

State of Missouri  
Office of Secretary of State

Case No. AP-13-03

IN THE MATTER OF:

MULTICAST ENTERTAINMENT.TV CORPORATION; AND DARYL MITCHELL,

Respondents.

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

On March 1, 2013, the Enforcement Section of the Securities Division of the Office of Secretary of State (the "Enforcement Section"), through Deputy Enforcement Counsel Corinne E. Muller, submitted a Petition for Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed.

**I. FACTUAL BACKGROUND**

The petition alleges the following facts:

1. Multicast Entertainment.TV Corporation ("METV") was a Kansas corporation with a last known mailing address of 2300 Main Street Ninth Floor, Kansas City, Missouri 64108. METV was incorporated in Kansas on March 4, 2005 and forfeited its corporate status on October 15, 2011, for failure to timely file an annual report. METV was listed as the registered agent with an address of 1601 Meadowlark Lane, Suite D, Kansas City, Kansas 66102.
2. Daryl Mitchell ("Mitchell") purports to be the president and CEO of METV and has an address of 108 North East Greystone Drive, Lee's Summit, Missouri 64086.
3. A check of the records maintained by the Commissioner indicates that at all times relevant to this matter, Respondent Mitchell was not registered as a securities agent with the State of Missouri.
4. A check of the records maintained by the Commissioner indicates that at all times relevant to this matter, there was no registration, no granted exemption, or notice filing indicating status as a "federal covered security" for the securities offered and sold by Respondents.
5. From August 2011 to December 2012, an investigator with the Enforcement Section spoke to, and received e-mails and documentation from, a seventy-one (71) year-old Kansas City, Missouri resident ("MR1") and MR1's daughter. A review of this information revealed, among other things, the following:
  - a. Mitchell was acquainted with MR1 and MR1's spouse ("MR2"). Mitchell began visiting MR1 and MR2 shortly before MR1 and MR2 invested with Mitchell;
  - b. on May 18, 2007, Mitchell went to MR1 and MR2's residence and among other things:
    - i. Mitchell gave a presentation to MR1 and MR2 regarding the purchase of stock in METV;
    - ii. Mitchell told MR1 and MR2 that, once the METV stock "went public," the price per share would greatly increase;
    - iii. Mitchell presented MR1 and MR2 with a document titled purchase agreement that set forth, among other things, that:
      - (1) if METV were sold or did not go public in five (5) years, METV would pay double the investment amount; and
      - (2) all funds would be used for working capital;
    - iv. MR1 and MR2 signed the purchase agreement with Mitchell for three thousand (3,000) shares of stock in METV; and
    - v. MR1 and MR2 invested three thousand dollars (\$3,000) by personal check with Mitchell and METV;

