

State of Missouri
Office of Secretary of State

Case No. AP-10-42

IN THE MATTER OF:

MEYERS ASSOCIATES, L.P.
CORPORATION, CRD #34171; and
SUKHWAN MICHAEL YUN, CRD #5640757

Respondent.

Serve: SUKHWAN MICHAEL YUN
280 MARIN BOULEVARD, #4N
JERSEY CITY, NEW JERSEY 07302

CONSENT ORDER AS TO SUKHWAN MICHAEL YUN

SUMMARY OF ENFORCEMENT SECTION'S ALLEGATIONS

1. The Enforcement Section of the Missouri Securities Division ("Enforcement Section") has alleged that Sukhwan Michael Yun, ("Respondent" or "Yun") transacted business as an unregistered agent in violation of Section 409.4-402(d), RSMo. (Cum. Supp. 2009) and that this constitutes grounds to discipline Respondent pursuant to Section 409.4-412(d)(2), RSMo. (Cum. Supp. 2009).
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 transacting business as an unregistered agent.

CONSENT TO JURISDICTION

3. Respondent and the Enforcement Section stipulate and agree that the 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. 2009), 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 his right to a hearing with respect to this matter.
6. Respondent waives any right that he 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 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. 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 position in defense of litigation or in defense of other legal proceedings in which the Commissioner of Securities 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. Meyers Associates, L.P. ("Meyers") is a Missouri-registered broker-dealer with an address of 45 Broadway, Second Floor, New York, New York, 10006. Meyers is registered in Missouri through the Central Registration Depository System ("CRD") with CRD number 34171.
 13. Sukhwan Michael Yun ("Yun") is a New Jersey resident with an address of 280 Marin Boulevard, Apartment 4N, Jersey City, New Jersey 07302. For the period July 28, 2010 to February 24, 2011, Yun was an agent of Meyers registered in New York, California, Illinois, Minnesota, and Virginia. Yun was registered with these states through the CRD with CRD number 5640757. Although Yun was previously registered as an agent in Missouri, that registration terminated on October 22, 2009. Yun is not currently registered as an agent in Missouri.
 14. Leor Yohanan ("Yohanan") is a New York resident with a last known address of 1457 Bay Ridge Parkway, Brooklyn, New York 11228. Yohanan is a Missouri-registered agent of Meyers. Yohanan is registered with the CRD with number 3236428.
 15. Steven Bencivenga ("Bencivenga") is a New York resident with a last known address of 8107 10th Avenue, Brooklyn, New York 11228. Bencivenga is a Missouri-registered agent of Meyers. Bencivenga is registered with the CRD with number 3000161.
 16. On or around 3 p.m. on December 1, 2010, a registration/licensing specialist with the Missouri Securities Division ("MR1") received a cold call¹ from Yun while MR1 was at work. During that call, Yun:
 - a. stated he worked for Meyers;
 - b. asked MR1 about MR1's investment experience with brokers;
 - c. asked MR1 if MR1 was interested in investing;
 - d. attempted to solicit MR1's purchase of Nuance Communications, Inc. ("NUAN") stock;
 - e. told MR1 that NUAN was a technology stock and compared NUAN to IPOD technology; and
 - f. told MR1 that Yun could effect the transaction at that time.
- ¹ A method used by agents of broker-dealers to obtain new business by making unsolicited calls to potential customers who have no connection to the broker-dealer or agent.
17. MR1 ended the call telling Yun that MR1 needed to consult with his wife, and asked if Yun could call back the next day so MR1's wife could sit in on the conversation.
 18. On December 8, 2010, Yun called MR1 a second time. MR1 informed Yun that MR1 still needed to speak with MR1's wife before making a decision. Yun then solicited the purchase of NUAN stock asserting, among other things:
 - a. it was not a problem if MR1's wife wasn't around to discuss the investment;
 - b. Steve Mozniak ("Mozniak") of Apple misspoke during a recent press conference, saying Apple had acquired NUAN;
 - c. Mozniak's "slip of the tongue" likely indicated Apple was considering the purchase of NUAN;
 - d. NUAN's stock price climbed twelve percent (12%) the next day as a result of Mozniak's "slip of the tongue";
 - e. Yun could easily see the stock price of NUAN rising to twenty-eight or twenty-nine dollars (\$28 or \$29) per share if acquired by Apple;
 - f. MR1 could invest three thousand six hundred dollars (\$3600) in NUAN that day (\$3600 being the minimum investment Yun's firm, Meyers, allowed) through Yun;
 - g. if MR1 invested that day, Yun would "Fed Ex" MR1 the confirmation and it would be on MR1's desk the next day;
 - h. even though MR1's wife was not there, MR1 should purchase immediately to lock in the current price of the stock; and
 - i. Yun couldn't make any guarantees about risk, but could place a stop limit order to minimize any potential losses.
 19. Throughout the December 8, 2010, call, MR1 repeatedly told Yun that MR1 never invested without discussing the investment with MR1's wife. Yun continued to pressure MR1 to make an immediate purchase, asking, "why don't we do this?" Eventually, Yun agreed to call MR1 back the next day when MR1's wife ("MR2") could speak with Yun as well.

