

State of Missouri
Office of Secretary of State

Case No. AP-09-34

IN THE MATTER OF:

THE HUBBARD GROUP, PC;
HOLDING GROUP INTERNATIONAL, LTD; and
MURPHY M. HUBBARD,

Respondents.

Serve The Hubbard Group, PC at:
425-B West Plainview Road
Springfield, Missouri 65810
and
1325 W. Sunshine, Suite 501
Springfield, Missouri 65807

Serve Holding Group International, LTD at:
1325 W. Sunshine, Suite 501
Springfield, Missouri 65807

Serve Murphy M. Hubbard at:
425 West Farm Road 182, Suite B
Springfield, Missouri 65810

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

On August 11, 2009, the Enforcement Section of the Securities Division of the Office of Secretary of State (the "Enforcement Section"), through its Assistant Commissioner, 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. The Hubbard Group, PC ("Hubbard Group"), is a Missouri corporation. Hubbard Group was created to engage in activities, including but not limited to, the practice of public accounting. Hubbard Group has been a Missouri-licensed certified public accounting firm since 1996. Hubbard Group had a last known business address of 425-B West Plainview Road, Springfield, Missouri 65810.
2. Holding Group International, LTD ("Holding Group"), is a Missouri corporation organized on August 22, 2001, by Hubbard. Holding Group's corporate records do not state the specific purpose for the Holding Group. Holding Group had a last known business address of 1325 West Sunshine, Suite 501, Springfield, Missouri 65807.
3. Murphy M. Hubbard ("Hubbard") is the president of both Hubbard Group and Holding Group, and Hubbard had a last known address of 5574 South Kansas Avenue, Springfield, Missouri 65810. Hubbard has been a Missouri-licensed certified public accountant ("CPA") since March 21, 1987.
4. Prior to 1990, two Missouri residents who live in the Springfield, Missouri area ("MR1" and "MR2"), who are currently seventy-four (74) and seventy-three (73) years of age, engaged Hubbard and the Hubbard Group to prepare the taxes of MR1 and MR2.
5. On or about June 10, 2009, MR1 spoke with an investigator for the Enforcement Section and stated, among other things, the following:
 - a. prior to 1990, MR1 and MR2 met with Hubbard two or three times every year regarding tax preparation and retirement planning;
 - b. in 1990, MR1 and MR2 invested in debentures with Hubbard and the Holding Group. MR1 understood among other things, that:
 - i. the Holding Group would be buying and managing businesses;
 - ii. the debentures were to pay six percent (6%) return annually;

- iii. the debentures matured every one to two years; and
 - iv. when the debentures expired, Hubbard would re-issue new debentures;
 - c. in 2006, Hubbard combined all of MR1 and MR2's investments into one debenture. This debenture was in the amount of one hundred thirty nine thousand eight hundred seventy four dollars (\$139,874) and was issued by the Holding Group;
 - d. In December 2006, Hubbard began paying MR1 and MR2 six hundred ninety-nine dollars and thirty-seven cents (\$699.37) monthly on this debenture;
 - e. Hubbard paid this monthly amount to MR1 and MR2 from December 7, 2006 through July 9, 2008;
 - f. on July 9, 2008, MR1 and MR2 were issued a debenture in the amount of one hundred thirty-nine thousand, eight hundred and seventy- four dollars (\$139,874) that was to mature on November 10, 2011. This debenture was signed by Hubbard as president of the Holding Group. MR1 and MR2 received six hundred ninety-nine dollars and thirty-seven cents (\$699.37) monthly on this debenture until June 2009;
 - g. MR1 and MR2 established an irrevocable trust on April 23, 1998, to fund their grandchildren's education ("Educational Trust"). The Educational Trust was funded with over two hundred fifty thousand dollars (\$250,000);
 - h. Hubbard was named trustee of the Educational Trust and opened a bank account for the Educational Trust at Southwest Community Bank in Ozark, Missouri ("Educational Trust Bank Account");
 - i. Hubbard was the only signatory on this Educational Trust Bank Account; and
 - j. MR1 and MR2 received periodic statements from Hubbard of the funds disbursed from the Educational Trust Bank Account.
6. A review of the trust document reveals that Hubbard was given the authority by the Educational Trust, among other things, to:

