



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:)	
)	
JOHN MCCARTY)	
)	Case No. AP-14-06
Respondent.)	
)	
Serve: John McCarty)	
602 Bradford Court)	
Farmington, MO 63340)	

CONSENT ORDER

SUMMARY OF ENFORCEMENT SECTION'S ALLEGATIONS

1. The Enforcement Section of the Missouri Securities Division of the Office of Secretary of State ("Enforcement Section"), through Assistant Commissioner Mary S. Hosmer, has alleged that John McCarty ("McCarty" or "Respondent"), transacted business as an investment adviser in Missouri without being registered or exempt from registration as an investment adviser in violation of Section 409.4-403, RSMo. (Cum. Supp. 2012), and that this constitutes grounds to issue an order pursuant to Section 409.6-604, RSMo. (Cum. Supp. 2012).
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 violations of Section 409.4-403, RSMo. (Cum. Supp. 2012).

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. 2012), 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 Respondent’s right to a hearing with respect to this matter.
6. Respondent waives any right that Respondent 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 positions 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. John Everett McCarty (“McCarty”) is a thirty-eight (38) year old Missouri resident with a mailing address of 602 Bradford Court, Farmington, Missouri 63340.

13. McCarty is registered with the Missouri Department of Insurance, Financial Institutions, & Professional Registration (“DIFP”) with a license number of 0351431.
14. A check of the Central Registration Depository (“CRD”) records reveals that at all times relevant to this matter McCarty was not registered as a broker-dealer, agent, investment adviser, or investment adviser representative in the State of Missouri.
15. Brad Eugene Cooper (“Cooper”) is a forty-six (46) year old Missouri resident with a mailing address of 777 Loughboro Road, Bismarck, Missouri 63624.
16. Cooper is registered with the DIFP with a license number of 0224163.
17. A check of the CRD records reveals that at all times relevant to this matter Cooper was not registered as a broker-dealer, agent, investment adviser, or investment adviser representative in the State of Missouri.
18. Cooper Financial Solutions LLC (“Cooper Financial”), Charter Number LC 1083947, is a Missouri limited liability company created on September 8, 2010. Cooper is listed as the registered agent of Cooper Financial with an office address of 1565 Sainte Genevieve Avenue, Farmington, Missouri 63640.
19. Income Advisors LLC (“Income Advisors”), Charter Number LC1259737, is a Missouri limited liability company created on October 2, 2012. Cooper is listed as the registered agent of Income Advisors with an office address of 1565 Sainte Genevieve Avenue, Farmington, Missouri 63640.
20. McCarty and Cooper are co-owners of Income Advisors.
21. During the years of 2012 and 2013 (the “Relevant Period”), Cooper and McCarty jointly sold equity-indexed annuities (“EIAs”) and other insurance products to Missouri residents. To reach potential customers and promote their services, Cooper, McCarty, Cooper Financial and/or Income Advisors utilized a website and various social media platforms. These internet pages provided, among others things, the following:
 - a. “you should think twice about having money in the stock market. There are many other concepts and strategies you can use, ONLY if the average financial advisor would share with you...”; (Emphasis in the original).
 - b. McCarty “has become a trusted name among the financially savvy...”;
 - c. McCarty “has brought forth a new way to look at financial planning...”; and
 - d. McCarty “can help you know the best plan to protect your money. First he will analyze your financial situation... Then he will show you financial options and the consequences of each choice. Finally, he will help you to move swiftly and confidently to protect your retirement and your family. *No more worries about out-living your retirement funds. No more worries about the financial future of your loved ones. . .*” (Emphasis in the original).

22. In addition to the website and social media platforms, Cooper distributed marketing materials and placed advertisements in newspapers and other publications during the Relevant Period. These materials and advertisements provided, among other things, the following:
 - a. “Many families are concerned that another economic downturn...could have them outliving their retirement money”;
 - b. “Are you concerned about protecting your money?”; and
 - c. “Are you concerned another down market could ruin your retirement?”
23. During the Relevant Period, Cooper and McCarty were both affiliates of Advisors Excel (“Advisors Excel”), a field marketing organization (“FMO”) located in Topeka, Kansas. For a fee, Advisors Excel affiliates receive training seminars, materials, and information regarding the marketing of insurance products and services. Cooper and McCarty received these marketing materials that included, among other things, a video-taped seminar titled, “Complete Advisor Bootcamp.” In the Complete Advisor Bootcamp, Advisors Excel recommended, among other things, that affiliates:
 - a. review a customer’s brokerage account;
 - b. create a wedge with the customer’s current broker-dealer agent and/or securities advisor;
 - c. advise that the customer’s current assets are subject to risk; and
 - d. recommend, among other things, the purchase of equity-indexed annuities for the customer’s account.
24. During the Relevant Period, Cooper and McCarty conducted seminars, as well as a weekly radio show entitled, “Financial Answers for Today’s Economy.” At these seminars and/or on the radio shows, Cooper and/or McCarty, among others things:
 - a. stated that the “stock market is risky...bonds are not guaranteed anymore...”
 - b. stated that investment portfolios should be properly diversified;
 - c. stated that investors would not make money in certificates of deposit or money market accounts;
 - d. offered to meet and review the individual’s insurance, savings, and investments; and
 - e. offered to make recommendations and to implement these recommendations for the individual.

