

State of Missouri
Office of Secretary of State

Case No. AP-11-26

IN THE MATTER OF:

JASON MITCHELL GUILLEN;
AND CHERIE MICHELLE LEE,

Respondents.

Serve: Jason Mitchell Guillen at:
820 E. Montclair St, Apt 603
Springfield, Missouri 65807

Serve: Cherie Michelle Lee at:
820 E. Montclair St, Apt 603
Springfield, Missouri 65807

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

On October 12, 2011, the Enforcement Section of the Securities Division of the Office of Secretary of State (the "Enforcement Section"), through the Securities Division's Assistant Commissioner Mary S. Hosmer, submitted a Petition for Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs, Should Not Be Imposed. After reviewing the petition, the Commissioner issues the following findings of fact, conclusions of law and order:

I. FINDINGS OF FACT

1. Jason Mitchell Guillen ("Guillen") receives mail at 820 E. Montclair Street, Apartment 603, Springfield, Missouri 65807. A check of the records maintained by the Commissioner indicates that Guillen has never been registered as an agent or as an investment adviser representative in the State of Missouri.
2. Guillen was an insurance agent licensed with the Missouri Department of Insurance, Financial Institutions and Professional Registration (license number PR324801). On November 4, 2010, the Missouri Department of Insurance, Financial Institutions and Professional Registration revoked Guillen's insurance license for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial responsibility in the conduct of business, and for obtaining a loan from an insurance client.
3. Guillen was the subject of a cease and desist order by the Commissioner on April 13, 2007, *In the Matter of Jason Mitchell Guillen, Case No. AP-07-11*, Missouri Commissioner of Securities 2007 (the "2007 Guillen Order").

4. Cherie Michelle Lee ("Lee") has an address of 820 E. Montclair Street, Apartment 603, Springfield, Missouri 65807.
5. As used herein, the term "Respondents" refers to Guillen and Lee.
6. On March 23, 2011, the Enforcement Section received information from the Missouri Division of Health and Senior Services ("DHSS") that Guillen had offered and sold investments to a seventy-eight (78) year-old resident of Mount Vernon, Missouri ("MR1"), and MR1's seventy (70) year-old spouse ("MR2").
7. An investigator with the Enforcement Section contacted the DHSS investigator and received, among other things, information that in or around March 2011, while MR1 was at a rehabilitation center, Guillen arranged a meeting with MR1's family to go over MR1's insurance coverage.
8. During that meeting, Guillen told MR1 and MR2's daughter ("MR3"), among other things, that:
 - a. Guillen had been MR1's financial adviser for the past seven (7) years;
 - b. MR1 had a long-term care policy through Bankers Life and Casualty;
 - c. MR1 had two thousand four hundred dollars (\$2,400) of long-term care coverage per month;
 - d. Guillen was a private insurance broker;
 - e. Guillen dealt with nine (9) different investment and retirement dealers; and
 - f. Guillen and MR1 had executed durable power of attorney documents giving Guillen power of attorney over MR1's assets.
9. After this meeting, MR3 spoke to MR1 and MR2 about Guillen. MR1 and MR2 told MR3, among other things, that:
 - a. Guillen told MR1 and MR2 that Guillen was a "financial adviser;"
 - b. MR1 had invested one hundred fifty thousand dollars (\$150,000) with Guillen and Lee;
 - c. MR1 was to receive a "quick six percent (6%) return" on these invested funds;
 - d. the funds were invested in a bank; and
 - e. MR1 and MR2 were informed by Guillen that "the investment was lost" because, Guillen stated, "the bank had closed."
10. The Enforcement Section investigator talked with a seventy-one (71) year-old resident of Rogersville, Missouri ("MR4"). MR4 stated, among other things, that:
 - a. MR4 and MR4's sixty-nine (69) year-old spouse ("MR5") had purchased insurance products from Guillen;

