

State of Missouri  
Office of Secretary of State

Case No. AP-06-47

IN THE MATTER OF:

JOLEE M. MARTIN, CRD #2452488

1 Edgewood  
St. Charles, MO 63301;

*Respondent.*

**CONSENT ORDER**

**SUMMARY OF ENFORCEMENT DIVISION'S ALLEGATIONS**

1. The Enforcement Section of the Missouri Securities Division has alleged that Jolee M. Martin ("Martin") made unsuitable transactions in customers' accounts by recommending that her elderly clients place large amounts of their net worth into illiquid variable annuities that paid large commissions to Martin but were not in the best interest of the clients. Some of these clients were in nursing homes at the time of the recommendations. Respondent Martin engaged in dishonest or unethical practices and this constitutes grounds to revoke Martin's registration pursuant to §409.4-412, RSMo Supp. 2005.;
2. Respondent and the Securities Division desire to settle the allegations and the matters raised by the Securities Division relating to Martin's dishonest and unethical practices.

**CONSENT TO JURISDICTION**

3. Respondent and the Enforcement Section of the Securities Division stipulate and agree that the 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 of the Securities Division stipulate and agree that the Commissioner has authority to enter this 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."

**WAIVER AND EXCEPTION**

5. Respondent waives her rights to a hearing with respect to this matter.
6. Respondent waives any rights that she 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 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 with the Securities Division 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.

**CONSENT TO COMMISSIONER'S ORDER**

8. Respondent and the Securities 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 a factual basis.
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 Securities Division but consents to the Commissioner's Findings of Fact or Conclusions of Law as set forth below solely for the purposes of this proceeding and any proceeding that may be brought to enforce the terms of this Consent Order.

**COMMISSIONER'S FINDINGS OF FACT AND CONCLUSIONS OF LAW**

12. World Group Securities ("WGS") is a Missouri-registered broker-dealer. WGS is registered in Missouri through the Central

Registration Depository (“CRD”) system and has CRD number of 114473. WGS is located at 11315 Johns Creek Parkway, Duluth, GA 30097-1517.

13. WGS maintains a Missouri branch office (“Chesterfield Branch”) at 16690 Swingley Ridge Road, Chesterfield, Missouri 63017.
14. Martin is a Missouri-registered securities agent of WGS and has a residential address of 1 Edgewood, St. Charles, MO 63301. Martin is registered in Missouri through the CRD system with CRD number of 2452488. Martin works at the Chesterfield Branch.
15. During the time that Martin was registered as broker-dealer agent for WGS, there was ample discussion and coverage in the mass media, industry journals and other sources that called into question the suitability of variable annuities as an investment vehicle, including writings in *BusinessWeek*, *CNNMoney*, *Entrepreneur*, *Forbes.com*, and *USAToday*.
16. The National Association of Securities Dealers (“NASD”), while WGS and Martin were members, issued “Notices to Members” on at least five occasions addressing the suitability of variable annuities as investment vehicles.
17. In May 2003, the NASD issued an Investor Alert indicating the key issues which agents should disclose to customers, including liquidity issues, potential surrender charges, tax penalties, fees and market risk.
18. In June 2004, the United States Securities and Exchange Commission (“SEC”) and the NASD issued a report<sup>[1]</sup> which found that the high fees and surrender charges inherent in variable insurance products made them inappropriate for many investors.
19. Recently regulators have expressed concerns that variable annuity “riders were being used to justify an otherwise unsuitable product.”<sup>[2]</sup>
20. At all times relevant to this order, WGS used a new account form that was in small print and was difficult to read. Many of these documents required customer signatures and contained important information about the terms and conditions of the account agreement. WGS did not provide large print editions of these documents to their elderly clients.
21. At all times relevant to this order, WGS used a variable annuity switch disclosure document that required investors to initial sections thus acknowledging their understanding of important disclosure information regarding the switch. This document also was in small print and was difficult to read.

### **Unsuitable Transactions by Martin**

#### **Missouri Resident 1**

22. On or about February 10, 2004, Martin recommended that a seventy-nine year-old (79) Missouri resident (“MR1”), who was ill and in a nursing home, liquidate a Prudential Fixed Annuity in order to purchase a Pacific Life Variable Annuity in the amount of one hundred sixty thousand dollars (\$160,000). MR1 accepted this recommendation. MR1’s new account form indicated that MR1 had a net worth of one hundred eighty thousand dollars (\$180,000). Under the terms of the agreement, if MR1 accessed this money in the first six (6) years, MR1 would have to pay a surrender fee.
23. Although WGS’ trade desk sent an e-mail to Martin questioning the suitability of this transaction and referred Martin to a WGS supervisory bulletin. WGS approved the transaction once Martin supplied additional information and WGS and Martin received commissions from the sale of this variable annuity.

