

State of Missouri
Office of Secretary of State

Case No. AP-08-10

IN THE MATTER OF:

RATE SEARCH, INC.;
CLAYTON ANALYTICAL SERVICES, INC.;
SCOTT LUSTER; *and*
CLARK SCHULTZ,

Respondents.

Serve:

Rate Search, Inc., at
275 Union Blvd., Suite 1608
St. Louis, Missouri 63108

Serve:

Scott Luster at
23 Southbridge Lane
Edwardsville, Illinois 62025

Serve:

Clayton Analytical Services, Inc., at
7016 Kingsbury Blvd.
St. Louis, Missouri 63130

Serve:

Clark Schultz at
7016 Kingsbury Blvd.
St. Louis, Missouri 63130

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

On February 8, 2008, the Enforcement Section of the Securities Division of the Office of Secretary of State, through Assistant Commissioner of Securities Mary S. Hosmer, submitted a Petition for Order to Cease and Desist and Order 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. Rate Search, Inc. ("RSI"), is a Missouri corporation with last known business address of 275 Union Blvd., Suite 1608, St. Louis, Missouri 63108. RSI is in the business of marketing and brokering certificates of deposit ("CDs") to investors. RSI maintained a website located at www.cdratesearch.com [1]
2. Clayton Analytical Services, Inc. ("CAS"), is a Missouri corporation with last known business address of 7016 Kingsbury Blvd., St. Louis, Missouri 63130. CAS purportedly offered "back office" services to RSI.
3. Scott Luster ("Luster") is the president of RSI and offered and sold CDs through RSI. Luster has last known mailing address of 275 Union Blvd., Suite 1608, St. Louis, Missouri 63108.
4. Clark Schultz ("Schultz") is the president of CAS. Through CAS, Schultz worked as an independent contractor for RSI. Schultz and CAS, among other things, assisted RSI with the accounting and reconciliation of RSI's bank accounts. Schultz also communicated with customers regarding the customers' purchase of CDs through RSI. Schultz has last known mailing address of 7016 Kingsbury Blvd., St. Louis, Missouri 63130.
5. As used in this Petition, the term "Respondents" refers to RSI, CAS, Luster, and Schultz.
6. On or about July 13, 2007, the Division received information that indicated that Respondents had sold CDs in Missouri. Some of these investors had been informed by RSI and Luster that some of the investors' CDs were "missing."

7. On August 7, 2007, the Division sent a letter, via certified mail, to RSI. The letter asked RSI to provide the definitional or registration exemption upon which Respondents had relied in allegedly offering these CDs in Missouri. The letter also requested additional information from RSI regarding the sales of these CDs.
8. On August 22, 2007, the Division received information from an attorney for RSI that RSI had approximately thirty million dollars (\$30,000,000.00) in its CD portfolio (held for the benefit of RSI's CD customers). RSI had discovered that between two to three million dollars (\$2,000,000.00 to \$3,000,000.00) were missing from this CD portfolio. The attorney claimed that RSI was not selling securities but CDs and that RSI was currently not in business.
9. On September 6, 2007, the Division requested additional information from RSI.
10. On September 27, 2007, an attorney representing RSI sent a response to the Division's September 6, 2007, letter. In this response, RSI stated through their attorney, among other things, that:
 - a. customers initiated CD purchases through RSI via telephone, letter, or e-mail, and signed a new account agreement and an Internal Revenue Service ("IRS") *Request for Taxpayer Identification Number and Certification* ("W-9");
 - b. customers could purchase these CDs through RSI by wiring monies or sending a check to RSI;
 - c. all customer funds were deposited into a bank account at Commerce Bank, N.A., St. Louis, Missouri (the "Clearing Account");
 - d. once funds were received from a customer, RSI wire transferred these funds from the Clearing Account to a bank for the purchase of a CD (the "Receiving Bank"); and
 - e. RSI was paid a fee for selling these CDs; these fees were paid from the scheduled interest payments, and were determined by basic wholesale markdown policy and market forces, and were disclosed to customers.
11. The September 27, 2007, response from RSI included, among other things, a 3-page document titled *Rate Search Clients*. The document provided the names, account numbers, telephone numbers, and addresses of over two hundred (200) RSI customers. These customers were from thirty-four (34) states and included the names of over thirty (30) Missouri investors.
12. Other documents provided by RSI's attorney included, among other things, the following:
 - a. A one hundred ninety-six (196) page document titled, *Rate Search, Inc. Customer Clearing Acct. Transaction Detail by Account # May 1996 through December 2007*. This document provides specific CD transactions purchased by customers of RSI;
 - b. A thirty-six (36) page document titled, *CD Information*. Among other things, this document provided the customer number, trade date, term of the CD, name of the financial institution in which the CD was placed, amount of the CD, and the interest rate of the CD; and
 - c. A one hundred and one (101) page deposition of Schultz ("Schultz Deposition") taken by the attorney for RSI on July 13, 2007. This deposition included eleven (11) exhibits.
13. In this July 13, 2007, deposition, Schultz stated, among other things, that:
 - a. he was responsible for finding the rates for the bank CDs and placing the CDs for the customers of RSI and addressing customer inquiries regarding procuring a CD or disbursing funds to customers at maturity; [2]
 - b. he worked out of the RSI offices; [3]
 - c. Luster would have the initial contact with the customer and that Luster would relay instructions from these customers to Schultz; [4]
 - d. the Clearing Account was an escrow account for RSI customers' funds; [5]
 - e. an account separate from the Clearing Account was used for RSI's payroll, accounts receivable, and accounts payable (the "Corporate Account"); [6]
 - f. the Clearing Account statements had not been reconciled since 2000; [7]
 - g. RSI at first paid interest on CDs to customers when RSI received these interest payments from the banks. Subsequently, however, Luster decided to advance these interest payments by paying them to customers on the first of the month, and the actual interest payments from the banks would "trail in" after RSI made these "interest" payments to customers. These interest payments were made from the Clearing Account; [8]
 - h. RSI, through Luster, requested that Schultz advance money from the Clearing Account to the Corporate Account that had not been earned; [9]

