

State of Missouri  
Office of Secretary of State

Case No. AP-12-11

IN THE MATTER OF:

DELBERT R. LONEY and  
RAYMOND L. BARTLE,

Respondents.

Serve: Delbert R. Loney at:  
c/o Our Place  
164 East Main Street  
Hermiston, Oregon 97838

**FINAL ORDER TO CEASE AND DESIST AND PAYMENT OF RESTITUTION, CIVIL PENALTIES, AND COSTS AS TO RESPONDENT DELBERT R. LONEY**

On August 15, 2012, the Enforcement Section of the Securities Division of the Office of Secretary of State (the "Enforcement Section"), by and through Assistant Commissioner, Mary Hosmer, submitted a Petition for Final Order to Cease and Desist and Payment of Restitution, Civil Penalties, and Costs as to Respondent Delbert R. Loney (the "Petition"). After reviewing the Petition, the Commissioner issues the following findings of facts, conclusion of law and order:

**PROCEDURAL BACKGROUND**

1. On April 2, 2012, Mary S. Hosmer, Assistant Commissioner for the Missouri Securities Division and on behalf of the Enforcement Section, submitted a Petition for Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed (the "C&D Petition") in the above-styled matter.
2. On April 6, 2012, the Commissioner of Securities ("Commissioner") issued an Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed against Respondents (the "C&D Order").
3. On April 6, 2012, a representative of the Commissioner mailed a copy of the C&D Order by U.S. Postal Service Certified Mail with Return Receipt ending in 7260 to Respondent Delbert R. Loney ("Loney") at 1018B South Vancouver Street, Kennewick, Washington 99337-339. On May 11, 2012, the Missouri Securities Division received the mail back marked "Undeliverable as Addressed, Return to Sender."
4. On June 7, 2012, Loney contacted the Enforcement Section via telephone and requested a faxed copy of the Order. A representative of the Commissioner faxed a copy of the Order to Loney.
5. On June 7, 2012, the Enforcement Section, through Investigator Dorinda Tomka and Ms. Hosmer, spoke by telephone with Loney. During that telephone conversation, Loney stated he was in receipt of the C&D Order.
6. On August 10, 2012, Loney submitted a letter to the Commissioner in which Loney stated that he wished to waive his right to a hearing.
7. Respondent Loney failed to request a hearing within the time allowed by Section 409.6-604, RSMo. (Cum. Supp. 2011).
8. In the Petition, the Enforcement Section requested a Final Order to Cease and Desist as to Respondent Delbert R. Loney.
9. In the Petition, the Enforcement Section requested that the Commissioner issue an order requiring Respondent Loney to pay restitution in the amount of sixteen thousand eight hundred dollars (\$16,800).
10. In the Petition, the Enforcement Section requested that the Commissioner issue an order imposing a civil penalty in the amount of five thousand dollars (\$5,000) against Respondent Loney for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2011), and requested that same amount be "suspended" provided that the prayed for restitution amount is satisfied and that Respondent Loney complies with the terms of any order and does not violate the Missouri Securities Act of 2003 for a period of three (3) years.
11. In the Petition, the Enforcement Section requested that the Commissioner issue an order imposing a civil penalty in the amount of five thousand dollars (\$5,000), against Respondent Loney for multiple violations of Section 409.4-202(a), RSMo. (Cum.

Supp. 2011), and requested that same amount be “suspended” provided that the prayed for restitution amount is satisfied and that Respondent Loney complies with the terms of any order and does not violate the Missouri Securities Act of 2003 for a period of three (3) years.

12. In the Petition, the Enforcement Section requested that the Commissioner issue an order imposing a civil penalty in the amount of five thousand dollars (\$5,000), against Respondent Loney for multiple violations of Section 409.5-501, RSMo. (Cum. Supp. 2011), and requested that same amount be “suspended” provided that the prayed for restitution amount is satisfied and that Respondent Loney complies with the terms of any order and does not violate the Missouri Securities Act of 2003 for a period of three (3) years.
13. In the Petition, the Enforcement Section requested that the Commissioner issue an order requiring Respondent Loney to pay the costs of the investigation in this matter in the amount of two thousand dollars (\$2,000), and requested that same amount be “suspended” provided that the prayed for restitution amount is satisfied and that Respondent Loney complies with the terms of any order and does not violate the securities act for a period of three (3) years.

