

State of Missouri
Office of Secretary of State

Case No. AP-08-07

IN THE MATTER OF:

DOUG HEMKE CRD# 1204584

Respondent.

Serve Doug Hemke at:
2530 North 26th Street,
Saint Joseph, Missouri 64506

CONSENT ORDER

SUMMARY OF ALLEGATIONS

1. The Enforcement Section of the Missouri Securities Division alleges that Respondent Doug Hemke ("Hemke"), made unsuitable investments in an elderly client's account. The transactions were unsuitable due to the client's age and also the client's capacity to understand the complex investments Hemke recommended. The Enforcement Section of the Securities Division alleges that this constitutes grounds to deny Respondent's application as a securities agent in Missouri pursuant to Section 409.4-412 (a), RSMo. (Cum. Supp. 2007).
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 Division stipulate and agree that the Commissioner has jurisdiction over Respondent and these matters pursuant to the Missouri Securities Act, Chapter 409, *et seq.*
4. Respondent and the Division stipulate and agree that the Commissioner has authority to enter this Consent Order pursuant to Section 409.6-604(h), RSMo. (Cum. Supp. 2007), 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 his right to a hearing with respect to this matter.
6. Respondent waives any right that Respondent 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 Division that, should the facts contained herein prove to be false or incomplete, the 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 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 neither admits nor denies the allegations made by the Division, but consents to the Commissioner's Findings of Fact and 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.
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.
11. Respondent agrees that Respondent is not the prevailing party in this action since the parties have reached a good faith settlement.

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

12. First MidAmerica Investment Corporation (“First MidAmerica”) was registered in Missouri as a broker-dealer through the Central Registration Depository (“CRD”) with a CRD number of 104476. First MidAmerica had an address of 2530 North 26th Street, Saint Joseph, Missouri 64506. On December 21, 2007, First MidAmerica filed a *Uniform Request for Broker-Dealer Withdrawal* (“Form BDW”) with the CRD terminating its registration on December 31, 2007 in all jurisdictions, including the State of Missouri.
13. Doug Hemke (“Hemke”) was registered in Missouri as a securities agent with First MidAmerica with a CRD number of 1204584. Hemke has an address of 2530 North 26th Street, Saint Joseph, Missouri 64506.
14. From October 9, 2000 to November 28, 2007, Hemke was the president and chief executive officer of First MidAmerica. On November 14, 2007, Hemke filed a *Uniform Termination Notice for Securities Industry Registration* (“Form U-5”) terminating his Missouri registration with First MidAmerica.
15. On November 28, 2007, Northland Securities, Inc. (“Northland”) filed a *Uniform Application for Securities Industry Registration or Transfer* (“Form U4”) with the CRD to register Hemke as a securities agent in Missouri. This application reveals that Hemke has seven (7) customer complaints that allege, among other things, that Hemke made unsuitable, unauthorized trades in customer accounts and that he made misrepresentations and omissions when selling securities to these customers. One of these customers received an arbitration award from Hemke of over two hundred thousand dollars (\$200,000.00) that subsequently caused First MidAmerica to go out of business.
16. On February 11, 2008, Northland filed a Form U5 terminating Hemke’s pending application in the State of Missouri.

