

State of Missouri
Office of Secretary of State

Case No. AP-07-51

IN THE MATTER OF:

ST. JAMES CREDIT COMPANY;
DUSTIN DELUCA; and LESLIE KOERBER,

Respondents.

Serve St James and

DeLuca at: 318 N. Jefferson
St. James, Missouri 65559

Koerber at: 502 N. Charles Ave
St. James, Missouri 65559

**ORDER TO CEASE AND DESIST AND TO SHOW WHY CIVIL
PENALTIES AND COSTS SHOULD NOT BE IMPOSED**

On September 21, 2007, the Enforcement Section of the Securities Division of the Office of Secretary of State, through its Assistant Commissioner of Securities, Mary S. Hosmer, submitted a Petition For Order to Cease and Desist and To Show Cause Why Civil Penalties and Costs Should Not Be Imposed. After reviewing the petition, the Commissioner issues the following findings of fact, conclusions of law and order:

I. FINDINGS OF FACT

1. St. James Credit Company is a Missouri corporation with an address of 318 N. Jefferson, St. James, Missouri 65559. St. James Credit Company purportedly engaged in the business of issuing promissory notes to obtain funds for a loan program
2. Nelson Hart ("Hart") was the president and owner of the St. James Credit Company until his death in September 2006.
3. Dustin DeLuca ("DeLuca") was the president of St. James Credit Company after Hart's death. DeLuca has an address of 318 N. Jefferson, St. James, Missouri 65559. DeLuca is Hart's grandson.
4. Leslie Koerber ("Koerber") was employed by St. James Credit Company for approximately 20 years, serving most recently as vice-president until his employment was terminated in January 2005. Koerber has an address of 502 N. Charles Avenue, St. James, Missouri 65559.
5. In or around February 2005, subsequent to Koerber's termination, DeLuca became vice- president and secretary for St. James Credit Company.
6. As used in this document, the term "Respondents" refers to St. James Credit Company, DeLuca and Koerber.
7. Hart began the St. James Credit Company in October 1962, to loan money to individuals. To obtain funds for these loans, Hart and St. James Credit Company sold promissory notes to individual investors. The annual interest rate paid on these promissory notes varied from five percent (5%) to nine percent (9%). The promissory notes customarily provided, among other things, the following:

"St. James Credit Company

St. James, Missouri

[interest rate] % Note

[\$[dollar amount invested]

No. [certificate number]

One (1) years after the date the St. James Credit Company promises to pay to the order of [Investors Name] the sum of [dollar amount] dollars for value received from date with interest at [interest rate]%. Per annum credited annually until said note is paid in full [sic]. Interest is paid in cash. This note will be renewed at the same rate and term unless notified 30 days before due date.

In witness whereof, the St. James Credit Company has caused this note to be executed by its duly authorized officer at St. James, Missouri this [date] day of [month, year].

This note is secured, in whole or in part, by the loans held by the St. James Credit Company.

St.
James
Credit
Company

By
[authorized
signature]
Vice-
President"
(Emphasis
in
Original)