"invest in bonds, common or preferred stocks, notes, real estate mortgages, common trust funds, shares of regulated investment companies, partnership interests (whether general, special, or limited), interests as members in limited liability companies, currencies, or other securities or property, real or personal, domestic or foreign, including partial interests . . ."
7. A review of the bank records of the Educational Trust Bank Account for the period June, 2006 through June, 2009, indicates, among other things, that:
 - a. Hubbard purchased and sold securities in the Education Trust Bank Account, including but not limited to, shares of mutual funds;
 - b. Hubbard issued checks from the Educational Trust Bank Account to the Hubbard Group of over nineteen thousand dollars (\$19,000); and
 - c. As of June 19, 2009, the Educational Trust Bank Account had under forty eight thousand dollars (\$48,000) remaining in the account.
8. The Missouri Division of Professional Registration records reveal that on January 23, 2003, Hubbard's Missouri CPA license was suspended for one year and that he was placed on probation for three years. The imposition of the suspension was stayed. The probationary period began on January 23, 2003.
9. The Missouri Division of Professional Registration records reveal that the Hubbard Group's Missouri CPA license was also placed on probation for three years beginning on January 23, 2003.
10. A review of the records maintained by the Missouri Commissioner of Securities confirms that:
 - a. there was no registration or notice filing indicating status as a "federal covered security" for the debentures issued by Hubbard;
 - b. Hubbard was not a registered securities agent in Missouri;
 - c. on November 20, 1998, the Missouri Commissioner of Securities issued a Cease and Desist Order against the Hubbard Group, the Holding Group and Hubbard (In the Matter of the Hubbard Group et al., Order No. CD-98-61, Missouri Commissioner of Securities, 1998, referred to hereinafter as the "1998 Order"); and
 - d. The 1998 Order stated, among other things, that:
 - i. Hubbard and the Hubbard Group sold debentures in the Holding Group;

- ii. these debentures were not registered in the State of Missouri; iii.
 - iii. Hubbard and the Hubbard Group were not registered to sell securities in the State of Missouri; and
 - iv. Hubbard, the Hubbard Group and Holding Group failed to disclose material facts when offering and selling the debentures to Missouri residents.
11. The Missouri Securities Division issued a subpoena for Hubbard to appear at the Securities Division on June 15, 2009, and answer questions relating to the offer and sale of the debentures to MR1 and MR2, and Hubbard's activities with regard to the Educational Trust. Hubbard failed to appear at the Securities Division on June 15, 2009.
 12. The Missouri Securities Division issued a second subpoena for Hubbard to appear at the Securities Division on July 16, 2009, and answer questions relating to the offer and sale of the debentures to MR1 and MR2 and Hubbard's activities with regard to the Educational Trust. Hubbard failed to appear at the Securities Division on July 16, 2009.
 13. In connection with the purchase, offer, or sale of the debentures, Hubbard and the Holding Group did not disclose to MR1 and MR2, among other things, the following:
 - a. that the debentures were not registered in Missouri;
 - b. that Hubbard was not registered to sell securities in Missouri;
 - c. the intended use for the invested funds;
 - d. the risks associated with the investment;
 - e. background and financial information on the Holding Group;
 - f. background and financial information on the Hubbard Group;
 - g. that Hubbard, the Hubbard Group and the Holding Group were the subject of the 1998 Order;
 - h. that Hubbard's Missouri CPA license was on probation with the Missouri Division of Professional Registration for three years beginning on January 23, 2003; and
 - i. that the Hubbard Group's Missouri license as a CPA firm was on probation with the Missouri Division of Professional Registration for three years beginning on January 23, 2003.
 14. In connection with the purchase and sale of securities for and in the Educational Trust, Hubbard and the Hubbard Group did not disclose to MR1 and MR2, among other things, the following:
 - a. that some of the money in the Educational Trust would be paid to the Hubbard Group;
 - b. background and financial information on the Hubbard Group;
 - c. that Hubbard, the Hubbard Group and the Holding Group were the subject of the Hubbard Cease and Desist Order;
 - d. that Hubbard's Missouri CPA license was on probation with the Missouri Division of Professional Registration for three years beginning on January 23, 2003; and/or
 - e. that the Hubbard Group's Missouri license as a CPA firm was on probation with the Missouri Division of Professional Registration for three years beginning on January 23, 2003.

