

State of Missouri
Office of Secretary of State

Case No. AP-07-05

IN THE MATTER OF:

GREAT AMERICAN INVESTORS, INC.,
CRD No. 28489; *and*
DAVID K. RICHARDS, CRD No. 375518

Respondents.

Serve both at: 6025 Metcalf Lane
Overland Park, KS 66202-2301

CONSENT ORDER

SUMMARY OF ENFORCEMENT SECTION'S ALLEGATIONS

1. The Enforcement Section of the Missouri Securities Division has alleged that Respondents failed to timely amend a form filed with the Division of Securities, and filed false information with the commissioner and failed to supervise a registered agent of Great American Investors, Inc. Failing to timely file amendments and filing false information with the commissioner are dishonest or unethical practices and these acts constitute grounds to revoke Respondents' registrations pursuant to Section 409.4-412,(d)(13) RSMo. (Cum. Supp. 2006). Failing to supervise an agent constitutes grounds to revoke Respondents' registrations in Missouri pursuant to Section 409.4-412, (d)(9) RSMo. (Cum. Supp. 2006).
2. Respondents and the Securities Division desire to settle the allegations and the matters raised by the Securities Division relating to Respondents' dishonest and unethical practices.

CONSENT TO JURISDICTION

3. Respondents and the Enforcement Section of the Securities Division stipulate and agree that the Commissioner has jurisdiction over the Respondents and these matters pursuant to the Missouri Securities Act of 2003, Chapter 409, et seq.
4. Respondents and the Enforcement Section of the Securities Division stipulate and agree that the Commissioner has authority to enter this Order pursuant to Section 409.6-604(h), RSMo. (Cum. Supp. 2006), 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. Respondents waive their rights to a hearing with respect to this matter.

6. Respondents waive any rights that they may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order. Respondents specifically forever release and hold harmless the Missouri Office of Secretary of State, Secretary of State, Commissioner of Securities and their respective representatives and agents from any and all liability and claims arising out of, pertaining to or relating to this matter.
7. Respondents stipulate and agree with the Securities Division that, should the facts contained herein prove to be false or incomplete, the Missouri Securities Division reserves the right to pursue any and all legal or administrative remedies at its disposal.

CONSENT TO COMMISSIONER'S ORDER

8. Respondents and the Securities Division 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. Respondents agree not to take any action or to make or permit to be made any public statement creating the impression that this Order is without a factual basis.
10. Respondents agree that Respondents are not the prevailing party in this action since the parties have reached a good faith settlement.
11. Respondents neither admit nor deny the allegations made by the Securities Division but consent to the Commissioner's Findings of Fact and Conclusions of Law as set forth below solely for the purposes of this proceeding and any proceeding that may be brought to enforce the terms of this Consent Order.

COMMISSIONER'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. FINDINGS OF FACT

12. Great American Investors, Inc. ("Great American"), is a Missouri-registered broker-dealer with an address of 6025 Metcalf Lane, Overland Park, Kansas 66202-2301. Great American is registered in Missouri through the Central Registration Depository System ("CRD") with CRD number 28489.
13. David K. Richards ("Richards") is the President and CEO of Great American and has an address of 6025 Metcalf Lane, Overland Park, Kansas 66202-2301. Richards is registered in Missouri as a representative of Great American through the CRD, and has CRD number 375518.
14. As used herein the term "Respondents" refers to Great American and Richards.

A. Dishonest or Unethical Practices

15. On or about December 31, 2004, Great American, through Richards, terminated the employment of one of its registered representatives, Gregory Dale Bergman ("Bergman"). Bergman was registered through the CRD with CRD number 2787786.

16. Respondents documented this termination of Bergman's employment in the State of Missouri by filing a *Uniform Termination Notice of Securities Industry Registration* ("Form U-5"). In this Form U-5, Respondents listed the grounds for Bergman's termination as: "Production is not at the level anticipated by the firm at the time of the agent's registration with our firm."
17. In May 2006, the Securities Division (the "Division") initiated an investigation regarding allegations that Bergman, while employed by Great American, had borrowed money from a customer and that Great American had failed to adequately supervise this activity. As part of this investigation, the Division contacted Great American regarding Bergman's termination.
18. On June 9, 2006, Richards sent a letter to the Division which stated, among other things, the following:

It came to the firm's attention in the fall (October) of 2004 that Mr. Bergman had borrowed money from one of his clients at Great American Investors, Inc. That client was [a Missouri resident].

In this case, the client called in for cash withdrawal and claimed that Mr. Bergman would not return her phone calls.

After further interrogation of the client she admitted that she had loaned Mr. Bergman money and she would put in calls to him, which he would not return. She indicated it was \$4000 to \$6000 total and now he has paid her back. She indicated at this point that she now wanted a new broker.

As Principal of this firm, I immediately removed Mr. Bergman as the representative on the account and changed the account to my representative number with the client's permission. Approximately one week later, after talking with Mr. Bergman, the firm processed his termination on 11/04/2004 to be effective on 12/31/2004. I believe this was all verbal. The firm has no copies of any promissory note or contract for supporting documentation.

Mr. Bergman joined Great American Investors, Inc. in September of 2003. The firm went through its normal pre-hire interview and Mr. Bergman was asked if he had any complaints or "yes" answers on his U-4. He stated that he did not. Within one month of his start date, we received a letter from the NASD on October 10, 2003 requesting information about Mr. Bergman's settlement of a customer complaint without informing his employer, Met Life.

The firm terminated Mr. Bergman based on these two cases Mr. Bergman was involved in.