8. From 1985 until January 2005, Koerber signed these promissory notes as the "Vice-President" of St. James Credit Company.
9. Around January 2005, DeLuca began signing these promissory notes as the "Vice-President" of St. James Credit Company.
10. From 1962 to August 2006, St. James Credit Company sold over five hundred (500) of these promissory notes to Missouri investors. As of August 2007, approximately 60 investors still had funds invested in notes issued by St. James Credit Company. These outstanding notes totaled in excess of one million seven hundred thousand dollars (\$1,700,000.00).
11. A Missouri resident ("MR1") invested in the following promissory notes:
 - a. On March 3, 1999, MR1 purchased promissory note number 382, in the amount of seven thousand dollars (\$7,000.00), that promised to pay seven percent (7%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - b. On April 21, 1999, MR1 purchased promissory note number 395, in the amount of two thousand dollars (\$2,000.00), that promised to pay six percent (6%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - c. On December 19, 2002, MR1 purchased promissory note number 539, in the amount of thirteen thousand five hundred dollars (\$13,500.00), that promised to pay five percent (5%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - d. On March 17, 2004, MR1 purchased promissory note number 559, in the amount of five thousand dollars (\$5,000.00), that promised to pay five percent (5%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company; and
 - e. On March 2, 2005, MR1 purchased promissory note number 577, in the amount of five thousand dollars (\$5,000.00), that promised to pay six percent (6%) annual interest. This note was signed by DeLuca as the Vice-President of St. James Credit Company.
12. MR1 chose to renew these notes every year until January 2007. MR1 received all annual interest payments on these notes until January 2007, when these interest payments stopped. MR1 has not received the return of MR1's principal in the amount of thirty-two thousand five hundred dollars (\$32,500.00).
13. Between 1999 and 2005, MR1 questioned Hart and later DeLuca about the stability of St. James Credit Company. Both Hart and DeLuca indicated that the company was doing fine and there were no problems to be concerned about.
14. On October 15, 2003, a Missouri resident ("MR2") purchased promissory note number 550 for twenty-five thousand dollars (\$25,000.00). This promissory note was to be payable in one year and was to pay interest at a rate of five percent (5%) annually. MR2 chose to renew this note every year. MR2's note was signed by Koerber as the Vice-President of St. James Credit Company.
15. MR2 did not receive any statements reflecting the status of his funds.
16. MR2 did not receive any financial statements for St. James Credit Company reflecting the financial condition of the company.
17. At no time did Koerber or DeLuca explain the financial condition of St. James Credit Company to MR2.
18. Around August 2006, MR2 requested the return of his principal by October 2006. MR2 did not receive his money by October 2006 and at that time DeLuca told MR2 that the money was not available.
19. MR2 received interest payments once per year on this promissory note until January 2007. MR2 has not received the return of his principal in the amount of twenty-five thousand dollars (\$25,000.00).
20. A Missouri resident ("MR3") invested in the following promissory notes:
 - a. On June 10, 1999, MR3 purchased promissory note number 408, in the amount of one thousand dollars (\$1,000.00), that promised to pay seven percent (7%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;

- b. On July 27, 1999, MR3 purchased promissory note number 420, in the amount of six thousand dollars (\$6,000.00), that promised to pay seven percent (7%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - c. On July 27, 1999, MR3 purchased promissory note number 421, in the amount of one thousand dollars (\$1,000.00), that promised to pay seven percent (7%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - d. On November 1, 1999, MR3 purchased promissory note number 450, in the amount of nine thousand five hundred dollars (\$9,500.00), that promised to pay seven percent (7%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - e. On November 9, 1999, MR3 purchased promissory note number 451, in the amount of thirty-one thousand eight hundred dollars (\$31,800.00), that promised to pay seven percent (7%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - f. On December 4, 1999, MR3 purchased promissory note number 460, in the amount of ten thousand dollars (\$10,000.00), that promised to pay seven percent (7%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - g. On January 10, 2000, MR3 purchased promissory note number 480, in the amount of five thousand dollars (\$5,000.00), that promised to pay seven percent (7%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - h. On January 29, 2000, MR3 purchased promissory note number 484, in the amount of one thousand dollars (\$1,000.00), that promised to pay seven percent (7%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - i. On June 20, 2000, MR3 purchased promissory note number 500, in the amount of one thousand dollars (\$1,000.00), that promised to pay eight percent (8%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - j. On December 6, 2000, MR3 purchased promissory note number 508, in the amount of twenty thousand dollars (\$20,000.00), that promised to pay eight percent (8%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - k. On June 14, 2001, MR3 purchased promissory note number 516, in the amount of one thousand dollars (\$1,000.00), that promised to pay six percent (6%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - l. On August 2, 2001, MR3 purchased promissory note number 519, in the amount of two thousand dollars (\$2,000.00), that promised to pay six percent (6%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - m. On November 13, 2001, MR3 purchased promissory note number 526, in the amount of twelve thousand dollars (\$12,000.00), that promised to pay five percent (5%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - n. On November 5, 2002, MR3 purchased promissory note number 537, in the amount of one thousand five hundred dollars (\$1,500.00), that promised to pay five percent (5%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - o. On May 2, 2003, MR3 purchased promissory note number 542, in the amount of one thousand dollars (\$1,000.00), that promised to pay five percent (5%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company;
 - p. On October 30, 2003, MR3 purchased promissory note number 553, in the amount of fifteen thousand two hundred dollars (\$15,200.00), that promised to pay five percent (5%) annual interest. This note was signed by Koerber as the Vice-President of St. James Credit Company.
21. MR3 did not receive any financial statements reflecting the financial condition of St. James Credit Company.
22. Between 1999 and 2005, MR3 inquired about the financial condition of St. James Credit Company, and Koerber told MR3 that the company was in good standing and doing well.
23. MR3 received interest payments once per year until January 2007, when these interest payments ceased. MR3 has not received a return of his principal in the amount of one hundred nineteen thousand dollars (\$119,000.00).
24. On February 28, 2006, a Missouri resident ("MR4") inquired about an investment opportunity in St. James Credit Company

