



STATE OF MISSOURI  
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:	)	
	)	
BANKERS LIFE AND CASUALTY COMPANY,	)	
	)	Case No. AP-15-11
<i>Respondent.</i>	)	
	)	
Serve:	)	
	)	
Bankers Life and Casualty Company at:	)	
c/o Christopher T. Roach	)	
Roach Hewitt Ruprecht Sanchez & Bischoff, P.C.	)	
66 Pearl Street, Suite 200	)	
Portland, Maine 04101	)	

**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 Bankers Life and Casualty Company (“Bankers” or “Respondent”), contracted with an insurance agent, Manzur Mazumder (“Mazumder”), who engaged in an act, practice, or course of business that operates or would operate as a fraud or deceit on another person in violation of Section 409.5-502, RSMo. (Cum. Supp. 2013) and that this constitutes grounds to issue an order against Bankers pursuant to Section 409.6-604, RSMo. (Cum. Supp. 2013).
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 409.6-604, RSMo. (Cum. Supp. 2013).

### 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. 2013), 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

A. Respondent and Related Parties

12. Bankers is a Missouri-licensed insurance company with National Association of Insurance Commissioners ("NAIC") number 61263. Bankers has a main address of 111 East Wacker Drive, Suite 2100, Chicago, Illinois 60601.
13. ProEquities, Inc. ("ProEquities") is a Missouri-registered broker-dealer with Central Registration Depository ("CRD") number 15708. ProEquities' main address is 2801 Highway 280 South, Birmingham, Alabama, 35223.
14. Mazumder is an insurance agent and was contractually appointed with Bankers for the purpose of selling insurance products from June 20, 2011 to July 5, 2012. Mazumder has CRD number 2780858 but has never been securities registered<sup>1</sup>.
15. Prior to contracting with Bankers Mazumder had been the subject of a bankruptcy, and several liens, and judgments.
16. Harry Alan Ward ("Ward") was a Missouri-licensed insurance agent and was contractually appointed with Bankers for the purpose of selling insurance products from January 16, 2011 to July 31, 2012. Between April 2011 and August 2012, Ward was a Missouri-registered ProEquities agent with CRD number 5614564.

B. Enforcement Section Investigation

17. While contracted with Bankers, Mazumder and Ward sold universal life policies (the "UL Policies") to two elderly Cape Girardeau, Missouri residents ("MR1" and "MR2").
18. Although insurance documents provided to Bankers indicated that MR1 and MR2 had sufficient assets to purchase these policies, MR1 and/or MR2 told Mazumder and Ward

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<sup>1</sup> Mazumder was a subject of an Order to Cease and Desist issued by the Commissioner on November 18, 2013 (*In the Matter of MSM Capital Holdings, Inc. and Manzur Ahmed Mazumder, AP-13-18*).

that MR1 and MR2 could not afford the premium payments on these UL Policies.

19. Mazumder and Ward convinced MR1 and MR2 to set up a brokerage account at ProEquities (“Trading Account”).
20. Mazumder and Ward told MR1 and MR2 by using a “covered call strategy”<sup>2</sup> in the Trading Account, Mazumder and Ward could generate enough income to cover the premium payments.
21. The securities activity in the Trading Account was under the control and supervision of ProEquities.
22. Ward notified his Banker’s supervisor, Don Babcock (“Babcock”), that monitoring the Trading Account required a significant amount of time away from Ward’s insurance business.
23. According to Babcock:
  - a. Babcock questioned Wards’ supervisor at ProEquities (“DP”) to determine if the volume of activity in the Trading Account was typical; and
  - b. the DP stated that while most ProEquities agents recommended variable annuities and mutual funds, the volume of trading Ward was engaged in could be appropriate subject to approval by ProEquities.
24. The “covered call strategy” and securities trades effected by Ward and Mazumder in the Trading Account were inappropriately risky, ill-advised, and did not generate the income necessary to pay the premiums on the UL Policies.
25. The “covered call strategy” resulted in significant losses in the Trading Account.
26. In 2012, Mazumder terminated his contract with Bankers, moved to another insurance company and, among other things, requested:
  - a. that MR1 and MR2 replace their UL Policies with similar policies from another carrier; and
  - b. that MR1 surrender an annuity previously purchased with Bankers.
27. Upon learning of this request, Babcock telephoned MR1 to discuss this recommendation and advised MR1 that the early surrender of MR1’s annuity would require a significant surrender charge.