- i. this “advance system” had been going on for several years; [10]
 - j. these advances to the Corporate Account exceeded the revenue generated by RSI, and that Schultz had spoken to Luster about these advances on several occasions; [11]
 - k. Luster had purchased a penthouse and was spending money on lighting and a Jacuzzi for this penthouse; [12] and
 - l. Luster had apologized to Schultz for the “financial insanity.” [13]
14. Sometime in September 2003, an Illinois resident (“IR”) telephoned RSI regarding RSI’s services. IR corresponded with Schultz, who stated, among other things, that:
- a. RSI worked with banks across the country and other financial institutions in locating the highest CD rates and rate specials for its customers;
 - b. all CDs purchased through RSI would be federally insured by the Federal Deposit Insurance Corporation (“FDIC”); and
 - c. interest payments on the purchased CD would be paid to IR on a monthly basis.
15. On September 11, 2003, IR wired a total of two hundred thousand dollars (\$200,000.00) to RSI for the purchases of two (2) one hundred thousand dollar (\$100,000.00) CDs. IR received, among others things, the following documents from RSI:
- a. a *Customer Account Agreement* (the “Agreement”); and
 - b. an IRS form W-9.
16. The Agreement states, among other things, that:
- a. The undersigned (“Customer”) hereby appoints Rate Search, Inc. (“RSI”), a Delaware corporation as Deposit Agent, as provided below, to purchase Certificates of Deposit (“CD”) . . . insured by the Federal Deposit Insurance Corporation . . . Title to any CD purchased hereunder shall be taken either by RSI or its nominee for the beneficial ownership of Customer’s account”
 - b. RSI holds the customer’s CD and collects interest from the Receiving Bank. The customer authorizes RSI to offset any amounts due to RSI from the customer to be deducted from, among other things, the interest received on the CD by RSI from this Receiving Bank.
17. IR received monthly interest payments from RSI as a result of purchasing the two (2) CDs. The interest payments were accompanied by a document titled, *Account Ledger Activity* (the “IR Ledger”). The IR Ledger outlined IR’s interest payments for the month and provided a summary of IR’s CD holdings. [14]
18. In or around June 2005, RSI notified IR that a one hundred thousand dollar (\$100,000.00) CD was “called” by a banking institution. On June 8, 2005, RSI provided information to IR that RSI had replaced this called CD with three (3) other CDs. Those three (3) CDs had face values in the amount of twenty-five thousand dollars (\$25,000.00), thirty-five thousand dollars (\$35,000.00) and forty thousand dollars (\$40,000.00).
19. IR continued to receive monthly interest payments from RSI on IR’s four (4) CDs. On or about June 28, 2007, IR received a letter (the “June 28 Letter”) from RSI that stated, among other things, that IR’s twenty-five thousand dollar (\$25,000.00) CD could not be located. The letter further stated:

“Dear [IR]:

This is to advise you that the independent contractor handling the back office system of Rate Search, Inc. recently and suddenly ceased providing services to our firm. Since that time, Rate Search, Inc. has identified a number of accounting irregularities and issues which have precluded Rate Search, Inc. from determining with certainty the location of certain assets to be held for the benefit of customers of Rate Search, Inc.