#### **Missouri Resident 2**

24. On or about January 15, 2004, Martin recommended that an eighty-seven year-old (87) Missouri resident (“MR2”) liquidate a MetLife Fixed Annuity to purchase an American Skandia Apex II Variable Annuity in the amount of one hundred seventy thousand dollars (\$170,000). MR2 accepted this recommendation.
25. Although WGS noted that Martin did not provide a written statement of suitability for this transaction along with the application as required by WGS guidelines, once these documents were provided, WGS approved this transaction. WGS and Martin received commissions from this transaction.
26. The American Skandia Apex II Variable Annuity prospectus prohibited the sale of this annuity to annuitants over the age of seventy-five years old.

#### **Missouri Resident 3**

27. On or about April 19, 2004, Martin recommended that a seventy-six year-old (76) Missouri resident (“MR3”) purchase a variable annuity in the amount of two hundred and fifty thousand dollars (\$250,000). This recommendation represented eighty-seven percent (87%) of MR3’s net worth. MR3 accepted this recommendation.
28. Martin failed to provide a written statement of suitability along with the application as required by WGS guidelines. Although the trade amount was rejected, WGS allowed Martin to sell MR3 an annuity for a reduced amount of seventy thousand

dollars (\$70,000) once the firm received additional information from Martin. WGS and Martin received commissions from this transaction.

29. MR3 signed a new account form and other related documents in April 2004 to purchase the annuity. MR3's signatures on these documents were barely legible, drifted off the lines, and appeared as if MR3 had difficulty both in seeing the line where MR3 was to sign and in holding the pen. Someone had marked the signature line on these documents indicating where MR3 was to sign. The signatures themselves were wobbly and appeared as if MR3's handwriting was unsteady.
30. Many of the documents that MR3 signed were in small print and there is no evidence that Martin provided any large print materials to MR3. MR3 died nine (9) months after the purchase of the variable annuity.

#### **Missouri Resident 4**

31. On or about January 6, 2004, Martin recommended that an eighty-one year-old (81) Missouri resident ("MR4") purchase a Pacific Life Variable Annuity in the amount of seventy-five thousand dollars (\$75,000). MR4 accepted this recommendation.
32. This purchase of a variable annuity represented fifty-five percent (55 %) of MR4's net worth. MR4's new account form indicated that MR4 already had fifty thousand dollars (\$50,000) invested in a variable life product. Together these variable products represented eighty-three percent (83%) of MR4's net worth. WGS and Martin received commissions from the sale of this variable annuity.
33. MR4 stated to an investigator with the Division that:
  - a. MR4 had never worked outside the home;
  - b. did not know anything about variable annuities; and
  - c. MR4's husband had handled all their finances and investments before he died.

#### **Missouri Resident 5**

34. On or about March 15, 2005, Martin recommended that a seventy-three year-old (73) Missouri resident ("MR5") sell stock in Wal-Mart in MR5's individual retirement account to purchase an American Skandia Apex II Variable Annuity in the amount of eighteen thousand dollars (\$18,000). MR5 accepted this recommendation.
35. MR5 already had ten thousand dollars (\$10,000) in a variable annuity; the additional \$18,000 investment funded with the sale of the Wal-Mart stock was already in a tax deferred vehicle. MR5's new account form indicated that MR5 needed access to these funds in one to seven years.
36. Martin initially failed to provide the firm with a written statement of suitability and although WGS questioned this purchase it approved the transaction once Martin provided these documents to WGS. As justification for the switch Martin stated that MR5 wanted to diversify and use asset allocation for his IRA. WGS and Martin received commissions from the sale of this variable annuity.

#### **Complaints to the Firm regarding Martin**

##### **MR6**

37. On April 5, 2005, a Missouri resident ("MR6") sent a written complaint to the Chesterfield Branch regarding the unfair and unethical business practices of agent Martin. WGS allowed Martin to respond to the complainant even though the complaint was addressed to the branch manager.

