

State of Missouri  
Office of Secretary of State

Case No. AP-11-33

IN THE MATTER OF:

RICHARD JOSEPH GUMERMAN, CRD #2254339  
dba GUMERMAN TRADING CO.;

Respondent.

Serve: Richard Joseph Gumerman at:  
660 North Spring Street  
Independence, Missouri 64050

Serve: Richard Joseph Gumerman dba  
Gumerman Trading Co. at:  
3624 NE Basswood Drive  
Lee's Summit, Missouri 64064

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

On December 27, 2011, the Enforcement Section of the Securities Division of the Office of Secretary of State (the "Enforcement Section"), through the Securities Division's Assistant Commissioner Mary S. Hosmer, submitted a Petition for Order to Cease and Desist and Order to Show Cause Why Restitution, 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. Richard Joseph Gumerman ("Gumerman") does business as Gumerman Trading Company ("GTC"). On February 2, 1987, Gumerman filed a fictitious name registration for GTC with the Missouri Secretary of State Business Services Division and provided an address for GTC at 3624 NE Basswood Drive, Lee's Summit, Missouri 64064. Gumerman resides at 660 North Spring Street, Independence, Missouri 64064.
2. A check of the records maintained by the Commissioner indicates that Gumerman is not registered as a broker-dealer agent, investment adviser representative, or issuer agent in the State of Missouri. Gumerman filed information with the Central Registration Depository System ("CRD") and has CRD number 2254339. A review of Gumerman's CRD record contains no information indicating that Gumerman has ever been registered as a broker-dealer agent or investment adviser representative in Missouri.
3. A check of the records of the Missouri Division of Professional Registration indicates that Gumerman is registered as an engineer in the State of Missouri.
4. At all times relevant, records maintained by the Commissioner of Securities contains no registration, granted exemption or notice filing indicating status as a "federal covered security" for any securities issued by Gumerman dba GTC.
5. As used herein, the term "Respondent" refers to Gumerman dba GTC.
6. On November 21, 2011, the Enforcement Section received nine (9) complaints from investors in Gumerman's GTC Trading Fund ("GTC Trading Fund").
7. Documents obtained by the Enforcement Section indicate that between January 1990 and December 2010, at least twelve (12) individuals invested more than nine hundred forty-eight thousand dollars (\$948,000) with Gumerman and the GTC Trading Fund. These documents indicate that Gumerman currently owes investors as much as seven hundred twenty-four thousand dollars (\$724,000).
8. On December 12, 2011, an investigator with the Enforcement Section spoke with a 79-year-old Independence, Missouri resident ("MR1"). MR1 told the investigator, among other things, the following:
  - a. MR1 belonged to an investment group that pooled their funds and met regularly to decide how these funds should be invested;

