



STATE OF MISSOURI  
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:	)	
	)	
LUCAS BRANSTETTER,	)	
	)	
	)	Case No. AP-15-17
	)	
Serve:	)	
Lucas Wayne Branstetter	)	
5784 County Road 240	)	
Kingdom City, Missouri 65262	)	
	)	
and	)	
	)	
	)	
Lucas Wayne Branstetter	)	
Cole County Jail	)	
350 East High Street	)	
Jefferson City, Missouri 65101	)	

**ORDER TO CEASE AND DESIST AND ORDER TO SHOW CAUSE WHY  
RESTITUTION, CIVIL PENALTIES, AND COSTS SHOULD NOT BE IMPOSED**

On April 10, 2015, the Enforcement Section of the Missouri Securities Division of the Office of Secretary of State (“Enforcement Section”), through Enforcement Counsel Tyler B. McCormick, submitted a Petition for Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed (“Petition”). After reviewing the petition, the Commissioner issues the following order:

**I. ALLEGATIONS OF FACT**

The petition alleges the following facts:

**A. Respondents and Related Parties**

1. Lucas Wayne Branstetter (“Branstetter” or “Respondent”) is a 39 year-old Missouri resident with a last known residential address of 5784 County Road 240, Kingdom City, Missouri 65262, but is currently being held in the Cole County Jail at 350 E. High Street, Jefferson City, Missouri 65101.

2. At all times relevant to this matter, Branstetter has never been registered with the State of Missouri as an investment adviser, investment adviser representative, broker-dealer, broker-dealer agent, and/or issuer agent.
3. At all times relevant to this matter, there was no registration, granted exemption, or notice filing indicating status as a “federal covered security” for the securities offered and/or sold by Branstetter.

**B. Enforcement Section Investigation**

4. A Mexico, Missouri resident (“MR”) met Branstetter sometime in 2009 when MR hired Branstetter to paint the interior of MR’s house.
5. After hiring Branstetter, MR befriended Branstetter, who periodically lived at MR’s residence until June 2011.
6. MR began to provide money to Branstetter for payment of child support, and later provided money to Branstetter for other personal expenses and trips to multiple states.
7. In or around 2011, Branstetter told the 66-year-old MR about an investment opportunity. With regard to the investment opportunity, Branstetter:
  - a. told MR there was no risk;
  - b. told MR that MR’s funds would be used for legal fees;
  - c. told MR that Branstetter was to receive four different settlements which totaled over \$500,000;
  - d. told MR that Branstetter had a case settlement coming from the Missouri Department of Transportation for an accident in which Branstetter was receiving in excess of \$450,000; and
  - e. told MR that Branstetter had another settlement check of approximately \$55,000 coming from Social Security.
8. MR and Branstetter signed multiple agreements from at least January 2011 until at least April of 2011. The agreements stated what the funds would be used for and the amount Branstetter was to repay MR.
9. On or around January 27, 2011, Branstetter provided MR with an agreement (“January Agreement”). The January Agreement set forth, among other things, the following:
  - a. MR had provided Branstetter with \$23,366.77 in funding prior to January 27, 2011;

- b. MR provided an additional \$1,100 on January 27, 2011;
  - c. Branstetter would use the funds for settlement of any and all legal recovery cases; and
  - d. MR would be repaid the full amount of all prior funds provided to Branstetter plus 5% simple interest.
10. On or around January 27, 2011, Branstetter signed the January Agreement.
11. In or around March 2011, Branstetter signed and provided MR with six agreements (“March Agreements”). The March Agreements set forth, among other things, the following:
- a. MR had provided Branstetter with \$41,448.96 in funding prior to March 23, 2011;
  - b. MR provided additional funds in each of the March Agreements;
  - c. Branstetter would use the funds MR provided for settlement of any and all legal recovery for the following cases: “Dot case”, “Social Security”, and “Kohls case”; and
  - d. MR would be repaid the full amount of all prior funds provided to Branstetter plus between 5%-24% simple interest.
12. On or around April 7, 2011, MR set up a joint bank account with Branstetter from which Branstetter could trade after Branstetter had received the settlements.
13. Around May 2011, Branstetter asked MR for \$1,800 so that Branstetter could travel to Florida. Branstetter claimed he needed to go to Florida to collect a \$600,000 settlement. Branstetter told MR that Branstetter was going to use the settlement to pay back all of the money Branstetter had borrowed; however, Branstetter returned from Florida without any money and made multiple excuses regarding why he did not receive the \$600,000 settlement.
14. On or around May 2, 2011, Branstetter signed and provided MR with an agreement (“May Agreement”). The May Agreement set forth, among other things, the following:
- a. MR had provided Branstetter with \$69,357.29 in funding prior to May 2, 2011;
  - b. MR provided an additional \$1,500 on May 2, 2011;
  - c. Branstetter would use the funds for settlement of any and all legal recovery for the following cases: “Dot case”, “Social Security”, and “Kohls case”; and