- b. in February 2008, Guillen asked to borrow fifty-five thousand dollars (\$55,000) from MR4 and MR5;
 - c. Guillen provided MR4 and MR5 with a promissory note stating that MR4 and MR5 were to receive a ten percent (10%) rate of return on the fifty-five thousand dollar (\$55,000) investment;
 - d. this promissory note did not indicate a maturity date;
 - e. MR4 and MR5 invested fifty-five thousand dollars (\$55,000) with Guillen on February 11, 2008;
 - f. MR4 and MR5 understood that money invested with Guillen would be used by Guillen to trade in on-line accounts;
 - g. Guillen told MR4 and MR5 that MR4 and MR5's principal amount would always be protected; and
 - h. in the summer of 2011, Guillen told MR4 and MR5 that their money was lost.
11. In the 2007 Guillen Order, the Commissioner found among other things, that:
- a. Guillen had received over fifty thousand dollars (\$50,000) from two elderly Missouri residents;
 - b. Guillen used these funds to invest in currency trading;
 - c. Guillen lost the money Guillen invested in this currency trading; and
 - d. Guillen had engaged in an act, practice or course of business in the securities business that had operated or would operate as a fraud or deceit upon another person.
12. In the 2007 Guillen Order, Guillen was, among other things:
- a. prohibited from transacting business as an unregistered agent;
 - b. prohibited from offering or selling unregistered securities in the State of Missouri;
 - c. prohibited from engaging in an act, practice of course of business that operates or would operate as a fraud or deceit upon another person; and
 - d. ordered to pay restitution of twenty thousand dollars (\$20,000).
13. On June 8, 2011, Guillen appeared for an on-the-record examination by representatives of the Enforcement Section ("Guillen OTR").
14. During the Guillen OTR, Guillen stated, among other things, that:
- a. Guillen sold MR1 a medicare supplement, a long-term care policy, and an annuity through Bankers Life and Casualty at a time when Guillen was a licensed insurance agent;

- b. Guillen was involved in on-line foreign currency exchange ("Forex") trading and had accounts at several Forex trading companies;
 - c. Guillen had Forex trading accounts, at among others, the following firms:
 - i. Interbank FX, LLC ("IBFX") ("Guillen's IBFX Account");¹ and
 - ii. Forex Capital Markets, Ltd ("FXCM") ("Guillen's FXCM Account").²
 - d. Guillen had opened Forex trading accounts under Lee's name;³
 - e. Guillen had Lee's permission to open these Forex trading accounts;
 - f. Guillen completed the account opening documents with these Forex trading accounts under Lee's name with some information supplied by Lee;
- ¹ Located at 3165 Millrode Drive, Suite 200, Salt Lake City, Utah 84121-4732.
- ² Located at Northern & Shell Building 10 Lower Thanes Street London EC3R 6AD United Kindom.
- ³ The Enforcement Section investigation revealed that Guillen opened accounts for Lee at IBFX ("Lee's IBFX Account") and at FXCM ("Lee's FXCM Account").
- g. it was not hard to make fifty percent (50%) profit in a couple of months by making currency trades;
 - h. Guillen told MR1 that Guillen was involved in currency trading;
 - i. Guillen took Lee to MR1 and MR2's house and Guillen introduced Lee to MR1 and MR2;
 - j. Guillen told MR1 and MR2 that Lee worked with Guillen;
 - k. Guillen told MR1 and MR2 that Guillen had an account set up through Lee;
 - l. on May 7, 2008, Guillen took MR1 to the bank to wire transfer one hundred thousand dollars (\$100,000) from MR1's account to Lee's bank account at U.S. Bank in Springfield, Missouri ("Lee's U.S. Bank Account");
 - m. Lee's U.S. Bank Account listed Guillen's home address in the account opening documents;
 - n. Lee did not live at the address listed on Lee's U.S. Bank Account;
 - o. Guillen used Lee's U.S. Bank Account to hide the fact that Guillen had a bank account, and that Guillen wanted to hide this account because of concerns Guillen had about the son of a previous investor;