Missouri Resident 1

17. Hemke was the agent of record at First MidAmerica for a Missouri resident (“MR1”), a ninety (90) year-old widow. MR1 required approximately twenty-five thousand dollars (\$25,000.00) per month for full time in-home nursing care. MR1’s total account value was over five million dollars (\$5,000,000.00) and MR1 had a total net worth of over ten million dollars (\$10,000,000.00). MR1’s husband handled all investments in this account prior to his death in 2003. In approximately March 2007, a trust was opened with MR1’s niece as the trustee. The beneficiaries of this trust are the five (5) siblings of MR1. MR1’s niece has prior trading experience in municipal bonds, and certificate of deposits, and is not one of the beneficiaries of the trust. MR1 died on January 21, 2008.
18. In late 2006, Hemke recommended that MR1 purchase reverse convertibles notes (“revertibles”). These revertibles offer a steady stream of income due to the payment of a high coupon. At maturity, the investor will receive either one hundred percent (100%) of their original investment amount or the underlying stock. If shares of stock are delivered to the investor, their value will be less than the original investment amount. Hemke described these revertibles as “basically a naked put strategy designed to provide income.”
19. Hemke claimed that he purchased these revertibles to generate income for MR1’s account to pay for MR1’s in-home care. Hemke claimed that MR1 had almost sixty percent (60%) of her portfolio in growth related investments.
20. In 2005, Hemke and First MidAmerica made two hundred and three thousand, four hundred ninety-two dollars (\$203,492.00) in commissions from MR1’s account. In 2006, Hemke and his firm earned six hundred and five thousand, seventy-seven dollars (\$605,077.00) in commissions from MR1’s account. As of May 1, 2007, Hemke and First MidAmerica had received one hundred and seventy-seven thousand, five hundred twelve dollars (\$177,512.00) in commissions from transactions in MR1’s account.
21. During this same period of time, Hemke and First MidAmerica earned over six hundred thousand dollars (\$600,000.00) in commissions, MR1’s account at First MidAmerica lost eight hundred and two thousand, one hundred sixty-nine dollars and sixty-two cents (\$802,169.62). Hemke claimed that MR1 and her late husband wanted to avoid taxes and wanted losses in the account to offset their tax liability.
22. The losses in 2008 are as yet unrealized, but if the revertibles were to mature in February 2008 the account would have sustained losses of over eighty thousand dollars (\$80,000.00) from these revertibles.
23. In 2006, the commissions earned from MR1’s account were the largest source of revenue for Hemke and First MidAmerica.
24. At least some of the acts alleged in the above claims 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 409.4-412, RSMo. (Cum. Supp. 2007).
25. 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 Enforcement Section of 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, RSMo. (Cum Supp. 2007).

NOW THEREFORE, it is hereby ordered that:

1. Respondent is hereby CENSURED;
2. Respondent's registration is hereby SUSPENDED for a period of thirty (30) days. Respondent will be given credit for this thirty (30) day suspension for the seventy-five (75) days his application was pending in Missouri from November 28, 2007 to February 11, 2008;
3. Respondent will be on special supervision for a period of five (5) years following his suspension, and will be required, among other things, to have all trades and new account forms pre-approved by a branch manager of his employing firm;
4. For a period of five (5) years, Respondent is prohibited from:
 - a. handling any accounts for an individual over the age of sixty-five (65) without special supervision by his employing firm;
 - b. selling any high-yield bonds to any individual over the age of sixty-five (65);
 - c. soliciting any individual over the age of sixty-five (65) to purchase any revertible; or
 - d. serving as a officer, director, or supervisor of a broker-dealer or investment adviser;
5. Respondent shall pay to the Missouri Secretary of State's Investor Education and Protection Fund the sum of fifty thousand dollars (\$50,000.00); forty thousand dollars (\$40,000.00) 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 sent to the Securities Division at 600 West Main St., Jefferson City, Missouri 65101. This amount will be paid in eleven (11) equal monthly installments of eight hundred and thirty-three dollars (\$833.00) each and a final twelfth installment of eight hundred and thirty-seven dollars (\$837.00). The first installment will be due within thirty (30) days of the execution of this Consent Order. The second installment will be due on May 20, 2008, and all other installments will be due on or before the 20th of each month with the last installment due on March 20, 2009. This money shall be sent to the Division and made payable to the Missouri Secretary of State's Investor Education and Protection Fund. If Respondent fails to make any payment described in this Paragraph, the full amount remaining together with all suspended amounts shall be immediately due and payable after five (5) 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. (Cum Supp. 2006);
6. Respondent is ordered to pay a civil penalty of fifty thousand dollars (\$50,000.00) 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. This amount will be suspended provided that Respondent complies with the other provisions of this Consent Order;
7. The suspended payments in paragraphs five (5) and six (6) immediately above shall, for two (2) years from the execution of this document, become immediately payable, under operation of law, upon Respondent's failure to comply with the terms of this Order, and such immediately due payments shall be in addition to all other penalties then available under the law;
8. Respondent is ordered to pay two thousand, six hundred dollars (\$2,600.00) as the cost of this investigation. This amount shall be payable to the Missouri Secretary of State's Investor Education and Protection Fund. This amount shall be due and payable within thirty (30) days from the date of this Consent Order, and shall be submitted to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101; and
9. Respondent shall pay his own costs and attorney's fees with respect to this matter.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 14TH DAY OF MARCH, 2008.

ROBIN CARNAHAN
SECRETARY OF STATE

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

Consented to by:

Mary Hosmer
Missouri Securities Division

Doug Henke