II. STATUTORY PROVISIONS

15. Section 409.6-601(a), RSMo. (Cum. Supp. 2008), provides that the Missouri Securities Act of 2003 "shall be administered by the commissioner of securities"
16. Section 409.1-102(1), RSMo. (Cum. Supp. 2008), defines "Agent" as "an individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities or represents an issuer in effecting or attempting to effect purchases or sales of the issuer's securities."
17. Section 409.1-102(17), RSMo. (Cum. Supp. 2008), defines "Issuer" as "a person that issues or proposes to issue a security"
18. Section 409.1-102(26), RSMo. (Cum. Supp. 2008), 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."
19. Section 409.1-102(28), RSMo. (Cum. Supp. 2008), provides the definition of a "Security." That definition includes:

a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; or, in general, an interest or instrument commonly known as a "security"; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

20. Section 409.3-301, RSMo. (Cum. Supp. 2008), 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.

21. Section 409.4-402(a), RSMo. (Cum. Supp. 2008), 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).

22. Section 409.4-402(d), RSMo. (Cum. Supp. 2008), states:

It is unlawful for . . . an issuer engaged in offering, selling, or purchasing securities in this state, to employ or associate with an agent who transacts business in this state on behalf of . . . issuers unless the agent is registered under subsection (a) or exempt from registration under subsection (b).

23. Section 409.5-501, RSMo. (Cum. Supp. 2008), states:

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

- (1) employ a device, scheme, or artifice to defraud;
- (2) To make an untrue statement of a material fact or to omit 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; 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.

24. Section 409.6-604(a), RSMo. (Cum. Supp. 2008), 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 adviser under section 409.4-403(b)(1)(C); or
- (3) Issue an order under section 409.2-204.

25. Section 409.6-604(d), RSMo. (Cum. Supp. 2008), states:

In a final order . . . the commissioner may impose a civil penalty up to one thousand dollars (\$1,000) for a single violation or up to ten thousand dollars (\$10,000) for more than one violation.

26. Section 409.6-604(e), RSMo. (Cum. Supp. 2008), 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 LAW

Multiple Violations of Offering and Selling Unregistered, Nonexempt Securities

27. Paragraphs 1 through 26 are incorporated by reference as though fully set forth herein.
28. Hubbard and the Holding Group offered and sold a security as those terms are defined in Sections 409.1-102 (26) and (28), RSMo. (Cum. Supp. 2008).
29. 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 securities offered and sold by Hubbard and the Holding Group.
30. Hubbard and the Holding Group violated Section 409.3-301, RSMo. (Cum. Supp. 2008), 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. 2008), or (3) registered under the Missouri Securities Act of 2003.
31. Respondents' actions in offering or selling unregistered securities 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. 2008).

Multiple Violations of Transacting Business as an Unregistered Agent

32. Paragraphs 1 through 26 are incorporated by reference as though fully set forth herein.
33. At all times relevant, records maintained by the Missouri Commissioner of Securities contained no registration or granted exemption for Respondent Hubbard to transact business as an agent in the State of Missouri.
34. Hubbard violated Section 409.4-402(a), RSMo. (Cum. Supp. 2008), when he offered or sold securities in the State of Missouri without being registered or exempt from registration as an agent.
35. Respondent Hubbard's actions in transacting business as an unregistered agent constitutes an illegal act, practice, or course of business and such actions are therefore subject to the commissioner's authority under Section 409.6-604(a), RSMo. (Cum. Supp. 2008).

Employing an Unregistered Agent

36. Paragraphs 1 through 26 are incorporated by reference as though fully set forth herein.
37. The Holding Group employed an agent who transacted business on behalf of the Holding Group. These activities constitute transacting business in the State of Missouri.
38. The Holding Group has not registered any agents in the State of Missouri.
39. The Holding Group violated Section 409.4-402(d), RSMo. (Cum. Supp. 2008), when they employed an unregistered agent who transacted business in the State of Missouri.
40. Respondent Holding Group's actions of employing an unregistered agent in transacting business in this state constitutes an illegal act, practice, or course of business and such actions are therefore subject to the commissioner's authority under Section 409.6-604(a), RSMo. (Cum. Supp. 2008).