Our preliminary undertakings in connection with an independent audit of the situation has given rise to the filing by Rate Search, Inc. of a lawsuit against the former independent contractor and the reporting of this situation to law enforcement.

The CD(s) listed below is/are currently under audit review.

. . . [The letter lists IR’s missing CD as a twenty-five thousand dollar (\$25,000.00) CD held at First Bank with an interest rate of five point thirty-seven percent (5.37%) with interest payments to be paid monthly]. . .

Sincerely,
Scott Luster /s/

Scott Luster [print]
President”

20. On several occasions after receiving the June 28 Letter, IR telephoned RSI and spoke with Luster regarding this CD. Among other things, Luster told IR that:
 - a. IR’s CD of twenty-five thousand dollars (\$25,000.00) was “missing;”
 - b. other RSI customers have been experiencing similar problems;
 - c. IR’s “\$25,000 CD was a portion of a larger CD that went missing;”
 - d. Schultz was an independent contractor employed by RSI and was possibly responsible for IR’s lost CD; and
 - e. any further inquiries would have to go through RSI’s attorney.
21. In July 2007, IR received a final interest check from RSI and has since ceased receiving any interest payments from RSI.
22. Shortly after receiving the June 28 Letter from RSI, IR transferred the other CDs from RSI, in the amount of one hundred seventy five thousand dollars (\$175,000.00) to another financial institution.
23. To date, IR has not had IR’s twenty-five thousand dollars (\$25,000.00) returned nor received any further interest payments, and RSI has not replaced this CD.
24. A Texas resident (“TR”) heard about RSI and on or about July 23, 2002, TR wired one hundred thousand dollars (\$100,000.00) to RSI for a purchase of a CD. TR was given a document titled, *Trade Confirmation*. This document indicated that TR had purchased a CD in the face value of one hundred thousand dollars (\$100,000.00) on July 23, 2002, with an interest rate of three percent (3.00%). The document also specified a FDIC certificate number of 34015.
25. TR received monthly interest payments from RSI as a result of purchasing a CD from RSI. The monthly interest payments were accompanied by a document titled, *Account Ledger Activity*, (the “TR Ledger”). The TR Ledger outlined TR’s interest payments for that month, and provided a summary of TR’s CD holdings and the interest rate on the CD. [\[15\]](#)
26. On or about June 28, 2007, TR received a letter that stated, among other things, that:

“Rate Search, Inc. has identified a number of accounting irregularities and issues which have precluded Rate Search, Inc. from determining with certainty the location of certain assets to be held for the benefit of customers of Rate Search, Inc.”
27. Since receiving this letter, TR has talked with Luster on several occasions regarding TR’s one hundred thousand dollar (\$100,000.00) CD. During these conversations, Luster stated, among other things, that:
 - a. this CD was “lost, stolen, or misplaced” by an employee in the company;
 - b. this CD “was not placed at all;”
 - c. this CD was “under audit review;” and
 - d. any further inquiries would have to go through RSI’s attorney.
28. In July 2007, TR received a final interest check from RSI and has since ceased receiving any interest payments from RSI on this CD.
29. To date, TR has not had TR’s one hundred thousand dollar (\$100,000.00) CD returned and RSI has not replaced this CD.
30. A check of the records maintained by the Missouri Commissioner of Securities revealed no registration, granted exemption or notice filing indicating status as a “federal covered security” for the certificates of deposits offered and/or sold by Respondents in or from the State of Missouri.
31. Respondents were not registered to offer and sell securities in or from the State of Missouri.
32. On or about November 26, 2007, RSI’s attorney provided, among other things, copies of letters that were sent out to twenty-four (24) investors alerting the investors that RSI was unable to locate the investor’s assets. [\[16\]](#) A calculation conducted by an investigator with the Division based on the amounts contained in these twenty-four (24) letters revealed that RSI was unable to locate investor funds or CDs totaling four million, three hundred fifteen thousand, one hundred nine dollars and fifteen cents (\$4,315,109.15).
33. On April 11, 2000, Luster filed for bankruptcy In *Re: Scott Luster, Phyllis Luster Debtors No. 00-31005 KJM Chapter 7* in the United States Bankruptcy Court for the Southern District of Illinois. This bankruptcy was discharged on August 23, 2000.