and was told by DeLuca that the company was in good shape. MR4 purchased promissory note number 604, in the amount of ten thousand dollars (\$10,000.00), which promised to pay six percent (6%) interest annually.

25. In October 2006, MR4 heard that St. James Credit Company might be filing for bankruptcy. He contacted DeLuca and asked if DeLuca was aware of the financial problems in February when MR4 originally invested. DeLuca stated he was aware of the problems and stated that the company should have been closed down ten to twelve years ago.
26. On January 23, 2007, MR4 provided a thirty (30) day notice to collect his principal. DeLuca told MR4 that DeLuca was unable to comply with the request. MR4 has not received a return of MR4's principal in the amount of ten thousand dollars (\$10,000.00).
27. On July 11, 2007, after filing for Chapter 11 bankruptcy, St. James Credit Company held a creditor's meeting. MR1, MR2, and MR3 were present at this creditor's meeting.
28. A check of the records maintained by the Missouri Commissioner of Securities confirmed no registration or granted exemption for Respondents in the State of Missouri.
29. Respondents were not registered to offer or sell securities in or from the State of Missouri.
30. Respondent St. James Credit Company had no issuer agents registered in Missouri to offer or sell securities.
31. The securities offered by the Respondents were not federal covered securities.
32. The Missouri residents who purchased these promissory notes, MR1, MR2, MR3 and MR4, were not told, among other things, the following information regarding the investment:
 - a. that Respondents were not registered to offer to sell securities in or from the State of Missouri;
 - b. that the securities were not registered in the State of Missouri;
 - c. facts or information regarding the financial condition of St. James Credit Company;
 - d. facts or information regarding the background, history and experience of Hart, Koerber, and DeLuca; or
 - e. facts or information regarding the risks of the investment.

II. STATUTORY PROVISIONS

33. Section 409.1-102 (17), RSMo. (Cum. Supp. 2006), defines "Issuer" as: "a person that issues or proposes to issue a security."
34. Section 409.1-102(26), RSMo. (Cum. Supp. 2006), 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."
35. Section 409.1-102(28), RSMo. (Cum. Supp. 2006), includes, in part, any "note" or "evidence of indebtedness" within the definition of a security.
36. Section 409.3-301, RSMo. (Cum. Supp. 2006), states:

It is unlawful for a person to offer or sell a security in this state unless: (1) The security is a federal covered security; (2) The security, transaction, or offer is exempted from registration under sections 409.2-201 to 409.2-203; or (3) The security is registered under this act.
37. Section 409.4-402(d), RSMo. (Cum. Supp. 2006), states:

It is unlawful for any . . . issuer engaged in offering, selling, or purchasing securities in this state, to employ or associate with an agent who transacts business in this state on behalf of broker-dealers or issuers unless the agent is registered under subsection (a) or exempt from registration under subsection (b).
38. Section 409.4-402(a), RSMo. (Cum. Supp. 2006), states:

It is unlawful for any person to transact business in this state as an agent unless the individual is registered under this act as an agent or exempt from registration as an agent under section (b).
39. Section 409.5-501, RSMo. (Cum. Supp. 2006), states:

It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly: (1) To employ a device, scheme, or artifice to defraud; (2) To make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances

under which it is made, not misleading; or (3) To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

40. Section 409.6-604(a), RSMo. (Cum. Supp. 2006), states:

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: (1) 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

41. Section 409.6-604(d), RSMo. (Cum. Supp. 2006), states:

In a final order under subsection (c), the commissioner may impose a civil penalty up to one thousand dollars (\$1,000.00) for a single violation or up to ten thousand dollars (\$10,000.00) for more than one violation.

42. Section 409.6-604(e), RSMo. (Cum. Supp. 2006), states:

In a final order, the commissioner may charge the actual cost of an investigation or proceeding for a violation of this act These funds may be paid into the investor education and protection fund.

43. The Missouri Commissioner of Securities is empowered to issue such orders as he may deem just. Section 409.6-604(a), RSMo. (Cum. Supp. 2006).

44. This Order is in the public interest, is necessary for the protection of public investors, and is consistent with the provisions of Chapter 409, RSMo., *et seq.*

III. CONCLUSIONS OF LAW

Multiple Violations of Offering Nonexempt, Unregistered Securities

45. Paragraphs 1 through 44 are incorporated by reference as though fully set forth herein.

46. The investments offered and sold by the Respondents are “notes” and come under the definition of “securities” contained in Section 409.1-102(28), RSMo. (Cum. Supp. 2006).

47. The Respondents’ actions in offering securities to Missouri residents is an “attempt or offer to dispose of, or solicitation of an offer to purchase, a security or interest in a security for value,” which satisfies the definition of “offer to sell” under Section 409.1-102(26), RSMo. (Cum. Supp. 2006).

48. At all times relevant, records maintained by the Missouri Commissioner of Securities contained no registration, granted exemption or notice filing indicating status as a “federal covered security” for any security offered by Respondents.

49. The Respondents violated Section 409.3-301 RSMo. (Cum. Supp. 2006), when they offered securities in Missouri without the securities being (1) a federal-covered security, (2) exempt from registration under Sections 409.2-201 or 409.2-202, RSMo. (Cum. Supp. 2006), or (3) registered under the Missouri Securities Act of 2003.

50. Respondents’ actions in offering or selling unregistered securities, constitute an illegal act, practice, or course of business under Section 409.6-604(a), RSMo. (Cum. Supp. 2006).

Multiple Violations by St. James Credit Company of Employing an Unregistered Agent

51. Paragraphs 1 through 44 are incorporated by reference as though fully set forth herein.

52. Respondent St. James Credit Company issued the promissory notes and is thus the issuer of these securities as that term is defined under Section 409.1-102(17), RSMo. (Cum. Supp. 2006).

53. As the issuer Respondent St. James Credit Company employed agents who solicited these Missouri residents to purchase these promissory notes. These solicitations constitute transacting business in the State of Missouri.

54. Respondent St. James Credit Company has not registered any issuer agents in the State of Missouri.

55. Respondent St. James Credit Company employed unregistered agents who transacted business in the State of Missouri in violation of Section 409.4-402(d), RSMo. (Cum. Supp. 2006).

Multiple Violations of Making Untrue Statements of Material Fact or Omitting to State Material Facts in Connection with the Sale of a Security