- c. on or about May 25, 2007, Mitchell provided MR1 and MR2 a stock certificate for three thousand (3,000) shares of stock in METV;
  - d. MR1 and MR2 were not given a prospectus or any other form of documentation describing METV; and
  - e. on February 10, 2011, MR1 demanded that Mitchell refund MR1 and MR2's investment. Mitchell told MR1 that Mitchell would "take care of it" but the refund would take four (4) to six (6) weeks.
6. As of December 11, 2012, MR1 has neither received a refund of, nor a return on, MR1 and MR2's investment with Mitchell and/or METV.
7. From August 2012 to December 2012, an investigator with the Enforcement Section spoke to, and received documentation from, a sixty-eight (68) year-old, Kansas City, Missouri resident ("MR3"). A review of this information, revealed among other things, the following:
  - a. prior to September 2007, a member of MR3's church introduced MR3 to Mitchell;
  - b. in September 2007, Mitchell contacted MR3 several times regarding an investment in METV. Mitchell told MR3, among other things, that:
    - i. Mitchell needed to raise approximately two hundred fifty thousand dollars (\$250,000) to "get METV started;"
    - ii. METV had created and developed a computer chip that "prevented overload on the internet;"
    - iii. METV was the only company that had such technology;
    - iv. Mitchell was in negotiations with different companies on "multi-million dollar deals" to sell METV's computer chip patent, and was "trying to get top dollar" for the patent; and
    - v. after METV sold METV's computer chip patent, the price per share of METV stock would greatly increase and would be worth "hundreds of dollars apiece;"
  - c. MR3 was not given a prospectus or any other form of documentation describing METV;
  - d. on October 30, 2007, MR3 met Mitchell at MR3's bank in Kansas City, Missouri, and, among other things:
    - i. Mitchell presented MR3 with a purchase agreement for stock in METV;
    - ii. the purchase agreement was substantially similar to MR1 and MR2's purchase agreement with Mitchell and METV; and
    - iii. MR3 invested thirteen thousand five hundred dollars (\$13,500) by cashier's check with Mitchell and METV;
  - e. Mitchell gave MR3 a stock certificate for thirteen thousand five hundred (13,500) shares of stock in METV. The stock certificate is dated November 1, 2007;
  - f. on November 12, 2007, MR3 signed a copy of the purchase agreement;
  - g. on or about August 8, 2012, MR3 contacted Mitchell and stated MR3 was concerned that Google's new fiber network being built in the Kansas City, Missouri area might have an impact on METV's computer chip patent. Mitchell told MR3, among other things, that:
    - i. Google was still dependent on METV's computer chip; and
    - ii. METV was still working with other companies and hoped to "go public" soon;
  - h. shortly after the August 8, 2012 phone call with Mitchell, MR3 went to a meeting in the Kansas City, Missouri area hosted by Google; and
  - i. at the Google meeting, MR3 asked a Google representative about Google's dependence on METV's computer chip. The Google representative told MR3 that Google had no association with METV and was not "dependent" on METV's technology
8. As of December 12, 2012, MR3 had not received any return on MR3's investment.
9. From August 2012 to December 2012, an investigator with the Enforcement Section spoke to, and received documentation from, a seventy-seven (77) year-old Kansas City, Missouri resident ("MR4"). A review of this information revealed, among other things, the following:
  - a. MR4 was acquainted with Mitchell, and believed Mitchell was "a nice boy, and a good Christian;"

- b. in the summer of 2007, MR4 met with Mitchell at MR4's residence several times to discuss an investment opportunity in METV. During these meetings, Mitchell told MR4, among other things, that:
    - i. Mitchell was "affiliated" with Warren Buffett and Donald Trump;
    - ii. Mitchell was seeking investments for METV;
    - iii. when METV opened, investors would be compensated "very well" and would receive "monthly payments" from METV.
  - c. in August 2007, Mitchell came to MR4's residence and, among other things:
    - i. MR4 signed a contract with Mitchell for the purchase of stock in METV<sup>1</sup>;
    - ii. MR4 invested six thousand dollars (\$6,000) in cash with Mitchell and METV;
    - iii. MR4's investment was MR4's "last nest egg;" and
    - iv. Mitchell gave MR4 a stock certificate dated August 14, 2012, for six thousand (6,000) shares of stock in METV;
  - d. in June 2012, MR4 demanded that Mitchell refund MR4's investment;
  - e. MR4 called Mitchell "many times" to ask why MR4 had not received the requested refund. Mitchell told MR4 that Mitchell could not return MR4's investment for, among other things, the following reasons:
    - i. Mitchell had a death in the family;
    - ii. Mitchell was bitten by a spider and became ill; and
    - iii. the investment money was "going through an audit;"
  - f. on or around August 10, 2012, during a phone call between MR4 and Mitchell, Mitchell informed MR4 that MR4's investment "had doubled;" and
  - g. on November 16, 2012, Mitchell met MR4 and Mitchell, among other things:
    - i. told MR4 that MR4's investment money went into Mitchell's personal account;
    - ii. told MR4 that Mitchell's wife was trying to take all of the money from the personal account in the divorce proceedings; and
    - iii. promised MR4 a refund of MR4's investment money.
10. From December 2011 through November 2012, an investigator with the Enforcement Section spoke to, and received e-mails and documentation from, Mitchell and/or METV. On June 27, 2012, Mitchell appeared before members of the Enforcement Section for an on-the-record examination ("Mitchell OTR"). A review of this information revealed, among other things, the following:
- a. Mitchell had been unemployed since at least 2002;
  - b. Mitchell had never been registered to sell securities in Missouri;
  - c. METV stock was not registered, and Mitchell was not relying on any exemption to sell the stock;
  - d. METV was a "content production company" that would film an event and make the film available to mobile devices;
  - e. METV was working on technology to replace the router on the Internet to make the internet more secure from hackers;
  - f. Mitchell told investors that the investment money would be used for working capital for METV;
  - g. Mitchell told investors that they would not lose their money and that investors could have their money back upon request before METV went public;
  - h. at least fifty-three (53) investors invested in excess of fifty-four thousand dollars (\$54,000) with Mitchell and METV. At least forty (40) of the investors were Missouri residents, who invested in excess of thirty-eight thousand dollars (\$38,000) with Mitchell and METV;
  - i. Mitchell did not have financial statements, cash flow charts or balance sheets for METV;