- p. Guillen gave MR1 a promissory note that was signed by Guillen for the one hundred thousand dollars (\$100,000) Guillen received from MR1;
- q. Guillen could not provide a copy of this promissory note;
- r. in this promissory note, Guillen promised to pay MR1 one hundred thousand dollars (\$100,000) plus interest;
- s. the interest in MR1's promissory note was more than six percent (6%) but less than ten percent (10%);
- t. Guillen withdrew part of MR1 and MR2's invested funds from Lee's U.S. Bank Account, "so that I could find myself some security;"
- u. the amount Guillen withdrew "to find some security" was about five thousand dollars (\$5,000);
- v. Guillen transferred the remaining ninety-five thousand dollars (\$95,000) to a Forex trading account;
- w. on July 11, 2008, Guillen received additional funds from MR1 in the amount of fifty thousand dollars (\$50,000).
- x. Guillen did not recall if Guillen provided MR1 with a promissory note for the fifty thousand dollars (\$50,000) Guillen received from MR1 on July 8, 2008, however, Guillen stated that Guillen was to pay MR1 back for these funds on the same terms as the first promissory note Guillen provided to MR1;
- y. "What we [Guillen and MR1] discussed with [MR2] was that we were going to be doing attorneys fees . . . [MR2] believed [the five thousand dollars] was for attorneys fees because I was trying to go after the company where I had lost money . . .," but that Guillen and MR1 actually used these funds to again invest in currency trading;
- z. when MR1 was in the rehabilitation center Guillen met with MR1, MR2 and their children;
- aa. "I told [MR1 and MR2's children] that I had been [MR1 and MR2's] financial adviser, which was the truth;"⁴
- bb. Guillen did not remember if a promissory note was issued for the funds that were deposited on February 12, 2008, into Guillen's IBFX Account;
- cc. Guillen had lost the money received on February 12, 2011, in currency trading;
- dd. Guillen borrowed ten thousand dollars from another individual to conduct currency trading;
- ee. Guillen had a gambling addiction;

ff."The fact that I'm certain I have a gambling addiction that is an unhealthy attachment to risk and risky behaviors isn't going to bring back . . . [MR1's] money;"

gg."I've come to realization that my relationship with risk is not healthy . . . Everyone . . . has situations that are bad problems or whatever, but none of you, when you go out to smoke or you eat too much, do people lose 50, \$100,000. I've-- I've ruined people's lives;" and

hh."I lied and behaved poorly and fraudulently and wrongly . . . As a result of that lie, I got the [2007 Guillen Order]."

15. Records obtained by the Enforcement Section revealed that the funds described in paragraph 14.v, above, were transferred to Lee's IBFX Account.

[\[4\]](#) Guillen later denied stating that he was MR1 and MR2's financial adviser.

16. Records obtained by the Enforcement Section revealed that the funds described in paragraph 14.w, above, were deposited into a U.S. Bank account in Springfield Missouri on which both Lee and Guillen were signatories ("Guillen's Joint U.S. Bank Account").
17. During the Guillen OTR, Guillen stated that on July 8, 2008, forty-nine thousand dollars of MR1's funds were wired from Guillen's Joint U.S. Bank Account to Lee's IBFX Account.
18. During the Guillen OTR, Guillen state that Guillen received additional funds from MR1 and MR2 in excess of six thousand dollars (\$6,000) "to help" Guillen.
19. Records obtained by the Enforcement Section revealed that MR1 and MR2 gave Guillen five thousand dollars (\$5,000) after their original investments had been lost. During the Guillen OTR, Guillen stated that this amount was to hire an attorney.
20. On June 10, 2011, Lee appeared for an on-the-record examination by representatives of the Enforcement Section ("Lee OTR").
21. During the Lee OTR, Lee stated, among other things, that:
- a. Lee was formerly employed as an assistant to Guillen;
 - b. Lee allowed Guillen to open Lee's U.S. Bank Account in Lee's name;
 - c. Lee learned that Guillen had transferred one hundred thousand dollars (\$100,000) into Lee's U.S. Bank Account;
 - d. Lee knew that this one hundred thousand dollars (\$100,000) deposited into Lee's U.S. Bank Account came from MR1;
 - e. Lee was "vaguely familiar" that Guillen was subject to a cease and desist order;
 - f. Lee allowed Guillen to open a Forex account in Lee's name;