- b. on or before January 1990, Gumerman spoke to the investment group about the GTC Trading Fund;
  - c. in 1990, the investment group made an investment in the GTC Trading Fund. The investment group earned a profit from this investment;
  - d. in 2006, MR1 opened a personal account with Gumerman to invest in the GTC Trading Fund;
  - e. prior to MR1's investment, Gumerman provided MR1 with a document titled, *Trading Fund Operation*. This document explained the fees and trading strategy for the GTC Trading Fund;
  - f. MR1 understood that the GTC Trading Fund pooled investor funds to trade in the commodities futures market;
  - g. prior to MR1's investment, Gumerman told MR1 that MR1 could withdraw money at any time from MR1's GTC Trading Fund account;
  - h. on January 19, 2006, MR1 invested fourteen thousand dollars (\$14,000) in the GTC Trading Fund with Gumerman;
  - i. MR1 received account statements from Gumerman from 2006 to March 2011. All of these statements reflected that MR1's GTC Trading Fund account had increased in value;
  - j. MR1's gains were automatically reinvested in MR1's GTC Trading Fund account;
  - k. MR1 never made a withdrawal from MR1's GTC Trading Fund account;
  - l. in March 2011, MR1 received a letter from Gumerman that stated that Gumerman had less than ten thousand dollars (\$10,000) from all investors in the GTC Trading Fund and that Gumerman was unable to repay investors;
  - m. on August 30, 2011, MR1 sent a letter to Gumerman requesting the closure of MR1's GTC Trading Fund account. In addition, MR1 requested that Gumerman send all funds in MR1's GTC Trading Fund account to MR1; and
  - n. in September 2011, MR1 received a letter from Gumerman that stated that as of April 1, 2011, the GTC Trading Fund had five thousand dollars (\$5,000) and that Gumerman was unable to repay the investors in the GTC Trading Fund. In the September 2011 letter, Gumerman claimed that Gumerman would be able to pay MR1 in ten (10) years if Gumerman could continue trading.
9. The *Trading Fund Operation* document MR1 received provided, among other things, the following:
- a. Gumerman operated the GTC Trading Fund as a fund to pool investors' monies and trade in futures contracts;
  - b. Gumerman guaranteed that the value of each investor's account would not fall below the amount invested, less any withdrawals by the investor;
  - c. Gumerman applied any gains made from the trading to individual investor accounts after expenses and fees were paid; and
  - d. Gumerman would take ten percent (10%) of the net profits from the GTC Trading Fund each year as a management fee.
10. On December 16, 2011, an investigator with the Enforcement Section spoke with an 88-year-old Independence, Missouri resident ("MR2"). MR2 told the investigator, among other things, the following:
- a. MR2 had known Gumerman for a long time;
  - b. in approximately 2000, Gumerman contacted MR2 about Gumerman's GTC Trading Fund;
  - c. MR2 understood that Gumerman traded commodities in the GTC Trading Fund in a pooled account with funds from several investors and that Gumerman received a fee from investors in the GTC Trading Fund;
  - d. from January 1, 2002 through November 10, 2009, MR2 invested three hundred twenty-nine thousand dollars (\$329,000) in Gumerman's GTC Trading Fund;
  - e. MR2 received statements from Gumerman and the GTC Trading Fund from 2002 to March 2011. All the account statements through March 2011, that MR2 received from Gumerman, reflected that MR2's account increased in value;
  - f. in February 2011, MR2 spoke to Gumerman and requested a withdrawal of fifty thousand dollars (\$50,000) from MR2's GTC Trading Fund account. Gumerman did not send these funds to MR2;
  - g. from February 2011 to September 2011, MR2 spoke to Gumerman several times requesting funds from MR2's GTC Trading Fund account. Gumerman did not send the funds to pay MR2. MR2 stated that Gumerman kept stalling when MR2 asked for these funds; and

- h. in September 2011, MR2 received a letter from Gumerman that stated that as of April 1, 2011, the GTC Trading Fund had five thousand dollars (\$5,000) and that Gumerman was unable to repay the investors in the GTC Trading Fund.
11. On December 20, 2011, an investigator with the Enforcement Section spoke with a 91-year-old New Hope, Pennsylvania resident ("PR1"). PR1 stated, among other things, the following:
  - a. PR1 knew Gumerman through family connections;
  - b. PR1 understood that Gumerman traded in commodities;
  - c. PR1 invested with Gumerman and the GTC Trading Fund;
  - d. prior to PR1's investment, Gumerman did not explain the investment nor provide PR1 with any documents or promotional materials about the GTC Trading Fund;
  - e. from January 1997 through December 2010, PR1 invested a total of one hundred thirty thousand dollars (\$130,000) with Gumerman and the GTC Trading Fund;
  - f. in 2006 or 2007, PR1 contacted Gumerman and requested a return of twenty thousand dollars (\$20,000) from PR1's GTC Trading Fund account. PR1 stated that Gumerman informed PR1 that Gumerman "could not" return the funds, but Gumerman suggested PR1 take out a loan from a bank. PR1 did not get the requested funds or take out a loan;
  - g. Gumerman paid PR1 monthly distributions from PR1's GTC Trading Fund account to supplement PR1's living expenses; and
  - h. in 2010, Gumerman discontinued making these monthly distributions to PR1. PR1 contacted Gumerman regarding these payments and Gumerman resumed making monthly distributions to PR1 of approximately one-half of the amount PR1 received prior to the 2010 lapse.
12. On December 14, 2011, Gumerman appeared before the staff of the Enforcement Section for an on-the-record examination ("Gumerman OTR"). During questioning by representatives of the Enforcement Section, Gumerman stated, among other things, that:
  - a. Gumerman had an engineering business named Gumerman Engineering Company;
  - b. prior to opening the GTC Trading Fund in 1988, Gumerman had only traded commodities for one year in a personal account;
  - c. Gumerman had lost money in this personal trading account;
  - d. Gumerman started the GTC Trading Fund in 1988;
  - e. Gumerman had never been registered to sell securities;
  - f. the GTC Trading Fund investments were not registered;
  - g. Gumerman stated he did not need to register the securities because he had under twenty-five investors;
  - h. Gumerman stated that most investors came to him to invest in the GTC Trading Fund;
  - i. Gumerman spoke to a investment group about the GTC Trading Fund;
  - j. Gumerman told investors that Gumerman guaranteed that the investors' would not lose the money they invested in the account and could withdraw the funds they invested at any time;
  - k. Gumerman stated that he would pay for any losses in the GTC Trading Fund accounts through his engineering salary, however, Gumerman did not tell investors that Gumerman was to fund this guarantee through Gumerman's engineering business;
  - l. Gumerman's salary from his engineering business for the last four years had been approximately ten thousand dollars (\$10,000) a year;
  - m. Gumerman opened a GTC Trading Fund bank account ("GTC Bank Account") to deposit investor checks;
  - n. Gumerman wired and/or sent funds from the GTC Bank Account to a trading account with futures trading firms ("Futures Trading Accounts");
  - o. the funds in the Futures Trading Accounts were in Gumerman's name;
  - p. for several years, Gumerman made money in these Futures Trading Accounts;