- d. MR would be repaid the full amount of all prior funds provided to Branstetter plus 24% simple interest.
15. On or around June 15, 2011, Branstetter provided MR with an agreement (“June Agreement”). The June Agreement set forth, among other things, the following:
    - a. MR had provided Branstetter with \$81,000 in funding prior to June 15, 2011;
    - b. MR provided an additional \$325 on March 23, 2011;
    - c. Branstetter would use the funds for settlement of any and all legal recovery for the following cases: “Dot case”, “Social Security”, and “Kohls case”;
    - d. MR would be repaid the full amount of all prior funds provided to Branstetter plus 24% simple interest; and
    - e. repayment of the \$81,000 would begin on or before July 20, 2011.
  16. On or around June 17, 2011, Branstetter and MR executed the June Agreement.
  17. MR asked Branstetter numerous times for a return of MR’s investment.
  18. On or around October 1, 2014, Branstetter sent MR a letter stating that Branstetter had “finally” received some of the settlement money, and that if MR would “have patience” and “trust,” Branstetter would “make things right” with MR.
  19. MR has not received a return on the money MR provided to Branstetter for the legal settlements and was never repaid the principal.

#### **Additional Findings**

20. Shortly after executing the June Agreement, MR discovered Branstetter had stolen and forged checks from MR’s checking account.
21. MR reported the theft and forgery to the Audrain County Sheriff’s Department. Branstetter was arrested in August 2011. On December 5, 2011, Branstetter pleaded guilty to forgery in Audrain County.<sup>1</sup> Branstetter was sentenced to four years in prison, but received a suspended execution of sentence and was placed on probation for 5 years, ordered to serve 120 days shock incarceration, and pay \$600 in restitution. On January 27, 2012, a motion to amend the amount of restitution was granted, raising the amount owed to \$1,083.23.
22. On July 30, 2014, Branstetter was indicted for “Robbery of a Postal Employee” that occurred on July 19, 2014. On September 18, 2014, Branstetter pleaded guilty to the charges, in the United States District Court for the Western District of Missouri Central

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<sup>1</sup> State v. Branstetter, No. 11AU-CR00546-01.

Division<sup>2</sup> and the guilty plea was accepted on October 8, 2014. Branstetter is currently awaiting sentencing.

23. In connection with the offer and/or sale of securities, Branstetter failed to disclose to MR, among other things, the following:
  - a. that Branstetter was not registered to offer or sell securities in the State of Missouri;
  - b. that the securities were not registered in the State of Missouri;
  - c. the specific risks associated with the investment including, but not limited to, the risk associated with the purported settlements;
  - d. specific information about the purported settlements;
  - e. financial information to support the promised return; and
  - f. the financial condition of Branstetter.

## **II. COMMISSIONER'S DETERMINATION AND FINDING**

### **Multiple Violations of Offering and Selling Unregistered, Non-Exempt Securities**

24. The **COMMISSIONER DETERMINES** that Branstetter offered and/or sold securities by, among other things:
  - a. soliciting MR to invest with Branstetter;
  - b. providing and executing agreements with MR promising a return on MR's investment dependent upon the efforts of others and not on the efforts of MR; and
  - c. receiving funds from MR.
25. These activities constitute an offer and/or sale as those terms are defined in Section 409.1-102(26), RSMo. (Cum. Supp. 2013).
26. The investments that Respondent offered and/or sold constitute securities as that term is defined in Sections 409.1-102(28), RSMo. (Cum. Supp. 2013).
27. At all times relevant to this matter, there was no registration, granted exemption, or notice filing indicating status as a "federal covered security" for the securities offered and/or sold by Respondent.

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<sup>2</sup> U.S. v. Branstetter, No. 14-4041-07-CR-C-BCW.

28. Respondent offered and/or sold securities in Missouri without these securities being (1) federal covered securities, (2) exempt from registration under Sections 409.2-201 or 409.2-203, RSMo. (Cum. Supp. 2013), or (3) registered under the Missouri Securities Act of 2003, in violation Section 409.3-301, RSMo. (Cum. Supp. 2013).
29. Respondent's conduct in violation of Section 409.3-301, RSMo. (Cum. Supp. 2013) constitutes an illegal act, practice, or course of business and such conduct is, therefore, subject to the Commissioner's authority under Section 409.6-604, RSMo. (Cum. Supp. 2013).

**Multiple Violations of Making an Untrue Statement, Omitting to State Material Facts or Engaging in An Act, Practice, or Course of Business that Would Operate as a Fraud or Deceit Upon Another Person in Connection with the Offer or Sale of a Security**

