

State of Missouri
Office of Secretary of State

Case No. AP-10-12

IN THE MATTER OF:

BILL PAUL GIBSON,
(CRD# 2837328)

Respondent.

CONSENT ORDER

SUMMARY OF ENFORCEMENT SECTION'S ALLEGATIONS

1. The Enforcement Section of the Missouri Securities Division ("Enforcement Section") has alleged that Bill Paul Gibson, ("Respondent"), failed to properly execute his customer's orders resulting in financial harm to his client and that this constitutes grounds to discipline Respondent pursuant to Section 409.4-412(d)(13), RSMo. (Cum. Supp. 2009).
2. Respondent and the Enforcement Section desire to settle the allegations and the matters raised by the Enforcement Section relating to the Respondent's conduct.

CONSENT TO JURISDICTION

3. Respondent and the Enforcement Section 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.*
4. Respondent and the Enforcement Section stipulate and agree that the Commissioner has authority to enter this Order pursuant to Section 409.6-604(h), RSMo. (Cum. Supp. 2009), 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 he may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order. Respondent 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.
7. Respondent stipulates and agrees with the Enforcement Section that, should the facts contained herein prove to be false or incomplete, the Enforcement Section reserves the right to pursue any and all legal or administrative remedies at its disposal.

CONSENT TO COMMISSIONER'S ORDER

8. Respondent and the Enforcement Section 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 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 factual basis. Nothing in this paragraph affects Respondent's (a) testimonial obligations; (b) right to take legal or factual position in defense of litigation or in defense of other legal proceedings in which the Commissioner of Securities is not a party; or (c) right to make public statements that are factual.
10. Respondent agrees that Respondent is not the prevailing party in this action since the parties have reached a good faith settlement.
11. Respondent neither admits nor denies the allegations made by the Enforcement Section, but consents to the Commissioner's Findings of Fact, Conclusions of Law, and Order as set forth below solely for the purposes of resolving this proceeding and any proceeding that may be brought to enforce the terms of this Consent Order.

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

I. **FINDINGS OF FACT**

12. Equity Services, Incorporated ("ESI") is a Missouri-registered broker-dealer based in Montpelier, Vermont and has an

address of One National Life Drive, Montpelier, Vermont 05604. ESI is registered in Missouri through the Central Registration Depository System ("CRD") with CRD number 265.

13. Bill Paul Gibson ("Gibson") was a Missouri-registered agent (CRD# 2837328) with ESI from July 5, 1999 through December 31, 2008. Gibson has an address of 7408 Robinson, Overland Park, Kansas 66204.
14. Gibson is a Missouri-licensed insurance producer with the Missouri Department of Insurance, Financial Institutions & Professional Registration ("DIFP"). Gibson has DIFP number 167113.
15. On September 5, 2008, the Enforcement Section of the Missouri Securities Division ("Enforcement Section") received information from a Missouri resident ("MR1") that MR1 invested \$52,525.51 in a 10-year flexible premium deferred annuity with Gibson as agent. MR1 directed Gibson to distribute 80% of the funds in the annuity's indexed account and 20% in the fixed account.
16. During the course of its investigation, the Enforcement Section found that MR1 signed the annuity application on July 10, 2006 in Chillicothe, Missouri. As part of the annuity application, MR1 signed an Owner/Applicant Statement indicating account allocation percentages for the initial premium payment should be disbursed with 80% into the indexed account and 20% into the fixed account.
17. To initially fund the annuity, MR1 planned to use a total of \$52,525.51 from three different sources: a personal savings account and two certificates of deposit.
18. On July 27, 2006, MR1 wrote a personal check in the amount of \$22,000 and acquired a cashier's check in the amount of \$20,125.23, which he gave to Gibson.
19. On July 31, 2006, Gibson sent the two checks from MR1 and a memo to "RBC Annuity New Business" by Express Mail. The memo included the statement "Please see attached two checks totaling \$42,125.23. ... Please apply all of these funds to the index and issue policy. . account #35344 will be forwarded to RBC around August 10, 2006. Those funds can be applied to the fixed account."
20. On August 9, 2006, MR1 generated a cashier's check in the amount of \$10,400.28 to complete MR1's initial investment in the annuity.
21. In approximately late August 2007, MR1 received an annual statement for the annuity for the period August 16, 2006 through August 16, 2007 and discovered that the contract reflected an initial premium payment of \$42,125.23 with 80% allocated to the indexed account and 20% allocated to the fixed account on August 16, 2006. According to the annual statement an additional premium payment of \$10,400.28 was deposited in the fixed account on August 17, 2006.
22. In response to an inquiry, the Enforcement Section received a response from Liberty Life Insurance Company on December 7, 2009 that including the following:
 - a. A copy of MR1's annual statement indicating that the annuity for MR1 was issued on August 16, 2006 with initial funds of \$42,125.23 disbursed with 80% in the index account and 20% in the fixed account.
 - b. A copy of MR1's annual statement indicating that an additional deposit of \$10,400.28 was posted to the annuity's fixed account on August 17, 2006.
 - c. Copy of the product brochure which includes the following statement: "Additional premium is deposited into the Fixed Account until the next contract anniversary."
23. As a result of Gibson's failure to properly execute MR1's order to allocate his funds with 80% in the indexed account and 20% in the fixed account, MR1 incurred a financial loss in the amount of five hundred and eighty-one dollars and thirty-six cents (\$581.36)

II. CONCLUSIONS OF LAW

24. The Commissioner finds Respondent failed to properly execute MR1's order to allocate his funds as he desired and that this conduct constitutes grounds to discipline Respondent under Section 409.4-412(d)(13), RSMo. (Cum. Supp. 2009).
25. The Commissioner, after consideration of the stipulations set forth above and on the consent of Respondent and the Enforcement Section, finds and concludes that the Commissioner has jurisdiction over 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 Chapter 409, RSMo. (Cum. Supp. 2009).

III. ORDER

NOW, THEREFORE, it is hereby Ordered that:

1. Respondent is ordered to pay five hundred and eighty-one dollars and thirty-six cents (\$581.36) in restitution. This payment

shall be sent within ten (10) days of the effective date of this Consent Order to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101, and shall be payable to the Missouri Secretary of State's Investor Restitution Fund. These payments will be distributed by that Fund to MR1;

2. Respondent shall pay to the Missouri Secretary of State's Investor Education and Protection Fund the sum of one thousand dollars (\$1,000). This payment shall be sent within ten (10) days of the effective date of this Consent Order to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101, and shall be payable to the Missouri Secretary of State's Investor Education and Protection Fund. The Division will send the money to the Missouri Secretary of State's Investor Education and Protection Fund;
3. Respondent 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 24TH DAY OF MAY, 2010.

ROBIN CARNAHAN
SECRETARY OF STATE

(Signed/Sealed)

MATTHEW D. KITZI
COMMISSIONER OF SECURITIES

Consented to by:
MISSOURI SECURITIES DIVISION

Nathan Soendker
Chief Enforcement Counsel

Bill Paul Gibson