- q. Gumerman sent investors account statements. These statements always reflected a gain in the investors' GTC Trading Fund accounts;
  - r. Gumerman retained money from the profits in the GTC Trading Fund to create a "slush fund;"
  - s. Gumerman used this "slush fund" to pay interest in the GTC Trading Fund accounts when Gumerman's investments were not profitable;
  - t. around 2008, Gumerman began losing money in these Futures Trading Accounts and Gumerman's income from his engineering business began to decline;
  - u. in the last several years Gumerman stated that he "borrowed" several hundred thousand dollars from the GTC Bank Account;
  - v. Gumerman used funds from the GTC Bank Account for personal expenses, including among others, the following:
    - i. approximately ten thousand dollars (\$10,000) in payments to three waitresses at a Hooters restaurant and one clerk at another retail establishment, these included payments for the purchase of a car, furniture and clothing;
    - ii. expenses for Gumerman's engineering business; and
    - iii. rent for an apartment;
  - w. in February 2010, MR2 requested a withdrawal from the MR2's GTC Trading Fund account. Gumerman did not have funds in the GTC Trading Account to pay MR2;
  - x. Gumerman told investors that he had lost money as a result of the tsunami;
  - y. Gumerman could not explain how GTC Trading Funds were lost in the tsunami other than that the tsunami had caused a decline in the financial markets;
  - z. Gumerman sent two letters to investors that stated, among other things, that Gumerman had less than ten thousand (\$10,000) in the GTC Trading Fund and could not repay investors; and
  - aa. Gumerman stated that he did not tell investors, among other things, that:
    - i. Gumerman used funds from the GTC Trading Fund for personal expenses;
    - ii. Gumerman used funds from the GTC Trading Fund for other businesses Gumerman operated; and
    - iii. prior to opening the GTC Trading Fund, Gumerman had only traded commodities for one year in a personal account and Gumerman had lost money in this personal trading account.
13. In connection with the offer and/or sale of securities in Missouri, Gumerman did not tell MR1, MR2 and/or PR1, among other things, the following:
- a. that the securities offered and/or sold were not registered in the State of Missouri;
  - b. that Gumerman was not registered to offer and sell securities in the State of Missouri;
  - c. information about Gumerman's background and experience in trading commodities futures;
  - d. financial information to support Gumerman's guarantee that investors in the GTC Trading Fund would not lose their original investment amount;
  - e. the risks of the investment;
  - f. that the GTC Trading Fund account statements did not reflect the actual profits in the GTC Trading Fund;
  - g. that Gumerman held some of the profits from the GTC Trading Fund in a "slush fund;" and
  - h. that investor money in the GTC Trading Fund would be used for Gumerman's personal expenses.