- g. Lee could not remember the name of the Forex trading company that Guillen opened under Lee's name;
 - h. Lee allowed Guillen to trade in Lee's Forex account;
 - i. Lee allowed Guillen to use Lee's Forex account and Lee's U.S. Bank Account so that Guillen could hide the fact that Guillen had these accounts;
 - j. Lee could not recognize the account documents opened at IBFX under Lee's name;
 - k. Lee's IBFX Account listed jasonguillen@gmail.com as the primary email account, and that this email address was not Lee's email address;
 - l. Lee's IBFX Account contained an address for Lee at 3704 West Kingsley, in Springfield, Missouri, and that Lee had never lived at that address;
 - m. Lee's IBFX Account contained false information regarding Lee's annual income, liquid assets, and net worth;
 - n. Lee did not recall receiving a wire into Lee's IBFX Account of ninety-five thousand dollars (\$95,000);
 - o. Lee could not recognize the account documents opened under Lee's name at FXCM;
 - p. Lee's FXCM Account was opened with Lee's correct address, social security number, telephone number, date of birth, and driver's license number;
 - q. Lee's FXCM Account contained false information about Lee's annual income, liquid assets, and net worth; and
 - r. emails were sent to and from FXCM regarding the Lee's FXCM Account using cheriemlee@gmail.com, and that Lee could not remember sending or receiving these emails.
22. Guillen did not disclose to MR1, MR2, MR4, and/or MR5, among other things, that:
- a. Guillen was the subject of a 2007 Guillen Order involving currency trading with funds received from elderly investors;
 - b. Guillen was prohibited from offering unregistered securities;
 - c. Guillen was prohibited from transacting business as an unregistered agent;
 - d. Guillen had lost money from currency trading in the past;
 - e. Guillen had a gambling addiction;
 - f. there were risks associated with the investment; and/or
 - g. Guillen used the investor funds in Forex trading accounts.

23. Guillen and Lee did not disclose to FXCM or IBFX, among other things, that Guillen opened Forex trading accounts under Lee's name with false information regarding Lee's annual income, liquid assets, and net worth.

II. STATUTORY PROVISIONS

24. Section 409.6-601(a), RSMo. (Cum. Supp. 2009), provides that the Missouri Securities Act of 2003 "shall be administered by the commissioner of securities"
25. Section 409.1-102(1), RSMo. (Cum. Supp. 2009), defines "Agent" as "an individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities or represents an issuer in effecting or attempting to effect purchases or sales of the issuer's securities. But a partner, officer, or director of a broker-dealer or issuer, or an individual having a similar status or performing similar functions is an agent only if the individual otherwise comes within the term. The term does not include an individual excluded by rule adopted or order issued under this act."
26. Section 409.1-102(17), RSMo. (Cum. Supp. 2009), defines "Issuer" as "a person that issues or proposes to issue a security"
27. Section 409.1-102(25), RSMo. (Cum. Supp. 2009), defines "Record" as "information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form."
28. Section 409.1-102(26), RSMo. (Cum. Supp. 2009), defines "Sale" as "every contract of sale, contract to sell, or disposition of, a security or interest in a security for value, and 'offer to sell' includes every attempt or offer to dispose of, or solicitation of an offer to purchase, a security or interest in a security for value."
29. Section 409.1-102(28), RSMo. (Cum. Supp. 2009), defines "Security" as "a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest of participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; or in general, an interest or instrument commonly known as a 'security'; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing."
30. Section 409.3-301, RSMo. (Cum. Supp. 2009), states:
- It is unlawful for a person to offer or sell a security in this state unless:
- (1) The security is a federal covered security;
 - (2) The security, transaction, or offer is exempted from registration under sections 409.2-201 to

409.2-203; or

(3) The security is registered under this act.

31. Section 409.4-402(a), RSMo. (Cum. Supp. 2009), states:

It is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this act as an agent or is exempt from registration as an agent under subsection (b).

32. Section 409.4-402(d), RSMo. (Cum. Supp. 2009), states:

It is unlawful for a broker-dealer, or an issuer engaged in offering, selling, or purchasing securities in this state, to employ or associate with an agent who transacts business in this state on behalf of broker-dealers or issuers unless the agent is registered under subsection (a) or exempt from registration under subsection (b).