34. In connection with the offer, sale or purchase of this investment, Respondents made untrue statements and omitted to state to numerous investors:
- a. that the Respondents were not registered to offer or sell securities in or from the State of Missouri;
 - b. that the purported CDs offered and sold to over twenty (20) investors were not registered in the State of Missouri;
 - c. that the actual CDs offered and sold to numerous investors, but whose interest payments were paid out of a “pooled” account, were new securities separate from the underlying CDs, and these new and separate securities were not registered in the State of Missouri;
 - d. facts or information regarding the background, history and experience of Luster;
 - e. facts or information regarding the background, history and experience of Schultz;
 - f. facts or information regarding the true risks of the investment;
 - g. facts or information regarding the auditing, accounting and supervision practices of RSI’s CD sales program;
 - h. that RSI received advances for payroll, accounts receivable, and accounts payable that were in excess of the amount earned by RSI;
 - i. that interest payments on the CDs were not paid by the bank which issued the CD but were advanced to the customer from the Clearing Account;
 - j. that CDs were not purchased for some investor accounts;
 - k. that some investor CDs that were called by the bank which issued them were not placed into another CD by RSI;
 - l. that RSI was making Ponzi [17] payments to some investors; or
 - m. that over twenty (20) investors were told their funds were placed in an investment that had FDIC insurance when, in fact, this was not true.
35. An order is in the public interest and consistent with the purposes intended by the Missouri Securities Act of 2003. See Section 409.6-605(b) RSMo. (Cum. Supp. 2007).

II. STATUORY PROVISIONS

36. Section 409.6-601(a), RSMo. (Cum. Supp. 2007), provides that the Missouri Securities Act of 2003 “shall be administered by the commissioner of securities”
37. Section 409.1-102(26), RSMo. (Cum. Supp. 2007), 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.”
38. Section 409.1-102(28), RSMo. (Cum. Supp. 2007), provides the definition of a “Security.” Under that definition are included, among other things: a “note;” “evidence of indebtedness;” and “investment contract.”
39. Section 409.3-301, RSMo. (Cum. Supp. 2007), 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.
40. Section 409.4-402, RSMo. (Cum. Supp. 2007), states:
- It is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this act as an agent or is exempt from registration as an agent under subsection (b).
41. Section 409.5-501, RSMo. (Cum. Supp. 2007), 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 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.

42. Section 409.6-604(a), RSMo. (Cum. Supp. 2007), 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 or that a person has materially aided . . . an act, practice or course of business constituting a violation of 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 and appropriate to comply with this act;

(2) Issue an order denying, suspending, revoking, or conditioning the exemptions for a broker-dealer under section 409.4-401(b)(1)(D) or (F) or an investment advisor under section 409.4-403(b)(1)(C); or

(3) Issue an order under section 409.2-204.

43. Section 409.6-604(d), RSMo. (Cum. Supp. 2007), states:

In a final order . . . 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.

44. Section 409.6-604(e), RSMo. (Cum. Supp. 2007), states:

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

III. CONCLUSIONS OF LAWS

Multiple Violations of Offering and Selling Unregistered, Nonexempt Securities

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

46. Respondents offered and sold a note, evidence of indebtedness or investment contract as those terms are defined in Sections 409.1-102 (26) or (28), RSMo. (Cum. Supp. 2007).

47. At all times relevant, records maintained by the Commissioner of Securities contained no registration, granted exemption or notice filing indicating status as a "federal covered security" for the investments offered and sold by Respondents.

48. The purported CDs were securities and under the Missouri Securities Act of 2003 there are several exemptions that may have been applicable if these were actual CDs issued and sold by an FDIC-insured regulated financial institution. These exemptions have not been claimed or proven by Respondents and would not be applicable here, where no CDs were purchased for the investor and thus whatever product was owned by the investor was not federally insured, was not issued by a federal or state regulated financial institution and was not insured by the FDIC. See *Gary Plastic Packaging Corp. v. Merrill, Lynch, Pierce, Fenner & Smith, Inc.*, 756 F2d 230 (2d Cir. 1985).