/s/ David K. Richards
President

19. On or about January 10, 2007, Richards faxed to the Division a copy of a Registration Comment Request Form ("RCRF") and stated that he had sent this form to the CRD

through the National Association of Securities Dealers (“NASD”) through an overnight mail service.

20. On the RCRF Richards requested that the NASD enter a registration comment on the CRD record of Bergman in connection with the Form U-5 that was submitted by Great American on December 31, 2004, regarding Bergman’s termination.
21. On the RCRF Richards stated that the registration comment was needed to correct the reason for termination as reported in Section 3 of Form U-5.
22. On the RCRF Richards stated that the agent, Bergman, was discharged and provided the following explanation:

“Agent wrongfully borrowed money from customer on several occasions, promised to repay, then failed to repay. This was done without B/D knowledge until 18 mo. later when notified by State of Missouri [*sic*].”

23. On the RCRF Richards stated that the registration comment was needed for the following reason:

To amend U-5 to reflect actual facts at time of termination not known to B/D. B/D respectfully requests this information be added to agent’s permanent record to prohibit re-entry into securities business and to prevent legal action against B/D by State.

B. Failure to Supervise an Agent

24. In 1997, Respondents, through their agent Michael Baldwin (“Baldwin”), opened an account for a seventy-eight year-old Missouri resident (“MR”).
25. From 1997 to 2003, Baldwin made numerous trades in MR’s account. Many of these trades were on margin. Because of these numerous trades, Respondents stated that they reviewed the activity in the account daily and obtained several letters from MR apparently acknowledging the active trading in MR’s account. MR’s health deteriorated and the court appointed a guardian for MR’s account. This account remains at Great American.
26. On July 10, 2006, the National Association of Securities Dealers (“NASD”) suspended Respondent Richards from acting as a supervisor for 30 days and Great American was fined twelve thousand five hundred dollars (\$12,500) for failing to adequately supervise Baldwin’s activities in MR’s account.
27. On April 3, 2007, the NASD fined Baldwin ten thousand dollars (\$10,000) for making unsuitable trades in MR’s account. In addition, Baldwin was suspended from associating with any NASD member firm for six months. That suspension will end on November 6, 2007.
28. An order is in the public interest and consistent with the purposes intended by this act. See Section 409.6-605(b), RSMo. (Cum. Supp. 2005).

ORDER

WHEREAS, the Commissioner, after consideration of the stipulations and findings set forth above and on the consent of Respondents and the Division, finds the following Consent Order to be in the public interest, necessary for the protection of public investors and consistent with the provisions of Chapter 409, RSMo.

NOW, THEREFORE, it is hereby ordered that:

1. Respondents will retain, at their expense, an outside consultant (“Consultant”) not unacceptable to the Commissioner, no later than one (1) month after the execution of this Consent Order. Within six (6) months of the execution of this Order, the Consultant will furnish an initial report to Respondents concerning Respondents’ supervisory and compliance- related policies, procedures and practices and will make recommendations to improve these activities. If the Consultant becomes unable to perform his or her duties, Respondents shall have thirty (30) days to select a replacement Consultant not unacceptable to the Commissioner.
2. The Consultant will prepare follow-up reports twelve (12), eighteen (18), and twenty-four (24) months following the execution of this Consent Order unless the Consultant affirmatively determines that such follow-up reports are unnecessary. These follow-up reports, if any, will make further recommendations and discuss the extent to which Respondents have implemented the Consultant’s earlier recommendations.
3. Respondents will provide to the Division copies of all reports prepared by the Consultant. The Division may speak with the Consultant at any time during the period that the Consultant is retained by Respondents. Any costs and/or fees associated with the Division’s speaking with the Consultant shall be borne by the Division.
4. Respondents will promptly adopt and implement the processes, procedures and practices recommended by the Consultant, however, Respondents may propose alternative procedures (“Alternative Procedures”) designed to achieve the same objective or purpose as those that were recommended by the Consultant. Respondents may adopt the Alternative Procedures if the Consultant agrees that Respondents’ proposed procedures will achieve the same objectives or purposes as the Consultant’s original recommendations. In the event that Respondents and the Consultant disagree regarding any recommendation by the Consultant, Respondents shall have thirty (30) days to appeal such recommendation to the Commissioner and shall be bound by the decision of the Commissioner.
5. Respondents will make available upon request by the Division all written communications between Respondents, its employees and the Consultant, as well as all documents that the Consultant has advised Respondents in writing that the Consultant reviewed or relied upon in connection with this engagement.
6. For a period of three (3) years following the conclusion of the Consultant’s work, Respondents, their affiliates and any of their officers may not employ or hire the Consultant in any capacity.
7. Respondents are ordered to pay to the Investor Education and Protection Fund the sum of fifteen thousand dollars (\$15,000) made payable to the State of Missouri, and the Secretary of State shall forward these funds to the Investor Education and Protection Fund. This amount shall be due and payable within ten (10) business days

from the date this Consent Order is executed;

- 8. Respondents are ordered to pay two thousand five hundred dollars (\$2,500) as the cost of this investigation. This amount shall be payable to the Missouri Secretary of State's Investor Education and Protection Fund. This amount shall be due and payable within ten (10) business days from the date this Consent Order is executed; and
- 9. Respondents will pay their 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 30TH DAY OF AUGUST, 2007.

ROBIN CARNAHAN
SECRETARY OF STATE

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

Consented to by:
MISSOURI SECURITIES DIVISION

Mary S. Hosmer
Assistant Commissioner of Securities

David K. Richards Title

Approved as to Form

Anthony J. Durone, Attorney for Respondents