

State of Missouri
Office of Secretary of State

Case No. AP-08-03

IN THE MATTER OF:

STEPHEN D. GODFREY III
CRD# 1866559
13401 Mission Road, Suite 203,
Leawood, KS 66209,

Respondent.

CONSENT ORDER

SUMMARY OF ALLEGATIONS

1. The Enforcement Section of the Missouri Securities Division alleges that Respondent Stephen D. Godfrey III ("Godfrey"), through a series of seminars and meetings, convinced several investors that, upon retirement, they could maintain a secure financial future by rolling over their 401(k) retirement savings to Godfrey for management. Godfrey's strategy included having clients receive systematic distributions through the use of IRS Rule 72(t) that requires set distributions until the client reaches age 59 ½. To maintain projected returns, clients' savings were invested in unsuitably aggressive stocks and mutual funds. A decline in the value of their investments as well as the cash withdrawals required by IRS Rule 72(t) resulted in large declines in the value of clients' accounts. The Enforcement Section of the Securities Division alleges that this constitutes grounds to deny Respondent's application for investment adviser representative in Missouri pursuant to Section 409.204, RSMo. (2000).
2. Respondent and the Securities Division desire to settle the allegations and the matters raised by the Securities Division relating to Respondent's alleged activities.

CONSENT TO JURISDICTION

3. Respondent and the Securities Division stipulate and agree that the Commissioner has jurisdiction over Respondent and these matters pursuant to Chapter 409, et seq.
4. Respondent and the Securities Division stipulate and agree that the Commissioner has authority to enter this Consent Order pursuant to Sections 409.407 and 409.408, RSMo. (2000).

WAIVER AND EXCEPTION

5. Respondent waives his right to a hearing with respect to this matter.
6. Respondent waives any rights that he 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 that, should the facts contained herein prove to be false or incomplete, the Missouri Securities Division preserves the right to pursue any and all legal and administrative remedies at its disposal.

CONSENT TO COMMISSIONER'S ORDER

8. Respondent and the Securities Division 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 neither admits nor denies the allegations made by the Securities Division and agrees to the issuance of this Consent Order solely for the purposes of this proceeding and any proceeding that may be brought to enforce the terms of this Consent Order.
10. 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. Nothing in this Order affects Respondent's (a) testimonial obligations; or (b) right to take legal or factual position in defense of litigation or in defense of other legal proceedings in which the Commissioner of Securities is not a party.