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<sup>2</sup> A covered call is an income-producing strategy where you sell, or “write”, call options against shares of stock already owned.

28. Unbeknownst to Bankers, Mazumder had previously supplied MR1 with a script (“Script”) of what to say when Bankers contacted MR1 regarding this recommendation.
29. Following Mazumder’s instruction in the Script, MR1 expressed no concerns during the call with Babcock at Bankers about the transfer of the policies or this surrender charge.
30. While at Bankers, MR1 and MR2 made premium payments on the Banker’s UL Policies in excess of \$42,000.
31. MR1 paid a \$12,033.54 surrender penalty to transfer the annuity.
32. As Ward and Mazumder’s supervisor at Bankers, Babcock knew or should have known, that Mazumder was involved in trading securities in the Trading Account. Those trades resulted in significant losses. Mazumder engaged in an act, practice, or course of business that operated or would operate as a fraud or deceit on another person in violation of Section 409.5-502, RSMo. (Cum. Supp. 2013) and that this constitutes grounds to issue an order against Bankers pursuant to Section 409.6-604, RSMo. (Cum. Supp. 2013).

### **Additional Facts**

33. In 2012, Bankers entered into a multi-state consent order (including with the Missouri Securities Division) that resulted in new procedures to ensure separation between the insurance and securities functions that take place at Bankers’ locations.
34. The activity that is the subject of this consent order occurred before the full implementation of these procedures in Missouri. Bankers provided information to the Enforcement Section that indicated that the new procedures have since been fully implemented in Missouri.
35. Bankers has been the subject of independent audits for three consecutive years, to ensure the appropriate separation between the insurance and securities functions is maintained on a consistent basis. Bankers provided information to the Enforcement Section that the independent audits have affirmed that these new procedures have been effective.

## **II. CONCLUSIONS OF LAW**

36. The Commissioner finds the Respondent contracted with Mazumder who engaged in an act, practice, or course of business that operated or would operate as a fraud or deceit on another person and that this conduct constitutes grounds to issue an order against the Respondent pursuant to Section 409.6-604 RSMo. (Cum. Supp. 2013).
37. 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. 2013).

### III. ORDER

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

1. Respondent is ordered to disgorge to investors as identified by the Enforcement Section forty-two thousand two hundred fifty-six dollars and forty-two cents (\$42,256.42) in premium payments received by Respondent. This payment shall be sent within twenty (20) 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 Restitution Fund. This payment will be distributed by that fund to the investors identified in Exhibit 1 by the Enforcement Section.
2. Respondent is ordered to pay twelve thousand thirty-three dollars and fifty-four cents (\$12,033.54) for surrender fees paid by investors identified by the Enforcement Section. This payment shall be sent within twenty (20) 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 Restitution Fund. This payment will be distributed by that fund to the investors identified in Exhibit 1 by the Enforcement Section.
3. Respondent is ordered to pay two thousand eight hundred eighty-eight dollars and four cents (\$2,888.04) interest on the surrender fees paid by investors, calculated at the rate of eight percent (8%) per annum from the date of the surrender. This payment shall be sent within twenty (20) 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 Restitution Fund. This payment will be distributed by that fund to the investors identified in Exhibit 1 by the Enforcement Section.
4. Respondent shall pay to the Missouri Secretary of State's Investor Education and Protection Fund the sum of forty thousand dollars (\$40,000). This payment shall be sent within twenty (20) 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 five thousand dollars (\$5,000) as the cost of this investigation. This amount shall be sent within twenty (20) 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.

6. 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 22<sup>nd</sup> DAY OF APRIL, 2015.



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

*M. S. Hosmer*  
Mary S. Hosmer  
Assistant Commissioner of Securities

Bankers Life and Casualty Company

BY: William D. Fritts, Jr.

NAME: WILLIAM D. FRITTS, JR.

TITLE: SVP, REGULATORY AFFAIRS

Approved as to Form:

*Christopher T. Roach*

Christopher T. Roach  
Roach Hewitt Ruprecht Sanchez & Bischoff, P.C.  
Attorney for Respondent