20. On December 9, 2010, Yun spoke with MR1 and MR2 two (2) times regarding an investment in NUAN.
21. During the December 9, 2010, calls, Yun stated, among other things:
 - a. Yun was an investment banker with Series 7 and Series 63 licenses;
 - b. Meyers had over one hundred (100) associates, and they worked as a team, but MR1 and MR2 would work mainly with Yun;
 - c. Yun could place the trade that day, and MR1 and MR2 could either mail or wire the money;
 - d. MR1 and MR2 needed to purchase now because NUAN had a huge contract with Apple pending;
 - e. NUAN was a five billion dollar (\$5,000,000,000) company that had one billion dollars (\$1,000,000,000) in earnings;
 - f. NUAN was the “Bentley” of stocks, would be “money in the bank”, and an investment in NUAN was “safe money”;
 - g. there was no doubt in Yun’s mind that NUAN’s stock price would reach thirty dollars (\$30) per share;
 - h. Apple was going to eventually pay a very big premium to purchase NUAN;
 - i. the market was going to rise for the rest of the year;
 - j. the market closed in approximately two hours, so MR1 and MR2 could make the purchase immediately;
 - k. Yun would not charge a commission for the first trade, but requested that MR1 and MR2 think about doing business with him after he got them a return of thirty-five percent to forty percent (35% to 40%) on NUAN; and
 - l. if MR1 and MR2 were paying by check, they should make it out to Stearn, AGG, and Leach, Meyers’s bank clearing service based in Alabama.
22. During these conversations, MR1 and MR2 heard noise in the background, including people talking, phones ringing, and people answering phones saying, “Meyers and Associates.”
23. During these conversations, MR1 and MR2 were not asked any questions regarding MR1’s and MR2’s financial resources, age, investment objectives, or other suitability related issues.
24. On March 8, 2011, Yun spoke with an investigator from the Enforcement Section, and stated, among other things:
 - a. During Yun’s time at Meyers, Yun worked directly under two senior brokers, Yohanan and Bencivenga;
 - b. Yun’s supervisors, Yohanan and Bencivenga, knew Yun was not registered in Missouri;
 - c. Yohanan and Bencivenga knew Yun was making calls from a list that included Missouri residents;
 - d. Bencivenga told Yun in October 2010 that because the year was nearly over, Meyers didn’t want to pay registration fees in October and again in January to have Yun registered Missouri;
 - e. Bencivenga told Yun to continue to call states where Yun was not registered and in January 2011 Meyers would register Yun in additional states;
 - f. During the December 9, 2010 call with MR1 and MR2, Yohanan took the headset off Yun’s head, and began pitching a security to MR1 and MR2 without identifying himself; and
 - g. On March 1, 2011, Yun received a letter from Meyers notifying Yun that he had been terminated for “violating the firm’s written supervisory procedures by making a solicitation into a state where he was not registered.”

CONCLUSIONS OF LAW

25. The Commissioner finds Respondent transacted business as an unregistered agent in violation of Section 409.4-402 (d) and that this conduct constitutes grounds to discipline Respondent under Section 409.4-412, (d)(9), RSMo. (Cum. Supp. 2009).
26. 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. 2009).

ORDER

NOW, THEREFORE, it is hereby Ordered that:

1. Respondent is prohibited from applying as a securities agent or an investment adviser representative in Missouri for two (2) months;
2. Respondent shall pay five thousand dollars (\$5,000) to the Missouri Secretary of State's Investor Protection Fund, with four thousand four hundred dollars of that amount suspended provided Respondent is in compliance with the provisions of this Consent Order and with the Missouri Securities Act. Respondent shall send the remaining six hundred dollars (\$600) to the Securities Division in six (6) equal monthly installments of one hundred dollars (\$100) each. The first installment will be due on May 1, 2011, and all other installments will be due on the first of each month with the last installment due on October 1, 2011.
3. Respondent is ordered to pay one thousand three hundred and five dollars (\$1,305.00) as the cost of this investigation; however this amount will also be suspended provided Respondent is in compliance with the provisions of this Consent Order and with the Missouri Securities Act;
4. For two (2) years from the execution of this document, the suspended payments in paragraph two (2) and three (3) immediately above shall become payable, under operation of law, upon Respondent's failure to comply with the terms of this Consent Order or the Missouri Securities Act following reasonable notice, and such payments shall be in addition to all other penalties then available under the law;
5. Any payments due under this Consent Order shall be sent 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; and
6. 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 4th DAY OF MAY, 2011.

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

SUKHWAN MICHAEL YUN
RESPONDENT