49. These purported CDs were offered and sold to at least twenty (20) investors in or from the State of Missouri and these purported CDs were not registered in the State of Missouri.

50. The actual CDs offered and sold to numerous investors, but whose interest payments were paid out of a "pooled" account, were new and separate securities from the underlying CDs, and these new and separate securities were not registered in the State of Missouri. See *Gary Plastic, supra*.

51. Respondents violated Section 409.3-301, RSMo. (Cum. Supp. 2007), when they offered and sold securities in Missouri without these securities being (1) a federal-covered security, (2) exempt from registration under Sections 409.2-201 or 409.2-202, RSMo. (Cum. Supp. 2007), or (3) registered under the Missouri Securities Act of 2003.

52. Respondents' actions in offering and selling nonregistered, non-exempt securities in Missouri constitute an illegal act, practice, or course of business and such action is therefore subject to the Commissioner's authority under Section 409.6-604(a), RSMo. (Cum. Supp. 2007).

Multiple Violations of Transacting Business as an Unregistered Agent by Luster and Schultz

53. Paragraphs 1 through 44 are incorporated by reference as though fully set forth herein.
54. At all times relevant, records maintained by the Missouri Commissioner of Securities contained no registration or granted exemption for Respondents Luster or Schultz to transact business as broker-dealer agents in the State of Missouri.
55. Respondents Luster and Schultz violated Section 409.4-402(a), RSMo. (Cum. Supp. 2007), when they offered or sold securities in the State of Missouri without being registered or exempt from registration as agents.
56. Respondents Luster's and Schultz's actions in transacting business as unregistered agents constitute an illegal act, practice, or course of business and such action is therefore subject to the commissioner's authority under Section 409.6-604(a), RSMo. (Cum. Supp. 2007).

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

57. Paragraphs 1 through 44 are incorporated by reference as though fully set forth herein.
58. In connection with the offer or sale of securities, Respondents made untrue statements of material fact to at least twenty investors when they told these investors that their funds were placed in an investment that had FDIC insurance when, in fact, this was not true.
59. Respondents violated Section 409.5-501(2), RSMo. (Cum Supp. 2007), when they made the untrue statement of material fact as described immediately above.
60. Respondents' actions in making untrue statements of material fact, in connection with the offer, sale or purchase of a security, constitute a violation of Section 409.5-501, and are illegal acts, practices, or courses of business under Section 409.6-604(a), RSMo. (Cum. Supp. 2007).
61. In connection with the offer or sale of securities to investors, Respondents 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:
 - a. that the Respondents were not registered to offer or sell securities including evidences of indebtedness or investment contracts in or from the State of Missouri;
 - b. that the purported CDs offered and sold to over twenty (20) investors were not registered in the State of Missouri;
 - c. that the actual CDs offered and sold to numerous investors, but whose interest payments were paid out of a "pooled" account, were new and separate securities from the underlying CDs, and these new and separate securities were not registered in the State of Missouri;
 - d. facts or information regarding the background, history and experience of Luster;
 - e. facts or information regarding the background, history and experience of Schultz;
 - f. facts or information regarding the true risks of the investment;
 - g. facts of information regarding the auditing, accounting and supervision practices of RSI's CD sales program;
 - h. that RSI received advances for payroll, accounts receivable, and accounts payable that were in excess of the amount earned by RSI;
 - i. that interest payments on the CDs were not paid by the Receiving Bank but were advanced to the customer from RSI's Clearing Account;
 - j. that CDs were not purchased for some investor accounts;
 - k. that some investor CDs that were called by the Receiving Bank were not placed into another CD by RSI; or
 - l. that RSI was making Ponzi payments to some investors.
62. Respondents' actions in omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in connection with the offer, sale or purchase of a security, constitute a violation of Section 409.5-501, and are illegal acts, practices, or courses of business under Section 409.6-604(a), RSMo. (Cum. Supp. 2007).

