



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:)
)
EARN LIKE A PRO, LLC,)
)
)
Respondent.) Case No. AP-14-14
)
Serve:)
Earn Like a Pro, LLC at:)
Registered Agent: Russell Louis Mitchener)
5726 Walsh St.)
St. Louis, Missouri 63109)

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 Enforcement Counsel Tyler B. McCormick, has alleged that Earn Like a Pro, LLC ("ELAP" or "Respondent"), offered and/or sold unregistered non-exempt securities to at least twenty-four (24) individuals, employed or associated with an unregistered agent, and in connection with the offer, sale, or purchase of a security, omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and engaged in an act, practice, or course of business that would operate as a fraud or deceit, 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 409.3-301, 409.4-402, and 409.5-501, 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. Earn Like a Pro, LLC ("ELAP") is a Missouri company organized on November 1, 2012. The registered agent for ELAP is Russell Louis Mitchener with an address of 5726 Walsh Street, St. Louis, Missouri 63109.
13. Russell Louis Mitchener ("Mitchener") is a Missouri resident with a mailing address of 5726 Walsh Street, St. Louis, Missouri 63109. Mitchener is the Chief Executive Officer of ELAP.
14. A check of the records maintained by the Commissioner indicates that, all times relevant to this matter, there was no registration, granted exemption, or notice filing indicating status as a "federal covered security" for any securities issued by ELAP.
15. A check of the records maintained by the Commissioner indicates that, at all times relevant to this matter, ELAP had no registration or granted exemption for any agents in the State of Missouri.
16. In or around June 2013, ELAP began soliciting investors through ELAP's website.¹
17. From around June 2013, until May 2014, the ELAP website stated, among other things, the following:
 - a. "You have a chance to participate in the first authentic sports stock exchange, in which account owners can invest in athletes. An #ELAP account functions like an individual brokerage account that allows for you to invest more intimately in the world of sports";
 - b. "Like other brokerages, #ELAP charges a commission per trade. This commission is 5% of the trade or \$5, whichever is less";
 - c. "We've created a market through which people can invest in athletes, watch players' stock prices grow and sell players when their price peaks. #ELAP attaches real life value to the asset in the form of an annual dividend that parallels

¹ <http://www.earnlikeapro.com>

the athlete's earning. Additionally, assets earn bonus dividends for reaching specific performance measures”;

- d. “In the traditional stock market, companies are worth their expected future earnings. In the #ELAP market, so are the athletes”;
 - e. “The game is simple. Buy players’ stock. Sell players’ stock. Get paid. #ELAP attaches real life value to assets by providing the framework for a market that moves up and down with increases and decreases in the earnings potential of players. It is an investing innovation that takes the sports world to a new level of community and interaction”;
 - f. “Assets should change in price regularly, especially during their respective seasons. There is no reason to hold an asset for any specific length of time. Only asset holders at the conclusion of the sports championship will receive a dividend”;
 - g. “The dividend exists simply to establish the integrity of the market prices. Prices change fluidly and investors do not need to capture a dividend to make a profit”; and
 - h. “#ELAP hopes users invest wisely to further grow their portfolio.”
18. From around July 2013, through January 2014, at least twenty-four (24) investors opened an ELAP trading account and deposited in excess of fourteen thousand dollars (\$14,000) into an ELAP account held at Carrolton Bank in St. Louis, Missouri (“ELAP Bank Account”).
 19. From July 11, 2013, through February 10, 2014, in excess of three hundred twenty (320) investor transactions occurred in which ELAP sold or purchased “player stock” with investors.
 20. From July 11, 2013, through February 10, 2014, the investors’ funds were pooled in the ELAP Bank Account and used to settle the investors’ transactions.
 21. Investors were paid with funds deposited by investors and officers of ELAP.
 22. From July 11, 2013, through February 10, 2014, ELAP made in excess of seven hundred fifty dollars (\$750.00) in commissions.
 23. On April 22, 2014, Mitchener appeared before representatives of the Enforcement Section for an on-the-record interview (“Mitchener OTR”). During the Mitchener OTR, Mitchener stated, among other things, the following:

- a. ELAP operates a website that became accessible to the general public in Spring 2013;
- b. to launch and advertise the website, ELAP created social media pages and did an e-mail blast to friends and family;
- c. ELAP issues and trades “player stock”;
- d. “the price of the stock is the present value of all future dividends”;
- e. ELAP provides “the chance to -- to be able to buy and sell, you know, fake shares of an athlete that can -- that can go up or down in price similar to what we think of as the traditional stock market”;
- f. ELAP “is comparable to what you think of when you’re investing in the traditional stock market”;
- g. investors can make a profit through the appreciation of a player’s stock and through dividends;
- h. “[w]ell, innovation because it’s new and investing because it’s -- you know, you’re putting money on the site and trying to make money through -- you know, similar to a traditional investment, although with sports players”;
- i. “...every once in a while, yes, you have to say, well, the model is saying this guy is going to make 3 million but I don’t feel comfortable selling him at that price. I think that’s ridiculous. So we’re not going to list him for that. So I’m going to override what the model is saying he’s going to make the next three years and put in what I think he is going to make. You have to do that sometimes”;
- j. an investor does not control the salary of a player;
- k. the first deposit by an investor was on July 11, 2013;
- l. around 25 investors have deposited money into ELAP;
- m. all of the investors’ funds are pooled in the ELAP Bank Account;
- n. Mitchener does not keep track of which money is allocated to each investor;
- o. ELAP expenses are paid out of the ELAP Bank Account;
- p. Mitchener and another officer of ELAP have deposited money into the ELAP Bank Account;

- q. “the only actual money, the only cash that comes into the account is the investments by the owners and the deposits from the users. That’s the only actual cash that comes into the account.”
- r. When ELAP pays a dividend, “[i]t’s just a paper transaction into their account. If they withdraw it, it would come from the same pool.”
- s. ELAP makes money by charging a commission on the trades that users make on the website;
- t. ELAP charges investors a commission per trade of five percent (5%) or five dollars (\$5) whichever is less;
- u. ELAP has made approximately one thousand dollars (\$1,000) in commissions;
- v. in theory ELAP’s business model is sustainable, “if you have a large enough people invested in a big enough -- a diverse enough group of athletes, they should as a whole kind of neutralize, you know, not -- as a whole they should make zero, you know”;
- w. “Warren Graham” is a persona that another ELAP officer uses to provide sports investment advice on the ELAP website;
- x. “[An ELAP officer], one of the things he does fairly regularly is write, like, an advice article...Once a week he’d, like, have a couple players he thought were good investments”;
- y. users do not know that “Warren Graham” is actually an ELAP officer;
- z. ELAP does not have any agreements with professional athletes regarding the athlete’s future earnings;
- aa. users are not told that the price at which they are buying and selling shares is not the actual price that ELAP values those shares;
- bb. Mitchener developed the formula used to determine the price of a “player stock”;
- cc. investors are not told the formula that is used to set the prices of the “player stock”;
- dd. investors are not told anything specifically about the risk associated with their investments unless they ask;

- ee. investors are not provided with any financial information about ELAP;
 - ff. investors were not told that the securities ELAP was offering were not registered;
 - gg. Mitchener has never been registered; and
 - hh. ELAP has never been registered to sell securities in Missouri.
24. ELAP failed to disclose to investors, among other things, the following:
- a. that the stock offered or sold was not registered in Missouri;
 - b. that ELAP had no registration for any agents to transact business in Missouri;
 - c. the background and experience of ELAP officers;
 - d. any financial information about ELAP;
 - e. that the stock offered and/or sold by ELAP had no underlying assets;
 - f. the formula used to calculate the value of a stock;
 - g. that ELAP has adjusted the value of a stock based on an ELAP officer's personal opinion;
 - h. that ELAP has changed the formula used to calculate the value of a stock in order to mitigate risks to ELAP;
 - i. that Warren Graham, who provides stock recommendations on the ELAP website, is a persona used by an officer of ELAP; and
 - j. that an investor's profit and/or dividend would be paid with the funds from other investors and ELAP officers.

II. CONCLUSIONS OF LAW

25. The Commissioner finds the Respondent offered and sold unregistered, non-exempt securities, employed or associated with an unregistered agent who transacted business in Missouri, omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and engaged in an act, practice, or course of business that would operate as a fraud or deceit and that this conduct constitutes grounds to issue an order pursuant to Section 409.6-604 RSMo. (Cum. Supp. 2012).

