

State of Missouri
Office of Secretary of State

Case No. AP-05-16

IN THE MATTER OF:

FRANK D. Williams, d/b/a STADIUM
PRINTING OF INDEPENDENCE,

Respondents.

Serve at:

Rhode Island Adult Correctional Institution
Intake Service Center
I-Mod
Bunk 23B
P.O. Box 8249
Cranston, Rhode Island 02920

**FINAL ORDER TO CEASE AND DESIST AND
ORDER AWARDING CIVIL PENALTIES AND COSTS OF INVESTIGATION**

PROCEDURAL SUMMARY: After being petitioned by the Securities Division, the Commissioner of Securities issued a cease and desist order against Respondent on April 29, 2005. Because neither Respondent nor the Commissioner requested a hearing on that order, the cease and desist order became final against Respondent by operation of law on August 2, 2005, pursuant to § 409.6-604(b), RSMo Supp. 2004.

On the 15th day of September 2005, Patrick T. Morgan, Deputy Chief Counsel for the Securities Division, submitted to the Commissioner a motion for costs of investigation in connection with this matter. Now, after reviewing the motion, the Commissioner issues the following findings of fact, conclusions of law and final order to cease and desist and order awarding civil penalties and costs of investigation:

FINDINGS OF FACT

1. Frank D. Williams ("Respondent") purported to provide retail commercial printing services in Missouri under the fictitious name of "Stadium Printing of Independence" ("Stadium Printing").
 - a. Respondent's last known residential address is 20001 E. Truman Road, Independence, Missouri 64056.
 - b. Respondent's last known business address is 17309 E. US 24 Highway, Susquehana Shopping Center, Independence, Missouri 64056.
 - c. Respondent is currently incarcerated at the Rhode Island Adult Correctional Institution, P.O. Box 8249, Cranston, Rhode Island, 02920.
2. During the summer of 2004, Respondent was on parole from the Colorado Territorial Prison in Cañon City, Colorado. Respondent's parole stemmed from his 1999 conviction for felony theft in Colorado. Respondent was sentenced to eight years imprisonment. On July 22, 2003, Respondent was released from the Colorado Territorial Prison on parole. Respondent's parole was to last until May 19, 2006
3. On or about June 2004, a Missouri resident ("MR") approached Respondent at his business address concerning a request for printing services. MR represented a local newspaper published in Kansas City, Missouri. MR ordered printing services from Respondent.
4. On or about July 2004, Respondent approached MR at MR's place of business. Respondent asked MR to lend him \$25,000 to \$30,000 for the purchase of printing equipment and supplies for Stadium Printing.
 - a. Respondent told MR that Respondent had been in the printing business twenty (20) years.
 - b. Respondent presented MR with a copy of a document titled "Sales Contract" (the "Grainger document"). The Grainger document appeared to list the terms under which W.W. Grainger, Inc. [1] would purchase tangible property and printing services from Stadium Printing for \$5.4 million.
 - c. The final page of this document bore a signature reading "Frank Williams" and the date "7-5-04." The page also contained the following:

Purchaser

Name of Business: W.W. Grainger, Inc.
a U.S. Corporation incorporated in the state of Illinois, doing business in Missouri
By: Dale Westinghouse /s/
Printed Name: Dale Westinghouse
Title: Vice President
Address: 210 Hwy [sic]

5. After reading the Grainger document, MR wrote a check from his personal checking account for eight thousand dollars (\$8,000) made payable to "Frank Williams—Stadium Printing." MR gave Respondent this check on July 27, 2004.
6. MR typed a document with the words "LOAN CONTRACT COMMENCING ON 7/14/04" appearing in bold at the top of the document. Both MR and Respondent signed the note which stated in part:

This is a loan contract between [MR] and Stadium Printing (Frank Williams) in the amount of \$8,000 to be paid back within 45 days with interest in the amount of \$7,000, regardless of whatever will happen. This loan is collateralized by Stadium Printing accounts receivable and work in progress.
7. After signing the agreement, MR visited Stadium Printing on more than one occasion in early August 2004. MR noticed that Stadium Printing's employees appeared to be preparing to relocate the store. When MR asked one of the employees about this, the employee responded that Stadium Printing was moving to "Main Street" in downtown Kansas City, Missouri.
8. When MR's business did not receive the materials MR ordered from Respondent, MR went to Stadium Printing in mid to late August 2004. MR saw that Stadium Printing's equipment had been removed from the site. He also saw that Stadium Printing's doors were closed and that a "court order" for nonpayment of rent was affixed to the doors.
9. Stadium Printing did not relocate to an address on Main Street in Kansas City, Missouri.
10. To date, MR has not had his money returned to him nor has he received any communication from Respondent.
11. On or about December 2004, the Missouri Securities Division received information that indicated that Respondent allegedly offered unregistered securities in Missouri.
12. A check of the records maintained by the Missouri Commissioner of Securities revealed no registration, granted exemption or notice filing indicating status as a "federal covered security" for any of the alleged securities offered by Respondent in Missouri.
13. On December 8, 2004, the Division sent a letter of inquiry (the "December 8th letter") to Respondent's business and residential addresses. The December 8th letter asked Respondent to provide the Division with the definitional or registration exemption upon which Respondent had relied in allegedly offering unregistered securities. The December 8th letter also requested additional information about the alleged offers and advised Respondent that failure to respond within a reasonable time as set by the Commissioner constituted further proceedings to prohibit him from offering or selling securities in this State.
14. On December 17, 2004, the December 8th letter sent to Respondent's business address was returned to the Division. The letter was marked "Moved, Left No Address, Unable to Forward, Return to Sender."
15. On February 3, 2005, the December 8th letter sent to Respondent's residential address was returned to the Division. The letter was marked "Refused." According to USPS, delivery of the correspondence was attempted three times and on all three occasions, it was refused.
16. The Division's investigation revealed that W.W. Grainger had not contracted to purchase from Stadium Printing tangible property or printing services. Furthermore, W.W. Grainger informed the Division that W.W. Grainger has no records indicating that "Dale Westinghouse" was ever a vice-president or employee of the company.
17. On April 29, 2005, Patrick T. Morgan, Deputy Chief Counsel for the Enforcement Section of the Division, submitted a petition requesting a cease and desist order and other relief in the above matter.
18. On April 29, 2005, the Commissioner ordered Respondent to cease and desist, Order No. AP-05-16.
19. Respondent received notice of Order No. AP-05-16 on May 2, 2005.
20. Respondent did not request a hearing in this matter nor did the Commissioner order a hearing, and Order No. AP-05-16 became final against Respondent by operation of law on June 2, 2005, pursuant to § 409.6-604(b), RSMo Supp. 2004.
21. On September 15, 2005, Deputy Chief Counsel Morgan moved for an order imposing against Respondent the costs of investigation in this matter. Deputy Chief Counsel Morgan's motion included an exhibit accounting for costs in the amount of \$6,441.25.
22. This Order is in the public interest.

STATUTORY PROVISIONS

23. Section 409.1-102(26) defines “sale” to include “every contract of sale, contract to sell, or disposition of, a security or interest in a security for value.” That same section defines “offer to sell” as “every attempt or offer to dispose of, or solicitation of an offer to purchase, a security or interest in a security for value.”
24. Section 409.1-102(28), RSMo Supp. 2004, includes “any note” within the definition of a security.
25. Section 409.1-102(26), RSMo Supp. 2004, defines “sale” to include “every contract of sale, contract to sell, or disposition of, a security or interest in a security for value.” That same section defines “offer to sell” as “every attempt or offer to dispose of, or solicitation of an offer to purchase, a security or interest in a security for value.”
26. Section 409.1-102(28), RSMo Cum. Supp. 2004 includes “any note” within the definition of a security.
27. Section 409.5-501(3), RSMo Supp. 2004, makes it unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly to engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.[\[2\]](#)
28. Section 409.6-605, RSMo Supp. 2004, reads in pertinent part as follows:
 - a. 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 . . . , the commissioner may:
 - i. 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 or appropriate to comply with this act; . . .
 - b. An order under subsection a is effective on the date of issuance. . . . If a person subject to the order does not request a hearing and none is ordered by the commissioner within thirty days after the date of service of the order, the order becomes final as to that person by operation of law. . . .
 - c. If a hearing is requested or order pursuant to subsection b, a hearing before the commissioner must be provided. . . . The final order may make final, vacate, or modify the order issued under subsection a.
 - d. In a final order under subsection c, 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.
 - e. In a final order, the commissioner may charge the actual cost of an investigation or proceeding for a violation of this act or a rule adopted or order issued under this act. These funds may be paid into the investor education and protection fund.