## **II. STATUTORY PROVISIONS**

14. Section 409.1-102(1), RSMo. (Cum. Supp. 2009), 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. But a partner, officer, or director of a broker-dealer or issuer, or an individual having a similar status or performing similar functions is an agent only if the individual otherwise comes within the term. The term does not include an individual excluded by rule adopted or order issued under this

act."

15. Section 409.1-102(17), RSMo. (Cum. Supp. 2009), defines "Issuer" as "a person that issues or proposes to issue a security . . . ."
16. Section 409.1-102(19), RSMo. (Cum. Supp. 2009), defines "Offer to purchase" as "an attempt to offer to obtain, or solicitation of an offer to sell, a security or interest in a security for value. The term does not include a tender offer that is subject to Section 14(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(d))."
17. Section 409.1-102(26), RSMo. (Cum. Supp. 2009), defines "Sale" as "every contract of sale, contract to sell, or disposition of, a security or interest in a security for value, and 'offer to sell' includes every attempt or offer to dispose of, or solicitation of an offer to purchase, a security or interest in a security for value."
18. Section 409.1-102(28), RSMo. (Cum. Supp. 2009), defines "Security" as "a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest of 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."
19. Section 409.3-301, RSMo. (Cum. Supp. 2009), 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.
20. Section 409.4-402(a), RSMo. (Cum. Supp. 2009), 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).
21. Section 409.5-501, RSMo. (Cum. Supp. 2009), 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 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.
22. Section 409.6-601, RSMo. (Cum. Supp. 2009), states:

This act shall be administered by the commissioner of securities who shall be appointed by and act under the direction of the secretary of state, and shall receive compensation as provided by law.
23. Section 409.6-602, RSMo. (Cum. Supp. 2009), states:
  - (a)The commissioner may:
    - (1)Conduct public or private investigations within or outside of this state which the commissioner considers necessary or appropriate to determine whether a person has violated, is violating, or is about to violate this act or a rule adopted or order issued under this act, or to aid in the enforcement of this act or in the adoption of rules and forms under this act;
    - (2)Require or permit a person to testify, file a statement, or produce a record, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning a matter to be investigated or about which an

action or proceeding is to be instituted;

(3) Publish a record concerning an action, proceeding, or an investigation under, or a violation of, this act or a rule adopted or order issued under this act if the commissioner determines it is necessary or appropriate in the public interest and for the protection of investors;

...

(b) For the purpose of an investigation under this act, the commissioner or its designated officer may administer oaths and affirmations, subpoena witnesses, seek compulsion of attendance, take evidence, require the filing of statements, and require the production of any records that the commissioner considers relevant or material to the investigation.

24. Section 409.6-604, RSMo. (Cum. Supp. 2009), states:

(a) 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 or appropriate to comply with this act;

(2) Require or permit a person to testify, file a statement, or produce a record, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning a matter to be investigated or about which an action or proceeding is to be instituted;

(3) Publish a record concerning an action, proceeding, or an investigation under, or a violation of, this act or a rule adopted or order issued under this act if the commissioner determines it is necessary or appropriate in the public interest and for the protection of investors;

(b) An order under subsection (a) is effective on the date of issuance. Upon issuance of the order, the commissioner shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement whether the commissioner will seek a civil penalty or costs of the investigation, a statement of the reasons for the order, and notice that, within fifteen days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the commissioner within thirty days after the date of service of the order, the order becomes final as to that person by operation of law. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

(c) If a hearing is requested or ordered pursuant to subsection (b), a hearing before the commissioner must be provided. A final order may not be issued unless the commissioner makes findings of fact and conclusions of law in a record in accordance with the provisions of chapter 536, RSMo, and procedural rules promulgated by the commissioner. The final order may make final, vacate, or modify the order issued under subsection (a).

(d) In a final order under subsection (c), the commissioner may:

(1) Impose a civil penalty up to one thousand dollars for a single violation or up to ten thousand dollars for more than one violation;

(2) Order a person subject to the order to pay restitution for any loss, including the amount of any actual damages that may have been caused by the conduct and interest at the rate of eight percent per year from the date of the violation causing the loss or disgorge any profits arising from the violation;

(3) In addition to any civil penalty otherwise provided by law, impose an additional civil penalty not to exceed five thousand dollars for each such violation if the commissioner finds that a person subject to the order has violated any provision of this act and that such violation was committed against an elderly or disabled person. For purposes of this section, the following terms mean:

(A) 'Disabled person', a person with a physical or mental impairment that substantially limits one or more of the major life activities of such individual, a record of such impairment, or being regarded as having such an impairment;

(B) 'Elderly person', a person sixty years of age or older.