26. The Commissioner, after consideration of the stipulations set forth above and on the consent of the Respondent and the Enforcement Section, finds and concludes that the Commissioner has jurisdiction over the 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:

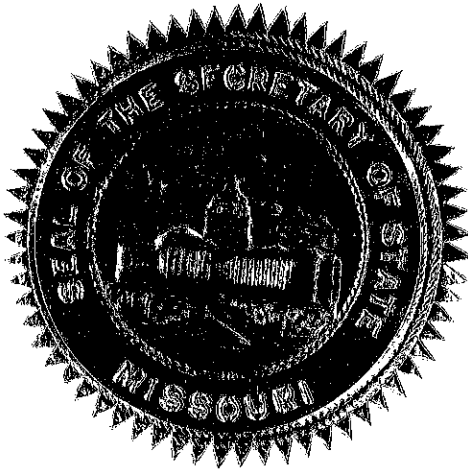
1. Respondent, Respondent's agents, employees and servants, and all other persons participating in the above-described violations with knowledge of this Order are permanently enjoined and restrained from offering and selling unregistered, non-exempt securities, employing or associating with unregistered agents, omitting to state material facts, and engaging in an act, practice, or course of business that would operate as a fraud or deceit in violation of Sections 409.3-301, 409.4-402, and 409.5-501, RSMo. (Cum. Supp. 2012).
2. Respondent is ordered to remove the ELAP website.
3. Respondent is ordered to pay nine thousand seven hundred eighty-four dollars and eighty-eight cents (\$9,784.88) in restitution. This amount shall be sent or delivered to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101 within thirty (30) days of the effective date of this Consent Order and shall be made payable to the Missouri Secretary of State's Investor Restitution Fund. This payment will be distributed by that Fund to the investor in the amount as stated in the attached Exhibit A. The payment shall become immediately due and payable, under operation of law, upon Respondent's failure to comply with the terms of this Order, and such immediately due payment shall be in addition to all other penalties then available under the law.
4. Respondent is ordered to pay two thousand five hundred dollars (\$2,500) as the cost of this investigation. This amount shall be sent within thirty (30) days of the effective date of this Consent Order to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101, and shall payable to the Missouri Secretary of State's Investor Education and Protection Fund.
5. Respondent shall pay to the Missouri Secretary of State's Investor Education and Protection Fund the sum of one thousand two hundred fifty dollars (\$1,250). This amount shall be sent within thirty (30) 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.
6. Respondent shall pay a civil penalty of twenty thousand dollars (\$20,000), pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2012), for multiple violations of Sections 409.3-301, 490.4-402, and 409.5-501 RSMo. (Cum. Supp. 2012). This amount will be

be suspended provided Respondent complies with the terms of this Order and does not violate the Missouri Securities Act for a period of three (3) years. This amount shall become immediately payable, under operation of law, upon Respondent's failure to comply with the terms of this Order, and such immediately due payment shall be in addition to all other penalties then available under the law.

7. The Commissioner may refer this matter for enforcement as provided in Sections 409.6-603 and 409.6-604, RSMo. (Cum. Supp. 2012).
8. Respondent shall pay Respondent's 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 14TH DAY OF AUGUST, 2014.



JASON KANDER
SECRETARY OF STATE

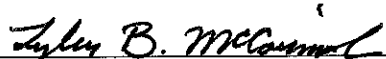
Andrew M. Hartnett

ANDREW M. HARTNETT
COMMISSIONER OF SECURITIES

Consented to by:


Consented to by:

THE ENFORCEMENT SECTION OF THE
MISSOURI SECURITIES DIVISION



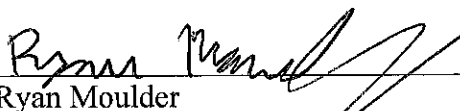
Tyler B. McCormick
Enforcement Counsel

EARN LIKE A PRO, LLC



Russell Mitchener
Chief Executive Officer

Approved as to Form:



Ryan Moulder
Attorney for Earn Like a Pro, LLC