##### **MR7**

38. On October 19, 2004, a Missouri resident ("MR7") sent a written complaint to the Chesterfield Branch requesting that Martin be removed as MR7's financial advisor.
39. This complaint was not maintained in the WGS branch office complaint file.
40. This complaint was located in the branch office manager's correspondence file.
41. WGS allowed Martin to address MR7's complaint.
42. WGS failed to follow its own firm policy which stated that Sales Practices Examiners must review the case and send an acknowledgement to the complainant within five business days.

##### **MR8**

43. On or about January 29, 2004, Martin recommended that an eighty-four year-old (84) Missouri resident ("MR8") who resided in a nursing home purchase a single premium immediate annuity. Martin advised MR8's family that this purchase

would ensure that MR8 qualified for Medicaid.

44. The Division of Family Services ("FSD") reviewed the transaction and decided that MR8 was not eligible for Medicaid and declined to pay for his nursing home care. FSD life expectancy charts indicated at the time the annuity was established that MR8 had a life expectancy of only 5.51 years and the annuity had a thirteen (13) year payout period. FSD determined that since the annuity payout period exceeded the life expectancy of MR8, the annuity purchase was in reality a transfer of assets to MR8's children which would make MR8 ineligible for Medicaid. MR8 died October 7, 2004. MR8's family continues to make payments for the care that MR8 received before his death.
45. Martin incorrectly informed MR8's family that with the purchase of the immediate annuity these payments would be covered by Medicaid.

#### MR9

45. On August 27, 2004, a Missouri resident sent a complaint to WGS regarding her mother ("MR9"). MR9 was a patient in a nursing home when Martin recommended MR9 liquidate stocks and life insurance to invest in an annuity. This complaint was being maintained in Martin's personnel file and not in the WGS branch office complaint file.

#### 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 and necessary for the protection of public investors and consistent with the provisions of Chapter 409.

**NOW, THEREFORE**, it is hereby Ordered that:

1. Respondent Jolee Martin's registration is hereby CENSURED;
2. Respondent Jolee Martin's Missouri-registration is suspended for four months, such suspension to commence August 24, 2006;
3. For a period of five (5) years, Respondent Jolee Martin is prohibited from:
  - a. selling variable annuities or handling any accounts for an individual over the age of 65 (this prohibition shall not apply to accounts of Martin's family members);
  - b. selling equity-indexed annuities; or
  - c. serving as a supervisor;
4. Respondent Jolee Martin is prohibited from providing legal advice, tax advice, advice regarding Medicaid eligibility, or to represent a client before the Division of Family Services;
5. Respondent Jolee Martin is ordered to pay a civil penalty in the amount of twenty-five thousand dollars (\$25,000). Twenty thousand dollars (\$20,000) of this amount will be suspended provided Martin complies with the terms of this Order. The remaining five thousand dollars (\$5,000) will be paid by Martin as follows: Martin will pay two hundred and fifty dollars (\$250) a month for three months beginning on December 1 2006, and five hundred dollars (\$500) a month thereafter until such amount is paid in full. Martin's payment will be made payable to the State of Missouri, and delivered to the Securities Division, and the Secretary of State shall forward these funds to the state treasury for the benefit of county and township school funds as provided in Article IX, Section 7 of the Constitution of Missouri. If Martin fails to make any payment described in this Paragraph, the full amount of the non-suspended payment remaining shall be immediately due and payable after five days notice to cure, and if any amount remains unpaid after such five-day cure period, the Commissioner may refer this matter for enforcement as provided in Sections 409.6-603 and 409-6-604, RSMo. In the event that Martin attempts to do or does engage in the activities of a securities agent or investment adviser representative during her four-month suspension, or fails to comply with the provisions of paragraphs 3 or 4 under this Order Section, then upon the provision of notice of such noncompliance to the Commissioner, and the Commissioner's issuance of an amended Consent Order in this case, the full civil penalty of \$25,000 shall become immediately due and payable.
6. Respondent shall pay her 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 27<sup>TH</sup> DAY OF NOVEMBER, 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

Jolee M. Martin

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[1] Joint SEC/NASD staff Report on Examination Findings Regarding Broker-Dealer Sales of Variable Insurance Products, Dated June 9, 2004, Office of Compliance Inspections and Examinations United States Securities and Exchange Commission.

[2] Statement of James Shorris, executive vice president of enforcement of the NASD, as reported in BD Week, June 12, 2006.