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

11. Godfrey, CRD# 1866559, became registered in Missouri as a securities agent with Lincoln Financial Advisors Corporation on September 2, 1988. Godfrey remained registered with Lincoln until the registration was voluntarily terminated on March 9, 1999.
12. On March 9, 1999, Godfrey became registered in Missouri as a securities agent with Signator Investors, Inc. Godfrey remained registered with Signator until April 5, 2005, when the registration was voluntarily withdrawn.
13. On October 2, 2007, Godfrey applied for registration in Missouri as an investment adviser representative. This application resulted from Godfrey's investment advisory firm, Godfrey Investments, Inc. dba Financial Planning Partners ("Financial Planning Partners"), becoming ineligible for registration with the Securities and Exchange Commission.
14. Although Financial Planning Partners became registered as an investment adviser in Missouri on October 10, 2007, this firm has not maintained an investment adviser representative to perform advisory services. Since at least October 10, 2007, Godfrey has provided investment advisory services to Missouri residents through Financial Planning Partners. Financial Planning Partners has collected fees for these services in the amount of at least \$21,168.46.
15. Godfrey resides at 13005 Mohawk, Leawood, Kansas 66209.
16. Disclosures contained on Godfrey's most recent application to register as an investment adviser representative (Form U4), include fifteen claims that allege the unsuitable investment of retirees' savings.
17. Three of the above claims were not reported in a timely manner. The late reporting periods range from seventeen (17) months to almost four and one-half (4 ½) years.
18. During the 1990s through 2001, Godfrey offered public retirement planning seminars. Godfrey also met individually with potential retirees to discuss their upcoming retirement plans. Through these seminars and meetings potential retirees were led to believe that, through Godfrey's management of the savings they had accumulated, they could enjoy a secure retirement.
19. Either in his seminars or individual retirement planning sessions, Godfrey discussed how to make the decision to retire, techniques to determine if retirement was appropriate, how long a retiree's money would last, and possible income streams.
20. Godfrey projected for potential clients possible future investment returns up to as much as 9.75%.
21. Godfrey provided information to potential retirees relating to historical securities market declines, but did not provide individual portrayals of the short and long-term effects a large market decline would have on retirees' investment accounts, particularly if the retirees continued to withdraw funds from their accounts during these periods.
22. Godfrey's strategy included the use of systematic withdrawals through IRS Rule 72(t) that locked in the amount of required distributions until the retirees became 59 ½. Godfrey did not adequately explain to potential retirees that these distributions were required even during periods when the market was in decline and that account holdings may have to be sold at low prices in order to cover the distributions. Of the fifteen clients whose claims relate to losses of their retirement funds, nine clients utilized 72(t) to make early withdrawals from their retirement accounts.
23. In most cases, Godfrey acted as a fee-based adviser. As a fee-based adviser, Godfrey received compensation from his retired clients for the investment advice he provided them.
24. To achieve and maintain the projected investment returns he had portrayed to his retired clients, Godfrey recommended retirees' savings be invested in unsuitably aggressive high tech and telecommunications stocks and mutual funds whose assets were largely allocated in these types of stocks.
25. Based on the investments he recommended to his clients, Godfrey's retirement planning strategy resulted in large client losses when the market declined in 2000 and 2001 as retirees' savings were exposed to an inappropriate amount of market risk. The losses to account values experienced by those clients utilizing Rule 72(t) during the market decline were further exacerbated by mandatory withdrawals.
26. At least some of the acts alleged in the above claims, if they occurred, would constitute dishonest or unethical practices under Missouri 15 CSR 30-51.170 and would provide grounds to deny, suspend or revoke registration or bar or censure any registrant pursuant to Section 409.204(G) RSMo. (2000).
27. The Commissioner, after consideration of the stipulations set forth above and on the consent of the Respondent and the Securities Division, finds and concludes that the Commissioner has jurisdiction over the Respondent and 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 the Missouri Securities Act of 2003.

ORDER

WHEREAS, the Commissioner, after consideration of the stipulations set forth above and on the consent of Respondent and the 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, RSMo, *et seq.*

NOW, THEREFORE, it is hereby Ordered that:

1. Respondent is hereby CENSURED;
2. Respondent's registration is SUSPENDED for a period of fifteen (15) days. This suspension will be waived provided that Respondent complies with the remaining provisions of this Order and the Missouri Securities Act of 2003;
3. In connection with Respondent's future business with Missouri customers, he will not:
 - a. Conduct investment seminars;
 - b. Discuss or recommend IRS Code 72(t) Distributions;
 - c. Exercise discretionary authority over client accounts;
 - d. Compile projections of possible future investment returns or income streams;
 - e. Recommend specific trading or investment selections.
4. Respondent shall pay to the Missouri Investor Education and Protection Fund the amount of twenty-five thousand dollars (\$25,000.00); fifteen thousand dollars (\$15,000.00) of this payment will be suspended provided that Respondent complies with the terms of this Order. The remaining ten thousand dollars (\$10,000.00) shall be delivered to the Securities Division at 600 West Main St., Jefferson City, MO 65101 within thirty (30) days from the date of this Consent Order; and
5. Within ten (10) days from the date of this Consent Order, Respondent will disgorge the twenty-one thousand one hundred and sixty-eight dollars and forty-six cents (\$21,168.46) collected from Missouri clients for investment advisory services performed for the 4th quarter of 2007. Respondent will provide an accounting of the disgorgement to the Securities Division within thirty (30) days from the date of this Consent Order. In addition, Respondent will not bill Missouri clients for any investment advisory activity that may have occurred in the period in which Respondent was not registered; and
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 27th DAY OF MAY, 2008.

ROBIN CARNAHAN
SECRETARY OF STATE

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

Consented to by:

Nathan J. Soendker
Missouri Securities Division

Stephen D. Godfrey