

State of Missouri  
Office of Secretary of State

Case No. AP-08-16

IN THE MATTER OF:

KERN ASSET MANAGEMENT, INC. (CRD #141132); and ANDREW E. KERN (CRD #5169299);

*Respondents.*

Serve Kern Asset Management, Inc at:  
3609 Wakefield Drive  
Columbia, Missouri 65203

Andrew E. Kern at:  
3609 Wakefield Drive  
Columbia, Missouri 65203

**CONSENT ORDER**

**I. SUMMARY OF SECURITIES DIVISION'S ALLEGATIONS**

1. The Enforcement Section of the Missouri Securities Division ("Securities Division") alleges that Kern Asset Management, Inc. ("KAM, Inc.") transacted business as an unregistered investment advisor and employed or associated with an unregistered investment adviser representative in the State of Missouri in violation of Sections 409.4-403(a) and (d), RSMo (Cum. Supp. 2008).
2. The Enforcement Section of the Securities Division alleges that Andrew E. Kern ("Kern") transacted business as an unregistered investment adviser representative in the State of Missouri while associated with KAM, Inc., in violation of Section 409.4-404, RSMo (Cum. Supp. 2008).
3. Respondents and the Securities Division desire to settle the allegations and the matters raised by the Securities Division relating to Respondents' alleged activities.

**II. CONSENT TO JURISDICTION**

4. Respondents and the Securities Division stipulate and agree that the Commissioner has jurisdiction over these Respondents and these matters pursuant to Chapter 409, *et seq.*
5. Respondents and the Enforcement Section of the Securities Division stipulate and agree that the Commissioner has authority to enter this Order pursuant to Section 409.6-604(h), RSMo. (Cum. Supp. 2006), which provides:

"The commissioner is authorized to issue administrative consent orders in the settlement of any proceeding in the public interest under this act."

**III. WAIVER AND EXCEPTION**

6. Respondents waive their rights to a hearing with respect to this matter.
7. Respondents waive any rights that they may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order. Respondents specifically forever release and hold 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.

**IV. CONSENT TO COMMISSIONER'S ORDER**

8. Respondents 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. Respondents consent 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. Respondents agree 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 paragraph affects Respondents' (a) testimonial obligations; or (b) right to take legal or factual positions in defense of litigation or in defense of other legal proceedings in which the Commissioner of Securities is not a party.

11. Respondents agree that Respondents are not the prevailing parties in this action since the parties have reached a good faith settlement.

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

12. KAM, Inc. is a Missouri corporation with an office address at 3609 Wakefield Dr., Columbia, Missouri 65203. KAM, Inc. has been registered as a corporation with the state of Missouri since April 27, 2006. Kern is a direct owner and president of KAM, Inc.
13. On June 22, 2006, KAM, Inc. filed Form ADV through the Investment Adviser Registration Depository System ("IARD") of the Central Registration Depository ("CRD").
14. On June 1, 2007, KAM, Inc. became registered in Missouri as an investment adviser with CRD number 141132.
15. On July 25, 2006, Kern applied with the Securities Division to be a registered investment adviser representative of KAM, Inc.
16. On June 4, 2007, Kern became registered in Missouri as an investment adviser representative of KAM, Inc., with CRD number 5169299.
17. From approximately October 1, 2006, to June 1, 2007, KAM, Inc., transacted business as an investment adviser but did not charge for investment adviser services during that time.
18. From approximately October 1, 2006, to June 4, 2007, Kern transacted business as an investment adviser representative but did not charge for investment adviser services during that time.
19. After becoming registered as an investment adviser and investment adviser representative, KAM Inc., and Kern, respectively, charged for services performed during October 1, 2006 through June 1, 2007.
20. The acts contained in paragraphs 17-19 above, constitute grounds to discipline Respondents' registrations under Section 409.4-412(b) for violation of Section 409.4-412(d)(2) RSMo. (Cum Supp. 2008).
21. The Commissioner, after consideration of the stipulations set forth above and on the consent of the Respondents and the Securities Division, finds and concludes that the following Order is in the public interest and necessary for the protection of public investors and consistent with the provisions of Chapter 409.

### **ORDER**

NOW, THEREFORE, it is hereby Ordered that:

1. Respondent KAM, Inc. is prohibited from transacting business as an unregistered investment adviser pursuant to Section 409.4-403(a), RSMo (Cum Supp. 2008)
2. Respondent KAM, Inc. is prohibited from employing or associating with an investment adviser representative pursuant to Section 409.4-403(d), RSMo (Cum. Supp. 2008), unless the investment adviser representative is registered or exempt from registration in the State of Missouri;
3. Respondent Kern is prohibited from transacting business as an unregistered investment adviser representative in the State of Missouri in violation of Section 409.4-404, RSMo (Cum. Supp. 2008);
4. Respondent KAM, Inc. shall withdraw its registration with the Missouri Securities Division within five (5) days of the execution of this order and agrees not to apply for registration with the Missouri Securities Division for a period of three (3) years from the date of this order;
5. Respondent Kern shall withdraw his registration with the Missouri Securities Division within five (5) days of the execution of this order. If Respondent Kern applies and is granted registration with the Missouri Securities Division within three (3) years of the date of this order he agrees to pay the sum of Four Thousand Five Hundred Dollars (\$4,500) made payable to the Missouri Secretary of State's Investor Education and Protection Fund and will deliver these funds to the Missouri Securities Division and the Securities Division shall forward these funds to the Investor Education and Protection Fund. This amount shall be due and payable within five (5) days of registration;
6. Respondents are ordered to pay one thousand dollars (\$1,000.00) for the cost of the audit made payable to the State of Missouri, and the Secretary of State shall forward these funds to the Investor Education and Protection Fund. This amount shall be due and payable within five (5) business days from the date the Consent Order is executed; and
7. Respondents shall pay their 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 8TH DAY OF JULY, 2008.

ROBIN CARNAHAN  
SECRETARY OF STATE

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

Consented to by:

Lori J. Neidel  
Chief Enforcement Counsel  
Missouri Securities Division

Andrew E. Kern, President  
Kern Asset Management, Inc.

Andrew E. Kern