#### **FINDINGS OF FACT**

14. The Commissioner adopts and incorporates the Findings of Fact, paragraphs 1, 2, 5 “ 7, and 9 in the C&D Order as to Respondent Loney.
15. On March 19, 2012, the Commissioner issued a Consent Order in the matter of Richard K. Johnson (AP-12-03) (the “Johnson Order”), which is related to the instant matter. In the Johnson Order, Respondent Richard K. Johnson was ordered to pay thirty four thousand dollars (\$34,000) in restitution to the investor identified in both the Johnson Order and herein as MR1.
16. Paragraph 6 of the C&D Order states that Respondent Loney and his spouse were paid at least sixteen thousand eight hundred dollars (\$16,800) from a bank account funded by MR1’s investment funds.

#### **CONCLUSION OF LAW**

17. The Commissioner adopts and incorporates the Conclusions of Law, paragraphs 21 “ 29, and 34 “ 41, in the C&D Order.
18. This Order is in the public interest and consistent with the purposes intended by the Missouri Securities Act of 2003.

#### **ORDER**

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

- A. The Cease and Desist Order entered in Case Number AP-12-11 on April 6, 2012, is **FINAL** as to Respondent Loney.
- B. Pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2011), Respondent Loney shall pay restitution in the amount of sixteen thousand eight hundred dollars (\$16,800), for the amount of actual damages caused by Respondent’s conduct arising from violations of Sections 409.3-301, 409.4-402, and 409.5-501, RSMo. (Cum. Supp. 2011). This amount shall be made payable to the Missouri Secretary of State’s Investor Restitution Fund, and the Commissioner will take reasonable and necessary actions to distribute such funds to the individual referenced in Exhibit A of the Petition and injured by the acts and violations. This amount shall be paid within thirty (30) days of the date of this Order. Respondent Loney shall deliver this payment to the Securities Division at 600 West Main Street, P.O. Box 1276, Jefferson City, Missouri 65102.
- C. Pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2011), Respondent Loney shall pay a civil penalty in the amount of five thousand dollars (\$5,000) to the State of Missouri for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2011). This amount shall be suspended provided that Respondent Loney complies with the terms of this Order and does not violate the Missouri Securities Act of 2003 for a period of three (3) years.
- D. Pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2011), Respondent Loney shall pay a civil penalty in the amount of five thousand dollars (\$5,000), to the State of Missouri for multiple violations of Section 409.4-402(a), RSMo. (Cum. Supp. 2011). This amount shall be suspended provided that Respondent Loney complies with the terms of this Order and does not violate the Missouri Securities Act of 2003 for a period of three (3) years.
- E. Pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2011), Respondent Loney shall pay a civil penalty in the amount of five thousand dollars (\$5,000), to the State of Missouri for multiple violations of Section 409.5-501, RSMo. (Cum. Supp. 2011). This amount shall be suspended provided Respondent Loney complies with the terms of this Order and does not violate the Missouri Securities Act of 2003 for a period of three (3) years.
- F. Pursuant to Section 409.6-604(e), RSMo. (Cum. Supp. 2011), Respondent Loney shall pay the additional sum of two thousand dollars (\$2,000) as reimbursement for the costs of the investigation and administration in this matter. This amount shall be suspended provided that Respondent Loney complies with the terms of this Order and does not violate the Missouri Securities Act of 2003 for a period of three (3) years.

G. The suspended payments in paragraphs C through F, above, shall, for three (3) years from the execution of this document, become immediately payable, under operation of law, upon Respondent's failure to comply with the terms of this Order, and such immediately due payments shall be in addition to all other penalties then available under the law. The Commissioner will refer this matter for enforcement as provided in Sections 409.6-603 and 409.6-604, RSMo. (Cum. Supp. 2011). Upon Respondent Loney's satisfaction of the restitution order in paragraph B, above, and his compliance with the terms of this Order for a period of three (3) years, the suspended payments in paragraphs C through F, above, shall be fully waived.

H. Respondent Loney shall pay his own costs and attorney's fees in this matter.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 6<sup>TH</sup> DAY OF SEPTEMBER, 2012.

ROBIN CARNAHAN  
SECRETARY OF STATE

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

CERTIFICATE OF SERVICE

I hereby certify that on this 6<sup>th</sup> day of September, 2012, a copy of the foregoing Final Order to Cease and Desist and Payment of Restitution, Civil Penalties, and Costs as to Respondent Delbert R. Loney in the above styled case was **mailed by U.S. mail to:**

Delbert R. Loney  
c/o Our Place  
164 East Main Street  
Hermiston, Oregon 97838

Kurt Schafers  
Cosgrove Law, LLC  
8021 Forsyth Boulevard  
St. Louis, Missouri 63105  
ATTORNEY FOR RESPONDENT BARTLE

**And via hand-delivery to:**

Mary S. Hosmer  
Assistant Commissioner  
Missouri Securities Division

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John Hale, Specialist