

State of Missouri
Office of Secretary of State

Case No. AP-06-17

IN THE MATTER OF:

EDWARD E. MATTHES, CRD #2788055;

Respondent.

Serve at:

Edward E. Matthes
8076 Glen Arbor Dr.
O'Fallon, Missouri 63367

CONSENT ORDER

1. The Missouri Securities Division alleges that Respondent recommended that a 53-year-old woman put 85-90% of her liquid net assets in a variable annuity, and that this conduct constitutes grounds to discipline Respondent's registration in Missouri pursuant to §409.4-412, (d), RSMo Supp. 2005.
2. Respondent desires to settle the allegations and the matters raised by the Securities Division relating to Respondent's activities.
3. Respondent and the Securities Division consent to the issuance of this Consent Order.
4. Respondent, without admitting nor denying he violated Missouri law, stipulates and agrees 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.
5. Respondent waives his right to a hearing with respect to this matter.
6. Respondent stipulates and agrees that he waives any rights that he may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order. Further, Respondent specifically forever releases and holds harmless the Missouri Office of Secretary of State, Secretary of State, Commissioner of Securities 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 that, should the facts contained herein prove to be false or incomplete, the Missouri Securities Division reserves the right to pursue any and all legal or administrative remedies at its disposal.

STIPULATIONS OF FACT

8. Respondent and the Securities Division stipulate and agree to the following Stipulations of Fact:
9. For the period July, 2002, through February, 2006, Respondent was a registered agent in Missouri and employed by Thrivent Investment Management, Inc. (hereinafter referred to as "Thrivent"), a Missouri-registered broker-dealer since June 1, 1987.
10. For the period April, 2004, through February, 2006, Respondent was a Regional Management Associate with Thrivent, a supervisory position in which he maintained supervision over Thrivent registered agent Mark Johnson (hereinafter referred to as "Johnson").
11. On June 6, 2005, Thrivent received a complaint from a Missouri resident (hereinafter referred to as 'MR'), currently residing in St. Louis, Missouri. In her complaint to Thrivent and subsequent contact with investigators at the Securities Division, MR stated, in part, that:
 - a. On or about mid-April, 2004, MR contacted Thrivent regarding the recent death of her husband, the process necessary to receive the proceeds from his life insurance policy with Thrivent, and her need for help and advice on her financial situation and investment decisions regarding the life insurance proceeds. On April 22, 2004, Respondent and Johnson called on MR to discuss the investment of approximately \$200,000.00, which represented most of the proceeds from her husband's life insurance policy. MR informed Respondent of the following:
 - i. The day before his death on April 17, 2004, MR's husband had purchased a new business in St. Louis, Missouri. At the time of MR's initial meeting with Respondent, her time of ownership of the new business totaled less than one month, and there were no profits from the business sufficient to support MR or the total operating costs of the business.
 - ii. To fund initial operating costs of the new business, MR's husband had cashed in his mutual funds and used most of their liquid cash.

- iii. At the time of her husband's death, MR was unemployed.
 - iv. At the time of her husband's death, MR had approximately \$14,000.00 liquid cash, which she planned to use to pay her current bills.
 - v. At the time of her husband's death and at the time of her meetings with Respondent, MR was 53 years old.
- b. On May 18, 2004, Respondent and Johnson completed paperwork to establish a non-qualified variable annuity contract for MR, which was funded by approximately \$200,000.00 in life insurance proceeds from the Thrivent life insurance contract on MR's deceased husband.
 - c. In effecting the above sale, Respondent concentrated approximately 85-90% of MR's liquid net worth in a variable annuity.
 - d. Respondent received a 30% split of the commission on the above sale, totaling approximately \$3,000.00.
 - e. In November, 2004, MR withdrew approximately \$14,000.00 from the non-qualified variable annuity to pay, in part, property taxes on her home and business, thus incurring, in addition to taxes, an IRS penalty liability of approximately \$1,400.00.
12. Respondent's registration is subject to discipline pursuant to §409.412(d), RSMo 2005, for concentrating 85-90% of MR's liquid assets in a variable annuity after being informed that MR needed access to her assets to pay yearly property taxes and day-to-day living expenses.

JURISDICTIONAL BASIS

13. Respondent and the Securities Division stipulate and agree that the Commissioner has jurisdiction over these matters pursuant to the Missouri Securities Act, Chapter 409.
14. Respondent and the Securities Division stipulate and agree that the Commissioner has authority to enter this Consent Order pursuant to § 409.6-604(h), RSMo Supp. 2005, which provides:

The commissioner is authorized to issue administrative consent orders in the settlement of any proceeding in the public interest under this act.

ORDER

WHEREAS, the Commissioner, after consideration of the stipulations set forth above and on the consent of Respondent and the Securities Division, finds the following Order to be in the public interest, necessary for the protection of public investors, and consistent with the provisions of Chapter 409.

NOW, THEREFORE, it is hereby Ordered that:

1. Respondent is prohibited from selling variable annuities in the State of Missouri for a period of 60 days from March 10, 2006.
2. Respondent will follow all policies and procedures implemented by his employing firm relating to the sale of variable annuities.
3. Respondent will pay three thousand eight hundred and eight dollars (\$3,808) to the Missouri Secretary of State's Investor Restitution Fund representing, in part, the IRS 10% penalty liability MR incurred on her 2004 withdrawal because of her age. Respondent will deliver a check to the Securities Division for the above amount and the Securities Division will send the check to MR.
4. In addition, Respondent will deliver a check to the Securities Division in the amount of three thousand dollars (\$3,000), payable to the Missouri Secretary of State's Investor Education and Protection Fund.
5. Respondent will pay one third of the costs of this investigation in the amount of five hundred dollars (\$500). Respondent will deliver a check to the Securities Division in the amount of \$500 made payable to the Secretary of State's Investor Education and Protection Fund.
6. 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 1ST DAY OF JUNE, 2006.

ROBIN CARNAHAN
SECRETARY OF STATE

(Signed/Sealed)
MATTHEW D. KITZI
COMMISSIONER OF SECURITIES

Consented to by:

Mary S. Hosmer
Assistant Commissioner of Securities
Missouri Securities Division

Edward E. Matthes

Approved as to Form

James Deutsch, Counsel for Matthes