



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:)
)
RAYMOND E. CLAY, SR., CRD #2491012) Case No. AP-11-06
)
)
Respondent.)

**FINAL ORDER TO CEASE AND DESIST AND ORDER AWARDING CIVIL
PENALTIES, COSTS, AND RESTITUTION**

Now on the 22nd day of May, 2015, the Commissioner, having reviewed this matter, issues the following findings and order:

I. PROCEDURAL BACKGROUND

1. On January 18, 2011, the Enforcement Section, by and through Deputy Enforcement Counsel Kristine Kauflin, submitted a Petition for Order to Cease and Desist and Order to Show Cause Why Civil Penalties and Costs Should Not Be Imposed (the “Petition”) in the above-styled matter.
2. On January 20, 2011, the Commissioner issued an Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed against Respondent (the “Order”).
3. On February 15, 2011, Respondent filed his Response to the Order, stating, in part, that:
 - a. Respondent had already admitted that Respondent wrongly sold unauthorized and unapproved promissory notes to Missouri residents and failed to repay most of the notes;
 - b. Respondent had “truly learned [his] lesson;” and
 - c. Respondent was not requesting a hearing.
4. On May 10, 2011, Patrick T. Morgan, Chief Counsel for the Securities Division of the Office of Secretary of State, filed a Memorandum with the Commissioner, memorializing the final status in this case by operation of law.

5. On April 15, 2015, Mary S. Hosmer, Petitioner's Counsel, filed a Request for Hearing on Payment of Restitution, Civil Penalties, and Costs.
6. On May 8, 2015, the Petitioner and Raymond E. Clay filed a Joint Stipulation as to Penalties and Costs in this matter.

II. FINDINGS OF FACT

A. Respondent and Related Parties

7. PFS Investments, Incorporated ("PFS") is a Missouri-registered broker-dealer based in Duluth, Georgia and has an address of 3120 Breckinridge Boulevard, Building 700, Duluth, Georgia, 30099. PFS is registered in Missouri through the Central Registration Depository System ("CRD") with CRD number 10111.
8. Primerica Life Insurance Company ("Primerica Life") is a Missouri-licensed insurance company based in Duluth, Georgia and has an address of 3120 Breckinridge Boulevard, Duluth, Georgia 30099. Primerica Life is registered in Missouri through NAIC number 65919.
9. Primerica, Inc. ("Primerica") is a Delaware financial services marketing corporation headquartered in Duluth, Georgia. Primerica offers insurance products through its subsidiary, Primerica Life, and offers securities through its broker-dealer affiliate, PFS.
10. Raymond E. Clay, Sr. ("Clay") was a Missouri-registered agent (CRD number 2491012) with PFS from April 29, 1994 through June 9, 2008. Clay was permanently barred from association with any Financial Industry Regulatory Authority ("FINRA") member in any capacity on or about June 4, 2009. Clay has a last known address of 8809 West 70th Street, Merriam, Kansas 66201.
11. Clay was a Missouri-licensed non-resident insurance producer with the Missouri Department of Insurance, Financial Institutions & Professional Registration ("DIFP"). The Director of the Missouri DIFP revoked Respondent's non-resident insurance producer license on or about April 3, 2009. Clay's DIFP number is 167135.
12. Clay was a Kansas-licensed resident insurance producer with the Kansas Insurance Department ("KID"). Clay's Kansas insurance license was terminated effective May 1, 2009. Clay's KID number is 4877676.
13. As used herein, the term Respondent refers to Raymond E. Clay, Sr. ("Clay").

B. Summary of Allegations

14. On or about April 2, 2009, the Enforcement Section received referral information from the Missouri DIFP regarding allegations that Respondent sold unregistered promissory notes to Missouri and Kansas residents.

