

State of Missouri  
Office of Secretary of State

Case No. AP-12-09

IN THE MATTER OF:

BLACKBAY CAPITAL ADVISORS,  
CRD No. 116888

Respondent.

Serve: Blackbay Capital Advisors at:  
316 East 1150<sup>th</sup> Street  
Payson, Illinois 62360

**Consent Order**

**SUMMARY OF ENFORCEMENT SECTION'S ALLEGATIONS**

1. The Enforcement Section of the Missouri Securities Division ("Enforcement Section") has alleged that Blackbay Capital Advisors, ("Blackbay" or "Respondent"), transacted business in Missouri as an unregistered investment adviser in violation of Section 409.4-403(a), RSMo. (Cum. Supp. 2010), and that this constitutes grounds to discipline Respondent pursuant to Section 409.4-412(d)(2) RSMo. (Cum. Supp. 2010).
2. Respondent and the Enforcement Section desire to settle the allegations and the matters raised by the Enforcement Section relating to the Respondent's alleged transacting of business as an unregistered investment adviser.

**CONSENT TO JURISDICTION**

3. Respondent and the Enforcement Section stipulate and agree that the Missouri Commissioner of Securities ("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. 2010), 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 its right to a hearing with respect to this matter.
6. Respondent waives any rights that it may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order. Respondent specifically forever releases and holds harmless the Missouri Office of Secretary of State, Secretary of State, Commissioner, 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 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. Respondent Blackbay is an Illinois-registered investment adviser with a mailing address of 316 East 1150th St. Payson, Illinois 62360. Blackbay is registered with the Central Registration Depository System ("CRD") with number 116888.
13. Todd Butterfield ("Butterfield") is the owner and sole registered investment adviser representative of Blackbay. Butterfield has a mailing address of 316 East 1150th St. Payson, Illinois 62360. Butterfield is registered with the CRD with number 2017675.
14. On or about June 22, 2011, in connection with Blackbay's application to register in Missouri as an investment adviser, Butterfield informed the Registration Section of the Missouri Securities Division that, due to an administrative oversight by Blackbay, Blackbay had transacted business in Missouri as an unregistered investment adviser.
15. According to CRD records, Blackbay was previously registered investment adviser with Missouri from January 24, 2002 to August 10, 2010.
16. The Enforcement Section's investigation revealed that for approximately ten (10) months, from August 10, 2010 to June 22, 2011, Blackbay transacted business in Missouri as an unregistered investment adviser.
17. During the time Blackbay transacted business as an unregistered investment adviser, Blackbay received five thousand fifty two dollars (\$5,052) in commissions from Missouri residents.

### **II. CONCLUSIONS OF LAW**

18. The Commissioner finds Respondent transacted business as an unregistered investment adviser in violation of Section 409.4-403(a) RSMo. (Cum. Supp. 2010) and that this conduct constitutes grounds to discipline Respondent under Section 409.4-412(d)(2) RSMo. (Cum. Supp. 2010).
19. 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 in 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. 2010).

### **III. ORDER**

**NOW, THEREFORE**, it is hereby Ordered that:

1. Respondent, its agents, employees and servants, and all other persons participating in the above-described violations with knowledge of this order are permanently enjoined and restrained from transacting business in Missouri as an unregistered investment adviser representative in violation of Section 409.4-403(a) RSMo. (Cum. Supp. 2010);
2. Respondent's registration is hereby CENSURED;
3. Respondent shall pay to the Missouri Secretary of State's Investor Education and Protection Fund the sum of five thousand dollars (\$5,000). Respondent shall send the five thousand dollars (\$5,000) to the Securities Division in five (5) equal monthly installments of one thousand dollars (\$1,000) each. The first installment will be due on February 15, 2012, and all other installments will be due on the fifteenth of each month with the last installment due on June 15, 2012.
4. Any payments due under this Consent Order shall be sent 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;
5. Respondent shall pay its 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 23<sup>RD</sup> DAY OF FEBRUARY, 2012.

ROBIN CARNAHAN  
SECRETARY OF STATE

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

Consented to by:  
THE ENFORCEMENT SECTION OF THE  
MISSOURI SECURITIES DIVISION

Drew Veatch  
Chief Registration Counsel

RESPONDENT, BLACKBAY CAPITAL  
ADVISORS

Todd Butterfield  
Blackbay Capital Advisors