33. Section 409.5-501, RSMo. (Cum. Supp. 2009), states:

It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly:

- (1) To employ a device, scheme, or artifice to defraud;
- (2) To make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it is made, not misleading; or
- (3) To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

34. Section 409.6-602, RSMo. (Cum. Supp. 2009), states:

(a)The commissioner may:

- (1)Conduct public or private investigations within or outside of this state which the commissioner considers necessary or appropriate to determine whether a person has violated, is violating, or is about to violate this act or a rule adopted or order issued under this act, or to aid in the enforcement of this act or in the adoption of rules and forms under this act;
- (2)Require or permit a person to testify, file a statement, or produce a record, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning a matter to be investigated or about which an action or proceeding is to be instituted;
- (3)Publish a record concerning an action, proceeding, or an investigation under, or a violation of, this act or a rule adopted or order issued under this act if the

commissioner determines it is necessary or appropriate in the public interest and for the protection of investors;

...

(b) For the purpose of an investigation under this act, the commissioner or its designated officer may administer oaths and affirmations, subpoena witnesses, seek compulsion of attendance, take evidence, require the filing of statements, and require the production of any records that the commissioner considers relevant or material to the investigation.

35. Section 409.6-604, RSMo. (Cum. Supp. 2009), states:

(a) If the commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this act or a rule adopted or order issued under this act or that a person has materially aided . . . an act, practice or course of business constituting a violation of this act . . . the commissioner may:

(1) Issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with this act;

(2) Issue an order denying, suspending, revoking, or conditioning the exemptions for a broker-dealer under section 409.4-401(b)(1)(D) or (F) or an investment adviser under section 409.4-403(b)(1)(C); or

(3) Issue an order under section 409.2-204.

(b) An order under subsection (a) is effective on the date of issuance. Upon issuance of the order, the commissioner shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement whether the commissioner will seek a civil penalty or costs of the investigation, a statement of the reasons for the order, and notice that, within fifteen days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the commissioner within thirty days after the date of service of the order, the order becomes final as to that person by operation of law. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

(c) If a hearing is requested or ordered pursuant to subsection (b), a hearing before the commissioner must be provided. A final order may not be issued unless the commissioner makes findings of fact and conclusions of law in a record in accordance with the provisions of chapter 536, RSMo, and procedural rules promulgated by the commissioner. The final order may make final, vacate, or modify the order issued under subsection (a).

(d)In a final order under subsection (c), the commissioner may:

(1)Impose a civil penalty up to one thousand dollars for a single violation or up to ten thousand dollars for more than one violation;

(2)Order a person subject to the 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 eight percent per year from the date of the violation causing the loss or disgorge any profits arising from the violation;

(3)In addition to any civil penalty otherwise provided by law, impose an additional civil penalty not to exceed five thousand dollars for each such violation if the commissioner finds that a person subject to the order has violated any provision of this act and that such violation was committed against an elderly or disabled person. For purposes of this section, the following terms mean:

(A)'Disabled person', a person with a physical or mental impairment that substantially limits one or more of the major life activities of such individual, a record of such impairment, or being regarded as having such an impairment;

(B)'Elderly person', a person sixty years of age or older.

(e)In a final order, the commissioner may charge the actual cost of an investigation or proceeding for a violation of this act or a rule adopted or order issued under this act. These funds may be paid into the investor education and protection fund.

III. CONCLUSIONS OF LAW

Guillen's Multiple Violations of Offering and Selling Unregistered, Non-Exempt Securities

36. Paragraphs 1 through 35 are incorporated by reference as though fully set forth herein.
37. Respondent Guillen offered and sold a security as those terms are defined in Sections 409.1-102(26) and (28), RSMo. (Cum. Supp. 2009).
38. At all times relevant, records maintained by the Commissioner contained no registration, granted exemption, or notice filing indicating status as a "federal covered security" for the securities offered and sold by Respondent Guillen.
39. Respondent Guillen violated Section 409.3-301, RSMo. (Cum. Supp. 2009), when he offered and sold securities in Missouri to MR1, MR2, MR4, and/or MR5 without these securities being (1) a federal covered security, (2) exempt from registration under Sections 409.2-201 or 409.2-203, RSMo. (Cum. Supp. 2009), or (3) registered under the Missouri Securities Act of 2003.
40. MR1, MR2, MR4, and MR5 were over the age of sixty (60) years old and were elderly persons as that term is defined under Section 409.6-604(d)(3)(B), RSMo.