15. In offering these promissory notes, Respondent made the following statements to investors:
 - a. Respondent would double their money;
 - b. Respondent was participating in registered, silent passive investment pools involving large investors, venture capitalists, and leveraged buyouts; and
 - c. Respondent and investors could be in trouble if any information about the promissory notes were exposed.
16. Respondent failed to honor the promissory notes he offered and sold.
17. During the investigation, the Enforcement Section found that between April 2004 and November 2007, Respondent issued promissory notes to as many as ten (10) Missouri investors, who invested a total of one hundred thirty-three thousand seventy-nine dollars (\$133,079). Respondent issued promissory notes to at least two Kansas residents, who invested a total of over thirty-seven thousand (\$37,000).

C. Enforcement Section Investigation

Missouri Resident No. 1

18. On or about April 7, 2004, a 47-year-old Belton, Missouri resident (“MR1”) invested twelve thousand five hundred dollars (\$12,500) with Respondent. Respondent issued a promissory note that promised to pay MR1 twenty-five thousand dollars (\$25,000), forty-eight (48) months from the date of the note.

Missouri Resident No. 2

19. On or about July 28, 2004, a 52-year-old Blue Springs, Missouri resident and the 45-year-old spouse (collectively “MR2”) invested fifteen thousand dollars (\$15,000) with Respondent. Respondent issued a promissory note that promised to pay MR2 thirty thousand dollars (\$30,000), forty-eight (48) months from the date of the note.
20. On or about May 16, 2005, MR2 invested three thousand two hundred fifty dollars (\$3,250) with Respondent. Respondent issued a promissory note that promised to pay MR2 six thousand five hundred dollars (\$6,500), no later than thirty (30) days from the date of the note.
21. On or about July 1, 2005, MR2 invested two thousand seven hundred fifty dollars (\$2,750) with Respondent. Respondent issued a promissory note that promised to pay MR2 five thousand five hundred dollars (\$5,500), ninety (90) days from the date of the note.

22. On or about August 2, 2005, MR2 invested twenty thousand dollars (\$20,000) with Respondent. Respondent issued a promissory note that promised to pay MR2 forty thousand dollars (\$40,000), to be paid a minimum of thirty-six (36) months to a maximum of forty (40) months from the date of the note.
23. On or about September 29, 2005, MR2 invested five thousand five hundred dollars (\$5,500) with Respondent. Respondent issued a promissory note that promised to pay MR2 eleven thousand dollars (\$11,000), forty-eight (48) months from the date of the note.
24. On or about February 22, 2006, MR2 invested five thousand dollars (\$5,000) with Respondent. Respondent issued a promissory note that promised to pay MR2 ten thousand dollars (\$10,000), thirty-six (36) months from the date of the note.
25. From July 2004 through February 2006, MR2 invested six (6) times with Respondent totaling fifty one thousand five hundred dollars (\$51,500).

Missouri Resident No. 3

26. On or about April 28, 2005, a 66-year-old Kansas City, Missouri resident and the 64-year-old spouse (collectively "MR3") invested two thousand dollars (\$2,000) with Respondent. Respondent issued a promissory note that promised to pay MR3 four thousand dollars (\$4,000), sixty (60) months from the date of the note.

Missouri Resident No. 4

27. On or about December 12, 2005, a 56-year-old Kansas City, Missouri resident and the 55-year-old spouse (collectively "MR4") invested ten thousand five hundred seventy nine dollars (\$10,579) with Respondent. Respondent issued a promissory note that promised to pay MR4 twenty-one thousand one hundred fifty-eight dollars (\$21,158), sixty (60) months from the date of the note.

Missouri Resident No. 5

28. On or about March 29, 2006, a 62-year-old Raytown, Missouri resident and the 50-year-old spouse (collectively "MR5") invested fifteen thousand dollars (\$15,000) with Respondent. Respondent issued a promissory note that promised to pay MR5 thirty thousand dollars (\$30,000), thirty-six (36) months from the date of the note.

Missouri Resident No. 6

29. On or about November 1, 2006, a 30-year-old Kansas City, Missouri resident ("MR6") invested ten thousand dollars (\$10,000) with Respondent. Respondent issued a promissory note that promised to pay MR6 twenty thousand dollars (\$20,000), thirty-six (36) months from the date of the note.

