

State of Missouri
Office of Secretary of State

Case No. AP-09-21

IN THE MATTER OF:

MAX SEAN NELSON, CRD #3049381

Respondent.

Serve at: 1302 W. Main St.
Savannah, Missouri 65203

CONSENT ORDER

The Enforcement Section of the Securities Division of the Office of Secretary of State (the "Securities Division") alleges that the above named Respondent violated Sections 409.5-501(2) and 405.5-502(a)(2) of the Missouri Securities Act of 2003.

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

1. Respondent and the Securities Division stipulate and agree that the Commissioner has jurisdiction over the Respondent and these matters pursuant to the Missouri Securities Act of 2003, Chapter 409, *et seq.*
2. Respondent and the Securities Division stipulate and agree that the Commissioner has authority to enter this Consent Order pursuant to Section 409.6-604(h) of the Missouri Securities Act of 2003, 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

3. Having been fully apprised of his rights and obligations in this matter by his attorney, Respondent knowingly waives his right to a hearing with respect to this matter.
4. Having been fully apprised of his rights and obligations in this matter by his attorney, Respondent waives any rights that he may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Consent 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.
5. Respondent and the Securities Division stipulate and agree that, should the facts contained herein prove to be false or incomplete, the Securities Division reserves the right to pursue any and all legal or administrative remedies at its disposal.

CONSENT TO COMMISSIONER'S ORDER

6. Respondent 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.
7. Respondent neither admits nor denies the allegations made by the Securities 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 other proceeding that may be brought to enforce the terms of this Consent Order.
8. Respondent agrees not to take any action or to make or permit to be made any public statement creating the impression that this Consent Order is without a factual basis.
9. Respondent agrees that he is not the prevailing party in this action as the parties have reached a good faith settlement.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

10. Respondent is a registered representative and is registered in Missouri through the Central Registration Depository ("CRD") with number 3049381.
11. On May 23, 2008, a Missouri Resident ("MR") filed a complaint with the Securities Division against Respondent that, among other things, stated the following:

- a) Respondent is MR's grandson by marriage and has been handling her finances since 1998. MR did not know what her money was invested in and had not received any paperwork from Respondent or any investment company since 2006. Respondent used to come by her house and ask her to sign papers. He also did her taxes but never left copies of her tax returns.
- b) In the beginning, MR received dividend payments each month, but sometime in 2004 or 2005 Respondent changed her investments and MR started receiving dividend checks on the first of each quarter. When the dividend checks started taking four or five months to arrive, MR confronted Respondent but he did not have any explanation for the delays.
- c) Sometime in January of 2007, MR received a dividend check that was originally due in October of 2006. When MR attempted to deposit the check a few days later, the check bounced and MR authorized her daughters to talk to Respondent regarding her investments.
- d) Sometime in January of 2007, MR's daughters discussed MR's investments with Respondent and he assured them everything was fine. He told them he was not with his company anymore and had to talk to one of his ex co-workers to obtain more information. Despite several requests by MR's daughters, Respondent never provided any records or documents regarding MR's investments and always had excuses for not doing so.
- e) Sometime in February of 2008, after MR had not received two consecutive dividend checks and the amount of \$30,000 due in October of 2007, Respondent, MR and MR's daughters had another meeting. At the meeting, Respondent offered as payment to MR three stock certificates of Prestige Capital, Inc. that he claimed were worth \$10,000 each. Respondent told MR she just had to sign the certificates and she would have \$30,000, but MR refused to do so.
- f) Respondent met again with MR's daughters sometime in March of 2008. At the meeting, Respondent stated he could not contact his former employer, the money was gone and he was not going to repay anything to MR.
12. On September 15, 2008, at the request of the Securities Division, Respondent provided the following information regarding Prestige Capital Inc.:
- “Prestige Capital, Inc. is a Nevada corporation that issued capital stock to [MR], who is my wife's grandmother, in consideration of \$93,000, on October __, 2004.
- Prestige Capital then lent \$93,000 to me for the purpose of:
- A. purchasing a residential four plex rental real property in St. Joseph, Missouri for approximately \$10,000, which was improved with expenditures of approximately \$90,000, and which was thereafter mortgaged for approximately \$90,000 to finance the purchase of five single family dwellings, four of which are now rented;
- and
- B. purchase the securities customer list of [my former employer] for \$25,000.”
13. In the same letter, Respondent provided the names, mailing addresses and telephone numbers of four other Missouri investors, who had invested \$10,000 each in Prestige Capital, Inc.
14. A check with the Nevada Secretary of State Business Center showed no registration of Prestige Capital, Inc.
15. On March 20, 2009, pursuant to a complaint resolution with the Attorney General of Missouri, complaint No. CF-2008-16753, Respondent agreed to repay MR the amount of \$93,000 for the period of 36 months with 5% interest per year, starting April 1, 2009.
16. On July 4, 2009, Respondent submitted a sworn affidavit seeking to clarify some of the allegations and stated, among other things, the following:
- a) In addition to his primary employment as a financial adviser, Respondent was also the principal owner of Prestige Capital, Inc., a Nevada corporation that primarily invested in commercial and residential rental properties.
- b) To form Prestige Capital, Inc., Respondent employed the services of a third company. This company was also to process any receivables and payables for Prestige Capital, Inc.
- b) MR's funds were loaned to Prestige Capital, Inc. in an attempt to provide a better return on her investment.
- c) Subsequently, Respondent started experiencing difficulties with repayment of the loan. He tried to explain to MR the circumstances regarding the loan payment irregularities but he was unsuccessful.