56. Paragraphs 1 through 44 are incorporated by reference as though fully set forth herein.

57. The Respondents, in connection with the offer and sale of securities, made untrue statements of material facts or omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, the following:
- a. making the following untrue statements:
 - i. DeLuca and Hart told MR1 that the company was fine and that there were no problems to worry about, when in fact, DeLuca knew there were problems with the company's finances;
 - ii. Koerber told MR3 that the company was in good standing and doing well, when, in fact, this was not true;
 - b. omitting to disclose the following:
 - i. that Respondents were not registered to offer or sell securities in or from the State of Missouri;
 - ii. that the securities were not registered in the State of Missouri;
 - iii. facts or information regarding the financial condition of St. James Credit Company;
 - iv. facts or information regarding the background, history and experience of Hart, Koerber, and DeLuca;
 - v. facts or information regarding the risks of the investment; or
 - vi. That DeLuca was aware of St. James Financial Company's financial problems and that he believed the company should have been shut down ten to twelve years before January 2007.
58. Respondents violated Section 409.5-501(2), RSMo. (Cum. Supp. 2006), when they made untrue statements of material fact or omitted to state a material fact necessary to make statements made not misleading, as described immediately above, and such actions constitute an illegal act, practice, or course of business under Section 409.6-604(a), RSMo. (Cum. Supp. 2006).

ORDER

NOW, THEREFORE, it is hereby ordered that Respondents, their 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 unless those securities are registered with the Securities Division of the Office of the Secretary of State in accordance with the provisions of Section 409.3-304, RSMo. (Cum. Supp. 2006);
- B. employing an unregistered agent to transact business in the State of Missouri on behalf of the issuer; and
- C. violating or materially aiding in any violation of Section 409.5-501(2), RSMo. (Cum. Supp. 2006), by, in connection with the offer or sale of securities, making an untrue statement of a material fact or omitting to state a material fact necessary in order to make a statement made, in light of the circumstances under which it is made, not misleading.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2006), the Commissioner will determine whether to grant the Enforcement Division's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000.00) against each Respondent for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2006), in a final order, unless Respondents request a hearing and show cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2006), the Commissioner will determine whether to grant the Division's petition for an imposition of a civil penalty of up to one thousand dollars (\$1,000.00) against Respondent LER for violation of Section 409.4-402(d), RSMo. (Cum. Supp. 2006), in a final order, unless Respondent LER requests a hearing and show cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2006), the Commissioner will determine whether to grant the Division's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000.00) against each Respondent for omitting to state material facts in violation of Section 409.5-501(2), RSMo. (Cum. Supp. 2006), in a final order after hearing, unless Respondents request a hearing and show cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, as the Enforcement Section has petitioned for an award of the costs of the investigation against Respondents in this proceeding, the Commissioner will issue a final order, pursuant to Section 409.6-604(e), RSMo. (Cum. Supp. 2006), awarding an amount to be determined after review of evidence submitted by the Enforcement Section, unless Respondents request a hearing and show cause why an award should not be made.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 4TH DAY OF OCTOBER, 2007.

ROBIN CARNAHAN
SECRETARY OF STATE

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

State of Missouri
Office of Secretary of State

Case No. AP-07-51

IN THE MATTER OF:

ST. JAMES CREDIT COMPANY;
DUSTIN DELUCA; and
LESLIE KOERBER,

Respondents.

Serve St James and
DeLuca at: 318 N. Jefferson
St. James, Missouri 65559

Koerber at: 502 N. Charles Ave
St. James, Missouri 65559

NOTICE

TO: Respondents and any unnamed representatives aggrieved by this Order:

You may request a hearing in this matter within thirty (30) days of the receipt of this Order pursuant to § 409.6-604(b), RSMo Supp. 2005, and 15 CSR 30-55.020.

A request for a hearing must be mailed or delivered, in writing, to:

**Matthew Kitzi
Commissioner of Securities
Office of the Secretary of State
Missouri State Information Center, Room 229
600 West Main Street
Jefferson City, Missouri, 65102**

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of October, 2007, a copy of the foregoing Order filed in the above styled case was mailed **certified U.S. Mail, postage prepaid** to the below listed addresses:

St. James Credit Company
318 N. Jefferson
St. James, Missouri 65559

Dustin Deluca
318 N. Jefferson
St. James, Missouri 65559

Leslie Koerber
502 N. Charles Avenue
St. James, Missouri 65559

And by hand delivery to:

Mary S. Hosmer
Assistant Commissioner
Missouri Securities Division

John Hale
Specialist