Missouri Resident No. 7

30. On or about November 7, 2006, a 37-year-old Grandview, Missouri resident and the 38-year-old spouse (collectively “MR7”) invested six thousand dollars (\$6,000) with Respondent. Respondent issued a promissory note that promised to pay MR7 twelve thousand dollars (\$12,000), forty-eight (48) months from the date of the note.
31. On or about February 14, 2007, MR7 invested five thousand dollars (\$5,000) with Respondent. Respondent issued a promissory note that promised to pay MR7 ten thousand dollars (\$10,000), forty-eight (48) months from the date of the note.
32. On or about February 15, 2007, MR7 invested five thousand dollars (\$5,000) with Respondent. Respondent issued a promissory note that promised to pay MR7 ten thousand dollars (\$10,000), forty-eight (48) months from the date of the note.
33. From November 2006 through February 2007, MR7 invested three (3) times with Respondent totaling sixteen thousand dollars (\$16,000).

Missouri Resident No. 8

34. On or about January 18, 2007, a 40-year-old Peculiar, Missouri resident (“MR8”) invested five thousand dollars (\$5,000) with Respondent. Respondent issued a promissory note that promised to pay MR8 ten thousand dollars (\$10,000), twenty-four (24) months from the date of the note.

Missouri Resident No. 9

35. On or about March 2, 2007, a 55-year-old Kansas City, Missouri resident (“MR9”) invested eight thousand dollars (\$8,000) with Respondent. Respondent issued a promissory note that promised to pay MR9 sixteen thousand dollars (\$16,000), twenty-four months (24) from the date of the note.

Missouri Resident No. 10

36. On or about November 24, 2007, a 58-year-old Kansas City, Missouri resident (“MR10”) invested two thousand five hundred dollars (\$2,500) with Respondent. Respondent issued a promissory note that promised to pay MR10 five thousand dollars (\$5,000), forty-eight (48) months from the date of the note.

Additional Findings

37. On or about May 30, 2008, Respondent self-reported to PFS that he had borrowed money from a number of clients. Respondent advised PFS, among other things, of the following:

- a. One of the clients who held a promissory note issued by Respondent was demanding immediate repayment or planned to go public with his claims against Respondent;
 - b. Respondent promised clients that he would double their money;
 - c. Respondent issued promissory notes which promised repayment of double the amount the clients invested;
 - d. Respondent told the clients that he was “participating in a number of ‘registered’, ‘silent passive investment’ pools involving large investors, venture capitalists, and leveraged buyouts”;
 - e. None of what Respondent told the clients was true;
 - f. Respondent told the clients that the promissory notes must be kept secret because both Respondent and the clients could get in trouble with Primerica if the promissory notes were discovered; and
 - g. Respondent intended to turn over the client records concerning the matter, including a list of the clients from whom he had “borrowed.”
38. On or about June 23, 2008, Primerica Life notified the Missouri DIFP in writing that Primerica Life terminated Respondent’s affiliation with Primerica Life, that Primerica Life had received information indicating that Respondent had obtained funds via the use of promissory notes, and that such notes had not been honored and were prohibited by company policy.
39. During the months of June and July, 2008, Primerica approached each investor and processed, among other things, the following documentation and actions:
- a. Contacted each investor with regard to the funds given to Respondent in exchange for a promissory note;
 - b. Informed investors that the promissory notes issued by Respondent were not Primerica products;
 - c. Offered a “General Release” stipulating PFS’s willingness to pay the investor an amount of money equal to the original investment without interest upon the investor’s agreement to release PFS of all liability with regard to promissory notes issued by Respondent;
 - d. PFS reached a settlement and paid back all investors for the amount of their original investment to Respondent; and
 - e. PFS filed a U5 disclosure report with FINRA with regard to each investor.

40. On October 5, 2008, Respondent submitted a letter to the Missouri DIFP wherein he stated the following:

“I received approximately \$141,479 from Missouri residents over the entire time period and repaid approximately \$10,500, as the notes were becoming due.”

41. On or about April 3, 2009, the Director of the Missouri DIFP revoked Respondent’s non-resident insurance producer license citing untrustworthiness and financial irresponsibility in the conduct of business in the State of Missouri.