d) Sometime in January of 2007, MR's daughters approached Respondent to discuss their mother's investment. Respondent tried to explain the aspects of MR's investment but he was unable to provide records or documents sufficient to satisfy them.

e) At a subsequent meeting with MR and her daughters, Respondent sought to illustrate and confirm the existence of Prestige Capital, Inc. by presenting three stock certificates issued in his name and originally valued at \$10,000 each. Respondent offered the certificates to MR as collateral until she was paid in full but she refused.

f) Respondent met again with MR's daughters in March of 2008. At that time, he told them he was unable to reach the company employed to process any receivables and payables for Prestige Capital, Inc. to inquire about the returned check. Shortly after this meeting, MR and her daughters filed the complaint with the Securities Division.

17. Section 409.5-501(2), RSMo. (Cum. Supp. 2008), reads as follows:

"It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly:

....

(2)

To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person."

18. Section 409.5-502(a)(2), RSMo. (Cum. Supp. 2008), reads as follows:

"It is unlawful for a person that advises others for compensation, either directly or indirectly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as part of a regular business, issues or promulgates analyses or reports relating to securities:

....

(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;"

19. Respondent's acts constitute violations of Sections 409.5-501(2) and 405.5-502(a)(2) of the Missouri Securities Act of 2003.

20. This order is in the public interest and is consistent with the purposes intended by the Missouri Securities Act of 2003.

Order

NOW, THEREFORE, it is hereby Ordered that:

1. Respondent shall comply with the complaint resolution entered on March 20, 2009 with the Attorney General of Missouri and any violation of this resolution will constitute a violation of this Consent Order;
2. Respondent's registration as an investment adviser representative shall be suspended for one (1) year beginning the effective date of this order.
3. Respondent shall pay three thousand dollars (\$3,000) to the Missouri Secretary of State's Investor Education and Protection Fund. Respondents will deliver these funds to the Securities Division and the Securities Division shall forward these funds to the Investor Education and Protection Fund. This amount shall be payable in four (4) quarterly installments of seven hundred and fifty dollars (\$750) each. The first installment shall be due and payable within ten (10) days of the effective date of this order.
4. 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 5TH DAY OF AUGUST, 2009.

ROBIN CARNAHAN
SECRETARY OF STATE

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

Consented to by:

Max Sean Nelson, Respondent

Roumen Manolov
Deputy Chief Counsel
Missouri Securities Division