge on the annuity sold to MR, representing approximately \$22,000 in accrued interest to date. Modern Woodmen of America will waive this surrender charge as soon as MR tenders the annuity for surrender.
3. Within three months, MWAFS agrees to:
 - a. prepare and distribute a specific bulletin to all its Missouri registered representatives regarding the requirements with respect to the suitability forms for the purchase of annuities, focused on the knowledge of the agent with regard to each aspect of the forms. MWAFS will electronically confirm each agent has read the bulletin;
 - b. require all Missouri registered representatives to review web-based, on-line training on the same topic, and to confirm completion of such training; and
 - c. require in-person training on the same topic for all agents in the Missouri region involved in the complaint.
4. MWAFS shall prepare specific policies and procedures with regard to the approach to soliciting new business from existing clients who have just experienced a traumatic event, such as the loss of a loved one. MWAFS will submit those proposals to the Division for review and, upon approval, will implement them within six (6) months.

5. Respondent MWAFS shall pay \$10,000 to the Investor Education and Protection Fund for violations of the Missouri Securities Act. This payment shall be sent within twenty (20) days of the effective date of this Consent Order 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 Education and Protection Fund. The Division will send the money to the Missouri Secretary of State's Investor Education and Protection Fund.
6. Respondent MWAFS is ordered to pay \$5,000 as the cost of this investigation. This amount shall be sent within twenty (20) days of the effective date of this Consent Order 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 Education and Protection Fund. The Division will send the money to the Missouri Secretary of State's Investor Education and Protection Fund.
7. Respondent shall pay its 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 27th DAY OF JANUARY, 2016.



JASON KANDER
SECRETARY OF STATE

Andrew M. Hartnett

ANDREW M. HARTNETT
COMMISSIONER OF SECURITIES

Consented to by:

RESPONDENT

MWA FINANCIAL SERVICES, INC.

By: *Clint Pogemiller*

Name: Clint Pogemiller

Title: President

Approved as to Form:

Lewis Melahn
Lewis Melahn, Attorney for Respondents