(e) 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, Non-Exempt Securities**

25. Paragraphs 1 through 24 are incorporated by reference as though fully set forth herein.
26. Respondent Gumerman offered and sold a security as those terms are defined in Sections 409.1-102(26) and (28), RSMo. (Cum. Supp. 2009).
27. At all times relevant, records maintained by the Commissioner contained no registration, granted exemption, or notice filing indicating status as a "federal covered security" for the securities offered and sold by Respondents.
28. Respondent Gumerman violated Section 409.3-301, RSMo. (Cum. Supp. 2009), when he 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 409.2-203, RSMo. (Cum. Supp. 2009), or (3) registered under the Missouri Securities Act of 2003.
29. MR1, MR2, and PR1 were over the age of sixty (60) years old and were elderly persons as that term is defined under Section 409.6-604(d)(3)(B), RSMo. (Cum. Supp. 2009), at the time of Respondent's offer and sale of these securities.
30. Respondent Gumerman's actions in offering and selling a security that was not registered, exempt or a federal covered security constitute an illegal act, practice, or course of business and thus such actions are subject to the Commissioner's authority under Section 409.6-604, RSMo. (Cum. Supp. 2009).

#### **Multiple Violations of Transacting Business as an Unregistered Agent**

31. Paragraphs 1 through 24 are incorporated by reference as though fully set forth herein.
32. At all times relevant, records maintained by the Commissioner contained no registration or granted exemption for Respondent Gumerman to transact business as an agent in the State of Missouri.
33. Respondent Gumerman violated Section 409.4-402(a), RSMo. (Cum. Supp. 2009), when he offered and/or sold securities to investors in Missouri without being registered or exempt from registration as an agent.
34. MR1, MR2, and PR1 were over the age of sixty (60) years old and were elderly persons as that term is defined under Section 409.6-604(d)(3)(B), RSMo. (Cum. Supp. 2009), at the time Respondent transacted business as an unregistered agent.
35. Respondent Gumerman's actions in transacting business as an unregistered agent constitute an illegal act, practice, or course of business and thus such actions are subject to the Commissioner's authority under Section 409.6-604, RSMo. (Cum. Supp. 2009).

#### **Multiple Violations of Omitting to State Material Facts in Connection with the Offer or Sale of a Security**

36. Paragraphs 1 through 24 are incorporated by reference as though fully set forth herein.
37. In connection with the offer, sale or purchase of a security to MR1, MR2, and /or PR1, Respondent Gumerman 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 securities offered and/or sold were not registered in the State of Missouri;
  - b. that Gumerman was not registered to offer and sell securities in the State of Missouri;
  - c. information about Gumerman's background and experience in trading commodities futures;
  - d. financial information to support Gumerman's guarantee that investors in the GTC Trading Fund would not lose their original investment amount;
  - e. the risks of the investment;
  - f. that the GTC Trading Fund account statements did not reflect the actual profits in the GTC Trading Fund;
  - g. that Gumerman held some of the profits from the GTC Trading Fund in a "slush fund;" or
  - h. that investor money in the GTC Trading Fund would be used for Gumerman's personal expenses.

38. MR1, MR2, and PR1 were all over the age of sixty (60) years old and were elderly persons as that term is defined under Section 409.6-604(d)(3)(B), RSMo. (Cum. Supp. 2009), at the time Respondent omitted to state necessary material facts.
39. Respondent Gumerman's actions in omitting to state material facts constitute illegal acts, practices, or courses of business and thus such actions are subject to the Commissioner's authority under Section 409.6-604, RSMo. (Cum. Supp. 2009).
40. This order is in the public interest and is consistent with the purposes of the Missouri Securities Act of 2003. See Section 409.6-605(b), RSMo. (Cum. Supp. 2009).