(Cum. Supp. 2009), at the time of Respondent Guillen's offer and sale of these securities.

41. Respondent Guillen's actions of offering and selling securities that were not registered, exempt or a federal covered security constitute an illegal act, practice, or course of business and thus such actions are subject to the commissioner's authority under Section 409.6-604, RSMo. (Cum. Supp. 2009).

Lee Materially Assisted Guillen's Sale of Unregistered Securities

42. Paragraphs 1 through 35 are incorporated by reference as though fully set forth herein.
43. During 2008, Respondent Guillen violated Section 409.3-301, RSMo. (Cum. Supp. 2009), on multiple occasions when he offered and sold securities in Missouri without these securities being (1) a federal covered security, (2) exempt from registration under Sections 409.2-201 or 409.2-203, RSMo. (Cum. Supp. 2009), or (3) registered under the Missouri Securities Act of 2003.
44. Lee materially assisted at least one of Respondent Guillen's violations of Section 409.3-301, RSMo. (Cum. Supp. 2009), through, among other things, the following:
- a. Lee went with Guillen to the home of MR1 and MR2;
 - b. Lee was introduced to MR1 and MR2 as Guillen's assistant;
 - c. Lee allowed Guillen to use Lee's bank account to receive invested funds from MR1 and MR2;
 - d. Lee allowed Guillen to use Lee's name to open an account at a currency trading firm;
 - e. Lee allowed Guillen to use Lee's email account to contact the currency trading firm;
 - f. Lee received one hundred thousand dollars (\$100,000) from MR1 and MR2 into Lee's bank account;
 - g. Lee wired or allowed Guillen to wire MR1 and MR2's funds from Lee's bank account to a currency trading account under Lee's name;
 - h. Lee received fifty thousand dollars (\$50,000) from MR1 and MR2 into a bank account controlled by Lee and Guillen;
 - i. Lee wired or allowed Guillen to wire forty-nine thousand dollars (\$49,000) from the account controlled by Lee and Guillen to a currency trading account under Lee's name;
 - j. Lee knew that Guillen was the subject of a cease and desist order from the Commissioner; and
 - k. Lee knew that Guillen used Lee's bank account and currency trading account to

hide the fact that Guillen's name was on these accounts.

45. Respondent Lee violated Section 409.3-301, RSMo. (Cum. Supp. 2009), by materially aiding Respondent Guillen in his violation of the same section as described in paragraphs 37 - 39, above.
46. MR1 and MR2 were over the age of sixty (60) years old and were elderly persons as that term is defined under Section 409.6-604(d)(3)(B), RSMo. (Cum. Supp. 2009), at the time of the offer and/or sale of these securities.
47. Respondent Lee's actions in materially assisting Respondent Guillen's actions in offering and selling securities that were not registered, exempt or a federal covered security and Lee's actions constitute an illegal act, practice, or course of business and thus such actions are subject to the commissioner's authority under Section 409.6-604, RSMo. (Cum. Supp. 2009).

Multiple Violations of Transacting Business as an Unregistered Agent

48. Paragraphs 1 through 35 are incorporated by reference as though fully set forth herein.
49. At all times relevant, records maintained by the Commissioner contained no registration or granted exemption for Respondent Guillen to transact business as an agent in the State of Missouri.
50. Respondent Guillen violated Section 409.4-402(a), RSMo. (Cum. Supp. 2009), when Respondent Guillen offered and/or sold securities to investors in Missouri without being registered or exempt from registration as an agent.
51. MR1, MR2, MR4, and/or MR5 were over the age of sixty (60) years old and were elderly persons as that term is defined under Section 409.6-604(d)(3)(B), RSMo. (Cum. Supp. 2009), at the time Respondent Guillen transacted business as an unregistered agent.
52. Respondent Guillen's actions in transacting business as an unregistered agent constitute an illegal act, practice, or course of business and thus such actions are subject to the commissioner's authority under Section 409.6-604, RSMo. (Cum. Supp. 2009).