30. The **COMMISSIONER FURTHER DETERMINES** that in connection with the offer, sale or purchase of a security as described above, Branstetter omitted to state to MR material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, the following:
  - a. telling MR that (1) Branstetter was to receive four different settlements which totaled over \$500,000; (2) Branstetter had a case settlement for over \$450,000 coming from an accident he was in; (3) Branstetter had a case settlement of approximately \$55,000 coming from Social Security; (4) MR's funds would be used for legal fees; and/or (5) there was no risk. These statements, in light of the circumstances under which they were made, were misleading statements because Branstetter omitted to disclose the following material facts that could impact this return and the viability of MR's investment:
    - i. that Branstetter was not registered to offer or sell securities in the State of Missouri;
    - ii. that the securities were not registered in the State of Missouri;
    - iii. the specific risks associated with the investment including, but not limited to, the risk associated with the purported settlements;
    - iv. specific information about the purported settlements;
    - v. financial information to support the promised return; and/or
    - vi. the financial condition of Branstetter.
  - b. providing MR with the June Agreement setting forth that (1) MR's funds would be used for settlement of any and all legal recovery for the following cases: "Dot

case”, “Social Security”, and “Kohls case”; (2) MR would receive the principal from MR’s investment plus 24% simple interest; and/or (3) repayment would begin on or before July 20, 2011. These statements, in light of the circumstances under which they were made, were misleading statements because Branstetter omitted to disclose the following material facts that could impact this return and the viability of MR’s investment:

- i. that Branstetter was not registered to offer or sell securities in the State of Missouri;
- ii. that the securities were not registered in the State of Missouri;
- iii. the specific risks associated with the investment including, but not limited to, the risk associated with the purported settlements;
- iv. specific information about the purported settlements;
- v. financial information to support the promised return; and/or
- vi. the financial condition of Branstetter.

31. The **COMMISSIONER FURTHER DETERMINES** that in connection with the offer, sale or purchase of a security as described above, Branstetter engaged in an act, practice or course of business that would operate as a fraud or deceit upon MR, by, among other things:
  - a. lulling MR in order to avoid or delay detection by sending MR a letter on or around October 1, 2014, stating that Branstetter had “finally” received some of the settlement money, and that if MR would “have patience” and “trust,” Branstetter would “make things right” with MR.
32. Respondent 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 upon another person, in violation of Section 409.5-501, RSMo. (Cum. Supp. 2013).
33. At the time Respondent engaged in this conduct, MR was over the age of 60-years-old and was an elderly person as that term is defined under Section 409.6-604(d)(3)(B), RSMo. (Cum. Supp. 2013).
34. Respondent’s conduct in violation of Section 409.5-501, RSMo. (Cum. Supp. 2013), constitutes engaging in an illegal act, practice, or course of business, and such conduct is, therefore, subject to the Commissioner’s authority under Section 409.6-604, RSMo. (Cum. Supp. 2013).

35. This order is in the public interest and is consistent with the purposes of the Missouri Securities Act of 2003. See Section 409.6-605(b), RSMo. (Cum. Supp. 2013).

### **III. ORDER**

**NOW THEREFORE**, it is hereby ordered that Respondent, his agents, employees and servants, and all other persons participating in or about to participate in the above-described violations with knowledge of this order be prohibited from violating or materially aiding in any violation of:

- A. Section 409.3-301, RSMo. (Cum. Supp. 2013), by offering or selling any securities as defined by Section 409.1-102(28), RSMo. (Cum. Supp. 2013), in the State of Missouri unless those securities are registered with the Securities Division of the Office of the Secretary of State in accordance with the provisions of Section 409.3-301; and
- B. Section 409.5-501, RSMo. (Cum. Supp. 2013), by, in connection with the offer or sale of securities, making an untrue statement of a material fact or omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading or engaging in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

### **IV. STATEMENT**

Pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2013), the Commissioner hereby states that he will determine whether to grant the Enforcement Section's requests for:

- A. a \$10,000 civil penalty against Respondent for more than one violation of Section 409.3-301, RSMo. (Cum. Supp. 2013);
- B. \$15,000 civil penalties against Respondent for more than one violation of Section 409.5-501, RSMo. (Cum. Supp. 2013), when at least one of these violations was committed against an elderly person;
- C. An order to pay restitution for any loss, including the amount of any actual damages that may have been caused by the conduct, and interest at the rate of 8% per year from the date of the violation causing the loss or disgorge any profits arising from the violations of Sections 409.3-301 and 409.5-501, RSMo. (Cum. Supp. 2013), in a final order, unless Respondent requests a hearing and shows cause why this restitution or disgorgement should not be imposed; and
- D. An order against Respondents to pay the costs of the investigation in this proceeding, after a review of evidence of the amount submitted by the Enforcement Section.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,  
MISSOURI THIS SIXTEENTH DAY OF APRIL, 2015.



JASON KANDER  
SECRETARY OF STATE

*Andrew M. Hartnett*

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ANDREW M. HARTNETT  
COMMISSIONER OF SECURITIES



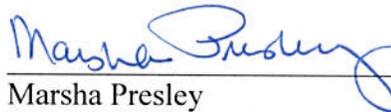
CERTIFICATE OF SERVICE

I hereby certify that on this 16<sup>th</sup> day of April, 2015, a copy of the foregoing Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed in the above styled case was **mailed by certified U.S. mail to:**

Lucas Wayne Branstetter  
5784 County Road 240  
Kingdom City, Missouri 65262

and

Lucas Wayne Branstetter  
c/o Cole County Jail  
350 East High Street  
Jefferson City, Missouri 65101



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Marsha Presley  
Securities Office Manager