42. On or about June 4, 2009, FINRA took regulatory action against Respondent for engaging in private securities transactions without written notice to, and approval or acknowledgement from, his member firm, and for failing to respond fully to FINRA requests for information and failing to appear for an on-the-record interview. Respondent was permanently barred from association with any FINRA member in any capacity.

43. On or about April 30, 2010, the Enforcement Section received information from Respondent stating, among other things, the following:

“I did, wrongly, and regrettably, sell unauthorized and unapproved promissory notes to Missouri resident individuals and failed to repay most of the notes, although my intent was to repay them as my business grew. I did not make any claim of exemption from registration or exception from definition of a security.”

44. A check of the records maintained by the Commissioner of Securities indicates that Respondent failed to take any of the following actions with respect to the promissory notes he offered and sold to Missouri Residents 1 through 10: (1) register the securities with the State of Missouri, (2) claim an exemption from registration or exception from the definition of security in the State of Missouri, or (3) make a notice filing in the State of Missouri.

III. CONCLUSIONS OF LAW

45. Respondent violated Section 409.3-301, RSMo. (Cum. Supp. 2013), when he offered and sold unregistered, non-exempt securities as those terms are defined in Sections 409.1-102(26) and (28), RSMo., from the State of Missouri to MR1, MR2, MR3, MR4, MR5, MR6, MR7, MR8, MR9, and MR10.

46. Respondent violated Section 409.5-501, RSMo. (Cum. Supp. 2013), when, in connection with the offer, sale or purchase of a security as described above, Respondent engaged in an act, practice, or course of business that would operate as a fraud or deceit upon another person by making the following untrue statements of material fact to MR1, MR2, MR3, MR4, MR5, MR6, MR7, MR8, MR9, and/or MR10:

- a. That Respondent would double the investors' money;
 - b. That Respondent was participating in registered investments with large investors, venture capitalists, and leverages buyouts; or
 - c. That the investors could get in trouble if any information about the promissory notes was exposed.
47. 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).

IV. 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 are prohibited from:

- A. violating or materially aiding in any violation of Section 409.3-301, RSMo. (Cum. Supp. 2013), by offering or selling unregistered, non-exempt securities;
- B. violating or materially aiding in any violation of 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.

IT IS FURTHER ORDERED that Respondent shall pay a civil penalty in the amount of \$10,000 for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2013). One thousand dollars (\$1,000) shall be paid in four (4) monthly installments of \$250 each, beginning on July 1, 2015, with the final payment due on October 1, 2015. The remaining balance of \$9,000 of these penalties will 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. These civil penalty payments shall be made payable to the State of Missouri, and will delivered to the Securities Division. The Securities Division shall forward these funds to the state treasury for the benefit of county and township school funds as provided in Article IX, Section 7 of the Constitution of Missouri. If Respondent fails to make any payment described in these paragraphs, the full amount remaining shall be immediately due and payable, and if any amount remains unpaid the Commissioner may refer this matter for enforcement as provided in Sections 409.6-603 and 409-6-604, RSMo. (Cum. Supp. 2013).

IT IS FURTHER ORDERED that Respondent shall pay costs in this matter in the amount of \$5,000. The full amount of these costs will 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.

IT IS FURTHER ORDERED that Respondent shall pay his own costs and attorney's fees in this matter.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS TWENTY-SECOND DAY OF MAY 2015.



JASON KANDER
SECRETARY OF STATE

ANDREW M. HARTNETT
COMMISSIONER OF SECURITIES

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of May 2015, a copy of the foregoing Final Order to Cease and Desist and Order Awarding Civil Penalties, Costs, and Restitution issued in the above-styled case, **was emailed and mailed by certified U.S. Mail to:**

Raymond Clay
8809 West 70th St.
Merriam, Kansas 66204
rayclaysr@gmail.com

And by hand-delivery to:

Mary S. Hosmer
Assistant Commissioner
Missouri Securities Division



Marsha Presley
Securities Office Manager