#### **IV. ORDER**

**NOW, THEREFORE**, it is hereby ordered that Respondent, his 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. violating or materially aiding in any violation of Section 409.3-301, RSMo. (Cum. Supp. 2009), by offering or selling any securities as defined by Section 409.1-102(28), RSMo. (Cum. Supp. 2009), 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 409.3-301;
- B. violating or materially aiding in any violation of Section 409.4-402(a), RSMo. (Cum. Supp. 2009), by transacting business as an unregistered agent; and
- C. violating or materially aiding in any violation of Section 409.5-501, RSMo. (Cum. Supp. 2009), 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 ORDERED** that, pursuant to Section 409.6-604(d)(1), RSMo. (Cum. Supp. 2009), 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 Gumerman for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2009), in a final order, unless Respondent Gumerman 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)(3)(B), RSMo. (Cum. Supp. 2009), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to fifteen thousand dollars (\$15,000) against Respondent Gumerman for at least three violations of Section 409.3-301, RSMo. (Cum. Supp. 2009), committed against an elderly person, in a final order, unless Respondent Gumerman 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)(1), RSMo. (Cum. Supp. 2009), 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 Gumerman for multiple violations of Section 409.4-402(a), RSMo. (Cum. Supp. 2009), in a final order, unless Respondent Gumerman 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)(3)(B), RSMo. (Cum. Supp. 2009), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to fifteen thousand dollars (\$15,000) against Respondent Gumerman, for at least three violations of Section 409.4-402(a), RSMo. (Cum. Supp. 2009), committed against an elderly person, in a final order, unless Respondent Gumerman 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)(1), RSMo. (Cum. Supp. 2009), 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 Gumerman for multiple violations of Section 409.5-501, RSMo. (Cum. Supp. 2009), in a final order, unless Respondent Gumerman 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)(3)(B), RSMo. (Cum. Supp. 2009), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to fifteen thousand dollars (\$15,000) against Respondent Gumerman, for at least three violations of Section 409.5-501, RSMo. (Cum. Supp. 2009), committed against an elderly person, in a final order, unless Respondent Gumerman requests 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 order of restitution, the Commissioner will determine whether to order Respondent Gumerman to pay restitution for any loss, possibly to include the amount of any actual damages that may have been caused by the conduct of Respondent, and interest at the rate of eight percent per year from the date of the violation causing the loss, or disgorge any profits, arising from the violation of Sections 409.3-301, 409.4-402, and 409.5-501, RSMo. (Cum. Supp. 2009), after review of evidence submitted by the Enforcement Section, in a final order, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2009), unless Respondent Gumerman requests a hearing and shows cause why this restitution or disgorgement 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 Respondent Gumerman in this proceeding the commissioner will issue a final order, pursuant to Section 409.6-604(e), RSMo. (Cum. Supp. 2009), awarding an amount to be determined after review of evidence submitted by the Enforcement Section, unless Respondent Gumerman requests a hearing and shows cause why such award should not be made.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 29<sup>TH</sup> DAY OF DECEMBER, 2011.

ROBIN CARNAHAN  
SECRETARY OF STATE

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



State of Missouri  
Office of Secretary of State

Case No. AP-11-33

IN THE MATTER OF:

RICHARD JOSEPH GUMERMAN, CRD #2254339  
dba GUMERMAN TRADING CO.;

Respondent.

Serve: Richard Joseph Gumerman at:  
660 North Spring Street  
Independence, Missouri 64050

Serve: Richard Joseph Gumerman dba  
Gumerman Trading Co. at:  
3624 NE Basswood Drive  
Lee's Summit, Missouri 64064

**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. 2009), 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 hearing.

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**  
**600 West Main Street, Room 229**  
**Jefferson City, Missouri 65102**

CERTIFICATE OF SERVICE

I hereby certify that on this 29<sup>th</sup> day of December, 2011, a copy of the foregoing Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed in the above styled case was **mailed by Certified U.S. mail to:**

Richard Joseph Gumerman  
660 North Spring Street  
Independence, Missouri 64050

Richard Joseph Gumerman dba as  
Gumerman Trading Company  
3624 NE Basswood Drive  
Lee's Summit, Missouri 64064

**And via hand-delivery to:**

Mary S. Hosmer  
Assistant Commissioner  
Missouri Securities Division

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John Hale, Specialist