V. 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 any securities, as defined by Section 409.1-102(28), RSMo. (Cum. Supp. 2007), in the State of Missouri unless those securities are registered with the Securities Division of the Office of the Secretary of State in conformance with the provisions of Section 409.3-304, RSMo. (Cum. Supp. 2007);
- B. Transacting business as an unregistered agent; or
- C. violating or materially aiding in any violation of Section 409.5-501, RSMo. (Cum. Supp. 2007), 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 the statement made, in light of the circumstances under which it is made, not misleading or engaging in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

IT IS FURTHER REQUESTED that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2007), 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 individually for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2007), in a final order, unless Respondents request a hearing and show cause why the penalty should not be imposed.

IT IS FURTHER REQUESTED that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2007), 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 of Respondents Luster and Schultz for multiple violations of Section 409.4-402(a), RSMo. (Cum. Supp. 2007), in a final order, unless those Respondents request a hearing and show cause why the penalty should not be imposed.

IT IS FURTHER REQUESTED that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2007), 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 individually for multiple violations of Section 409.5-501, RSMo. (Cum. Supp. 2007), in a final order, 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 for 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. 2007), 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 to the agency.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 19TH DAY OF FEBRUARY, 2008.

ROBIN CARNAHAN
SECRETARY OF STATE

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

State of Missouri
Office of Secretary of State

Case No. AP-08-10

IN THE MATTER OF:

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SCOTT LUSTER; *and*
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Serve:

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Serve:

Clayton Analytical Services, Inc., at
7016 Kingsbury Blvd.
St. Louis, Missouri 63130

Serve:

Clark Schultz at
7016 Kingsbury Blvd.
St. Louis, Missouri 63130

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 Section 409.6-604(b), RSMo. (Cum. Supp. 2007), and 15 CSR 30-55.020.

Within fifteen (15) days after receipt of a request in a record from a person or persons subject to this order, the Commissioner will schedule this matter for a hearing.

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

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

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of February, 2008, copies of the foregoing Order and Notice in the above styled case was **mailed by certified U.S. Mail, postage prepaid, to:**

Rate Search, Inc.
275 Union Blvd., Suite 1608
St. Louis, Missouri 63108

Scott Luster
23 Southbridge Lane
Edwardsville, Illinois 62025

Clayton Analytical Services, Inc.
7016 Kingsbury Blvd.
St. Louis, Missouri 63130

Clark Schultz
7016 Kingsbury Blvd.
St. Louis, Missouri 63130

And hand delivered to:

Mary Hosmer
Assistant Commissioner
Securities Division

John Hale, Specialist

[1] According to the Division's investigation, RSI also possessed a website at www.cdsearch.com aka www.ratesearchinc.com, however, these sites are no longer operable.

[2] Schultz Deposition pages 10, 12 and 30.

[3] Schultz Deposition page 17.

[4] Schultz Deposition page 21.

[5] Schultz Deposition pages 18-19.

[6] Schultz Deposition page 19.

[7] Schultz Deposition pages 20-21.

[8] Schultz Deposition pages 19, 26, and 27.

[9] Schultz Deposition pages 40-44.

[10] Schultz Deposition page 46.

[11] Schultz Deposition page 45-46.

[12] Schultz Deposition page 48.

[13] Schultz Deposition page 48.

[14] In the Ledger for period February 1, 2004, through February 29, 2004, IR's CD holdings indicated one CD for one hundred thousand dollars (\$100,000.00) was held in Provident Bank with an interest rate of six percent (6.00%) to be paid monthly. Another CD for one hundred thousand dollars (\$100,000.00) was held in Bank Hapoalim with an interest rate of five and three quarters percent (5.75%) to be paid monthly.

[15] On or about March 2007, TR telephoned RSI to inquire about the placement of TR's CD. Among other things, RSI informed TR that TR's CD was placed with Chevy Chase Bank. TR telephoned Chevy Chase Bank and was told that information on the CD could not be released to TR since the CD was not held in the name of TR.

[16] These letters were identical to those received by IR and TR; however, information concerning the missing CDs was specific to that of the individual investor (i.e. trade date of the CD, maturity date of the CD, term of the CD, number of missing CDs, amount of the missing CDs, interest rate of the CDs and the name of the bank where the missing CDs were purportedly held).

[17] Ponzi payments are payments that are not created by the success of the underlying business venture but instead are derived fraudulently from the capital of other investors. Ponzi schemes were named after Charles Ponzi, who in the 1920s collected over 9 million dollars from investors by offering high rates of return on invested funds.