Multiple Violations of Omitting to State Material Facts in Connection with the Offer or Sale of a Security

53. Paragraphs 1 through 35 are incorporated by reference as though fully set forth herein.
54. In connection with the offer, sale or purchase of a security, Respondent Guillen omitted to state material facts to MR1, MR2, MR4, and/or MR5 necessary in order to make statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, the following:
 - a. that the securities offered or sold were not registered;

- b. that Respondent Guillen was not registered to offer or sell securities in the State of Missouri;
 - c. the risks of the investment;
 - d. that investors' money would be commingled with Respondent Guillen's and/or Respondent Lee's personal funds and used to pay personal expenses;
 - e. financial information to support the claim that the investors would receive a six to ten percent (6-10%) return on their investment;
 - f. that investor funds were wired to Lee's Bank Account to hide the fact that Guillen was involved in currency trading;
 - g. that currency accounts were held in Lee's name to hide the fact that Guillen was involved in currency trading;
 - h. that Respondent Guillen had lost investor money from currency trading in the past;
 - i. that Respondent Guillen had a gambling addiction;
 - j. that Respondent Guillen had borrowed money from other investors to invest in currency trading and had not repaid these funds or the promised interest rate;
 - k. that Respondent Guillen was prohibited from transacting business as an unregistered agent;
 - l. that Respondent Guillen was prohibited from offering or selling unregistered securities in the State of Missouri;
 - m. that Respondent Guillen was prohibited from engaging in an act, practice of course of business that operates or would operate as a fraud or deceit upon another person; and/or
 - n. that Respondent Guillen was the subject of the 2007 Guillen order.
55. In connection with the offer, sale or purchase of a security to MR1, MR2, MR4, and/or MR5, Respondent Guillen and Respondent Lee omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, the following:
- a. Respondents Guillen and Lee omitted to disclose to FXCM that the information provided to FXCM to open the Lee FXCM Account was untrue because Lee did not have the annual income as listed on the application for the Lee FXCM Account, and Lee did not have the net worth listed on the application for the Lee FXCM Account; and/or
 - b. Respondents Guillen and Lee omitted to disclose to IBFX that the information provided to IBFX to open the Lee IBFX Account was untrue because Lee did not have the annual income as listed on the application for the Lee IBFX Account, and Lee did not have the net worth listed on the application for the

Lee IBFX Account.

56. Respondent Guillen and Respondent Lee violated Section 409.5-501, RSMo. (Cum. Supp. 2009), when, in connection with the offer and sale of securities, they omitted to state material facts.
57. MR1, MR2, MR4, and/or MR5 were all over the age of sixty (60) years old and were elderly persons as that term is defined under Section 409.6-604(d)(3)(B), RSMo. (Cum. Supp. 2009), at the time of Respondents' actions in omitting to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading.
58. Respondent Guillen's and Respondent Lee's actions in making untrue statements and omitting to state material facts constitute illegal acts, practices, or courses of business and thus such actions are subject to the commissioner's authority under Section 409.6-604, RSMo. (Cum. Supp. 2009).
59. 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. 2009).

IV. ORDER

NOW, THEREFORE, it is hereby ordered that Respondents, their 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. 2009), by offering or selling any securities as defined by Section 409.1-102(28), RSMo. (Cum. Supp. 2009), 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;
- B. violating or materially aiding in any violation of Section 409.4-402(a), RSMo. (Cum. Supp. 2009), by transacting business as an unregistered agent; and
- C. violating or materially aiding in any violation of Section 409.5-501, RSMo. (Cum. Supp. 2009), 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, pursuant to Section 409.6-604(d)(1), RSMo. (Cum. Supp. 2009), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) against Respondent Guillen for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2009), in a final order, unless Respondent Guillen requests a hearing and shows cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d)(1), RSMo. (Cum. Supp. 2009), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) against