CONCLUSIONS OF LAW

29. The promissory note that Respondent sold to MR in return for \$8,000 was a “security” for purposes of § 409.1-102(28).
30. Respondent’s actions in offering and selling a promissory note to MR in exchange for a principal of \$8,000 constituted the “sale” or “offer to sell” of a security.
31. Respondent violated § 409.5-501(1) when he, in connection with the offer and sale of a security to MR, used a false document to represent to MR that Stadium Printing had contracted to sell \$5.4 million worth of tangible property and printing services to W.W. Grainger.
32. Respondent violated § 409.5-501(2) when he, in connection with the offer and sale of a security to MR, did not tell MR the following material facts, which made his other representations misleading:
 - a. that he had pleaded guilty to six counts of theft by deception; or
 - b. that he was currently on parole.
33. Respondent violated § 409.5-501(3), when he, in connection with the offer and sale of a security to MR, engaged in an act, practice, or course of business that operated as a fraud or deceit upon MR in that Respondent (1) sold MR a \$8,000 promissory note for the purchase of printing equipment and supplies for Stadium Printing (2) used the Grainger document to falsely represent that Stadium Printing had entered into a sales agreement for \$5.4 million with W.W. Grainger, (3) represented to MR that Respondent would repay him \$15,000 in 45 days, (4) evacuated his business residence without contacting MR or leaving him a forwarding address, and (5) has not, to date, repaid MR.

ORDER

NOW, THEREFORE, it is hereby ordered that Respondent, his agents, employees and servants, and all other persons

participating in or about to participate in the above-described violations with knowledge of this order are prohibited from

- A. offering or selling securities in the State of Missouri; and
- B. violating or materially aiding in any violation of the Missouri Securities Act of 2003.

IT IS FURTHER ORDERED that, pursuant to § 409.6-604(d), Respondent must pay to the State of Missouri a civil penalty in the amount of \$10,000.00 (ten thousand dollars) within thirty (30) days from the date of service of this Order. Respondent's payment of \$10,000.00 shall be by cashier's check or money order payable to Missouri Secretary of State. Respondent shall deliver his payment to the Securities Division, 600 W. Main Street, PO Box 1276, Jefferson City, MO 65102.

IT IS FURTHER ORDERED that, pursuant to § 409.6-604(e), Respondent must pay to the State of Missouri the costs of investigation in this matter in the amount of \$6,441.25 within thirty (30) days from the date of service of this Order. Respondent's payment of \$6,441.25 shall be by cashier's check or money order payable to The Investor Education and Protection Fund. Respondent shall deliver his payment to the Securities Division, 600 W. Main Street, Jefferson City, Missouri 65102.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 15TH DAY OF SEPTEMBER, 2005.

ROBIN CARNAHAN
SECRETARY OF STATE

(Signed/Sealed)
DAVID B. COSGROVE
COMMISSIONER OF SECURITIES

[1] W.W. Grainger is a corporation registered in the State of Illinois with an address of 100 Grainger Parkway, Lake Forest, Illinois 60045. W.W. Grainger is a wholesaler of durable goods.

[2] Under § 409.1-102(9), RSMo Cum. Supp. 2004, the terms "fraud" and "deceit" are not limited to common law deceit.