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

41. Paragraphs 1 through 26 are incorporated by reference as though fully set forth herein.
42. In connection with the offer or sale of securities to Missouri investors as described above, Hubbard and the Holding Group 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, the following:
 - a. that the debentures were not registered in Missouri;
 - b. that Hubbard was not registered to sell securities in Missouri;
 - c. the intended use for the invested funds;
 - d. the risks associated with the investment;
 - e. background and financial information on the Holding Company;

- f. background and financial information on the Hubbard Group;
 - g. that Hubbard, the Hubbard Group and the Holding Group were the subject of the Hubbard Cease and Desist Order;
 - h. that Hubbard's Missouri CPA license was on probation with the Missouri Division of Professional Registration for three years beginning on January 23, 2003; and/or
 - i. that the Hubbard Group's Missouri license as a CPA firm was on probation with the Missouri Division of Professional Registration for three years beginning on January 23, 2003.
43. In connection with the offer or sale of securities to Missouri investors for and in the Educational Trust as described above, Hubbard and the Hubbard Group 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, the following:
- a. that some of the money in the Educational Trust Account would be paid to the Hubbard Group;
 - b. background and financial information on the Hubbard Group;
 - c. that Hubbard, the Hubbard Group and the Holding Group were the subject of the Hubbard Cease and Desist Order;
 - d. that Hubbard's Missouri CPA license was on probation with the Missouri Division of Professional Registration for three years beginning on January 23, 2003; and/or
 - e. that the Hubbard Group's Missouri license as a CPA firm was on probation with the Missouri Division of Professional Registration for three years beginning on January 23, 2003.
44. Respondents violated Section 409.5-501(2), RSMo. (Cum. Supp. 2008), when, in connection with the offer or sale of a security, they omitted to state material facts as described above.
45. Respondents' actions in omitting to state material facts in connection with the offer or sale of securities constitute illegal acts, practices, or course of business and such actions are therefore subject to the commissioner's authority under Section 409.6-604(a), RSMo. (Cum. Supp. 2008).
46. This 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. 2008).

IV. 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 be prohibited from:

- A. offering or selling any securities as defined by Section 409.1-102(28), RSMo. (Cum. Supp. 2008), in the State of Missouri unless those securities are registered with the Securities Division of the Office of the Secretary of State in accordance with the provisions of Section 409.3-304;
- B. violating or materially aiding in any violation of Section 409.4-402(a), RSMo. (Cum. Supp. 2008), by transacting business as an unregistered agent;
- C. violating or materially aiding in any violation of Section 409.4-402, RSMo. (Cum. Supp. 2008), by employing an unregistered agent; and
- D. violating or materially aiding in any violation of Section 409.5-501, RSMo. (Cum. Supp. 2008), 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 a statement made, in the light of the circumstances under which it is made, not misleading.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2008), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) against Respondents Hubbard and the Holding Group for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2008), in a final order, unless Respondents Hubbard and the Holding Group request a hearing and show cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2008), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) against Respondent Hubbard for multiple violations of Section 409.4-402(a), RSMo. (Cum. Supp. 2008), in a final order, unless Respondent Hubbard requests a hearing and shows cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2008), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to one thousand dollars (\$1,000) against Respondent Hubbard Group for violation of Section 409.4-402(d), RSMo. (Cum. Supp. 2008), in a final order,

unless Respondent Hubbard Group requests a hearing and shows cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2008), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) against each Respondent for multiple violations of Section 409.5-501(2), RSMo. (Cum. Supp. 2008), in a final order, unless Respondents request a hearing and shows 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. 2008), awarding an amount to be determined after review of evidence submitted by the Enforcement Section, unless Respondents request a hearing and show cause why such 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 20TH DAY OF AUGUST, 2009.

ROBIN CARNAHAN
SECRETARY OF STATE

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



State of Missouri
Office of Secretary of State

Case No. AP-09-34

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Serve Murphy M. Hubbard at:
425 West Farm Road 182, Suite B
Springfield, Missouri 65810

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 § 409.6-604(b), RSMo Supp. 2005, and 15 CSR 30-55.020.

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

Matthew D. Kitzi, 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 20th day of August, 2009, copies of the foregoing Order and Notice in the above styled case was **mailed by certified U.S. Mail, postage prepaid, to:**

The Hubbard Group, PC
425-B West Plainview Road
Springfield, Missouri 65810

The Hubbard Group, PC
1325 W. Sunshine, Suite 501
Springfield, Missouri 65807

Holding Group International, LTD
1325 W. Sunshine, Suite 501
Springfield, Missouri 65807

Murphy M. Hubbard
425 West Farm Road 182, Suite B
Springfield, Missouri 65810

And hand delivered to:

Mary S. Hosmer
Assistant Commissioner
Securities Division

John Hale
Specialist