Respondent Lee for materially assisting Guillen's violations of Section 409.3-301, RSMo. (Cum. Supp. 2009), in a final order, unless Respondent Lee requests a hearing and shows cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d)(3)(B), RSMo. (Cum. Supp. 2009), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) against Respondent Guillen for at least two violations of Section 409.3-301, RSMo. (Cum. Supp. 2009), committed against an elderly person, in a final order, unless Respondent Guillen requests a hearing and shows cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d)(3)(B), RSMo. (Cum. Supp. 2009), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to five thousand dollars (\$5,000) against Respondent Lee for materially assisting Guillen's violations of Section 409.3-301, RSMo. (Cum. Supp. 2009), committed against an elderly person, in a final order, unless Respondent Lee requests a hearing and shows cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d)(1), RSMo. (Cum. Supp. 2009), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) against Respondent Guillen, for multiple violations of Section 409.4-402(a), RSMo. (Cum. Supp. 2009), in a final order, unless Respondent Guillen requests a hearing and shows cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d)(3)(B), RSMo. (Cum. Supp. 2009), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) against Respondent Guillen for at least two violations of Section 409.4-402(a), RSMo. (Cum. Supp. 2009), committed against an elderly person, in a final order, unless Respondent Guillen requests a hearing and shows cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d)(1), RSMo. (Cum. Supp. 2009), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) against each of Respondent Guillen and Respondent Lee for multiple violations of Section 409.5-501, RSMo. (Cum. Supp. 2009), in a final order, unless Respondent Guillen and Respondent Lee request a hearing and show cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d)(3)(B), RSMo. (Cum. Supp. 2009), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) against Respondent Guillen for at least two violations of Section 409.5-501, RSMo. (Cum. Supp. 2009), committed against an elderly person, in a final order, unless Respondent Guillen requests a hearing and shows cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, as the Enforcement Section has petitioned for an order of restitution, the Commissioner will determine whether to order Respondents to pay restitution for any loss, possibly to include the amount of any actual damages that may have been caused by the conduct of Respondents, and interest at the rate of eight percent per year from the date of the violation causing the loss, or disgorge any profits, arising from the

violation of Sections 409.3-301, 409.4-402 and 409.5-501, RSMo. (Cum. Supp. 2009), after review of evidence submitted by the Enforcement Section, in a final order, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2009), unless Respondents request a hearing and show cause why this restitution or disgorgement should not be ordered.

IT IS FURTHER ORDERED that, as the Enforcement Section has petitioned for an award for the costs of the investigation against Respondents in this proceeding, the commissioner will issue a final order, pursuant to Section 409.6-604(e), RSMo. (Cum. Supp. 2009), awarding an amount to be determined after review of evidence submitted by the Enforcement Section, unless Respondents request a hearing and show cause why such award should not be made.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 18TH DAY OF OCTOBER, 2011.

ROBIN CARNAHAN
SECRETARY OF STATE

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



State of Missouri
Office of Secretary of State

Case No. AP-11-26

IN THE MATTER OF:

JASON MITCHELL GUILLEN;
AND CHERIE MICHELLE LEE,

Respondents.

Serve: JASON MITCHELL GUILLEN at:
820 E. MONTCLAIR ST, APT 603
SPRINGFIELD, MISSOURI 65807

Serve: CHERIE MICHELLE LEE at:
820 E. MONTCLAIR ST, APT 603

SPRINGFIELD, MISSOURI 65807

NOTICE

TO: Respondents and any unnamed representatives aggrieved by this Order:

You may request a hearing in this matter within thirty (30) days of the receipt of this Order pursuant to Section 409.6-604(b), RSMo. (Cum. Supp. 2009), and 15 CSR 30-55.020.

Within fifteen (15) days after receipt of a request in a record from a person or persons subject to this order, the Commissioner will schedule this matter for a hearing.

A request for a hearing must be mailed or delivered, in writing, to:

**Matthew D. Kitzi, Commissioner of Securities
Office of the Secretary of State, Missouri
600 West Main Street, Room 229
Jefferson City, Missouri, 65102.**

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of October, 2011, 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:**

Jason Mitchell Guillen
820 E. Montclair St, Apt 603
Springfield, Missouri 65807

and:

Cherie Michelle Lee
820 E. Montclair St, Apt 603
Springfield, Missouri 65807

And hand-delivered to:

Mary S. Hosmer
Assistant Commissioner
Missouri Securities Division

John Hale, Specialist