25. During the Relevant Period, Cooper and McCarty offered a free “30 minute consultation on how you can complete your financial house and enjoy financial peace...” (Emphasis in the original).
26. At these consultations, Cooper and McCarty met with customers, reviewed customers’ investments and securities held in brokerage accounts, and recommended that at least some customers liquidate securities in order to purchase EIAs.
27. During the Relevant Period, approximately thirteen (13) customers of Cooper and McCarty liquidated securities to purchase EIAs.
28. McCarty earned commissions on the sale of EIAs that were funded, in whole or in part, by the liquidation of securities from customers’ accounts.
29. One Missouri couple complained about the EIA they purchased from Cooper and McCarty. The EIA firm cancelled this EIA purchase and returned the invested funds to the Missouri couple.
30. McCarty transacted business as an investment adviser in Missouri without being a registered investment adviser or exempt from registration, by, among other things, the following:
 - a. providing marketing materials, including a website, where McCarty held himself out as a “financial planner” and a “trusted adviser”;
 - b. recommending that customers “properly diversify” their investment portfolios;
 - c. recommending that customers get out of the stock market because a proposed tax hike by President Obama would result in a substantial drop in stock values;
 - d. assisting customers initiate the sale of securities to fund the purchase of fixed and equity-indexed annuities; and/or
 - e. receiving commissions for these fixed and equity-indexed annuity purchases.

II. CONCLUSIONS OF LAW

31. The Commissioner finds Respondent transacted business as an investment adviser in Missouri without being a registered investment adviser or exempt from registration, and that this conduct constitutes grounds to issue an order pursuant to Section 409.6-604 RSMo. (Cum. Supp. 2012).
32. 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. 2012).

III. ORDER

NOW, THEREFORE, it is hereby Ordered that:

1. Respondent agrees not to provide financial advice regarding securities without being registered as an agent or an investment adviser.
2. Respondent is ordered to remove all references on Respondent's website and marketing materials that would lead to an assumption that Respondent is registered to offer investment advice and/or liquidate securities.
3. Respondent shall pay to the Missouri Secretary of State's Investor Education and Protection Fund the sum of four thousand dollars (\$4,000). This payment shall be sent within sixty (60) 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.
4. Respondent is ordered to pay one thousand dollars (\$1,000) as the cost of this investigation. This amount shall be sent within sixty (60) 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.
5. Respondent shall pay his own costs and attorneys' fees with respect to this matter.

SO ORDERED:

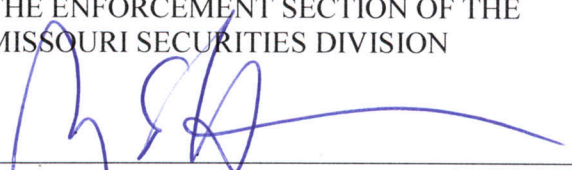
WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,
MISSOURI THIS 13TH DAY OF May, 2014.




JASON KANDER
SECRETARY OF STATE

Andrew M. Hartnett
ANDREW M. HARTNETT
COMMISSIONER OF SECURITIES

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

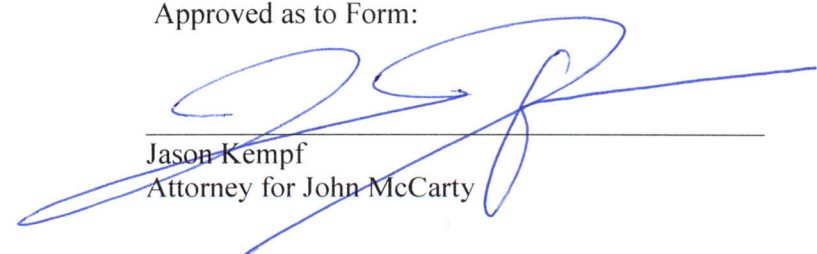


Mary S. Hosmer
Assistant Commissioner of Securities



John McCarty
Respondent

Approved as to Form:



Jason Kempf
Attorney for John McCarty