- j. Mitchell told investors that the only risk of investing in METV was after METV went public, because Mitchell "can't control the market;"
  - k. Mitchell did not disclose to investors that investor funds would be commingled with Mitchell's personal funds;
  - l. every investor who had requested their money back has been refunded except MR1, because MR1 would not sign the required documentation for a refund;
  - m. neither Mitchell nor METV have ever applied for, or have had a patent on technology related to preventing overload on the Internet; and
  - n. METV purchased the exclusive rights to use patented technology to prevent overload on the internet on television applications;
  - o. Mitchell claimed that METV has been taking a long time to develop and should be "running" in early to late spring of 2012; and
  - p. no returns have been paid to investors.
11. Prior to the investments, Mitchell failed to disclose to MR1, MR2, MR3 and/or MR4 among other things, the following:
- a. that Mitchell was not registered to offer or sell securities in the State of Missouri;
  - b. that the securities offered and sold were not registered in the State of Missouri;
  - c. the actual risks of the investment;
  - d. the financial condition of METV;
  - e. financial information to support the promised return on MR1, MR2, MR3 and MR4's investments; and
  - f. that investment funds would be commingled with Mitchell's personal funds

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

12. The **COMMISSIONER DETERMINES** that Respondents METV and Mitchell violated Section 409.3-301, RSMo. (Cum. Supp. 2011), by offering and selling shares of METV in Missouri without registering the securities and without them being either (1) a federal covered security or (2) exempt from registration under Sections 409.2-201 or 409.2-202, RSMo. (Cum. Supp. 2011).
13. The **COMMISSIONER FURTHER DETERMINES** that Respondent Mitchell transacted business as an agent in violation of Section 409.4-402(a), RSMo. (Cum. Supp. 2011), by offering and selling shares of METV in Missouri without being registered or exempt from registration as an agent.
14. The **COMMISSIONER FURTHER DETERMINES** that Respondent METV violated Section 409.4-402(d), RSMo. (Cum. Supp. 2011), by employing or associating with Mitchell who transacted business in Missouri as an agent without being registered or exempt from registration as an agent.
15. The **COMMISSIONER FURTHER DETERMINES** that Respondents METV and Mitchell violated Section 409.5-501, RSMo. (Cum. Supp. 2011), by omitting to state 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. that Respondent Mitchell was not registered to offer and/or sell securities in the State of Missouri;
  - b. that the securities offered and/or sold were not registered in Missouri;
  - c. the actual risks of the investment;
  - d. the financial condition of METV; or
  - e. that investment funds would be commingled with Respondent Mitchell's personal funds.
16. The **COMMISSIONER FURTHER DETERMINES** that Respondents METV and Mitchell violated Section 409.5-501, RSMo. (Cum. Supp. 2011), by engaging in an act, practice, or course of business that would operate as a fraud or deceit upon another person by, among other things, lulling MR1, MR2, MR3, and/or MR4 in order to obtain additional investment funds, and/or avoid or delay detection when Respondent Mitchell, among other things:
- a. told MR1 that Respondent Mitchell would refund MR1's investment funds in four (4) to six (6) weeks;
  - b. told MR3 that Google was dependent on METV's computer chip; or

c. told MR4 that Respondent Mitchell couldn't refund MR4's investment funds because:

- i. Respondent Mitchell had a death in the family;
- ii. Respondent Mitchell was bitten by a spider and became ill;
- iii. the investment money was "going through an audit;" or

d. told MR4 that Respondent Mitchell's wife was trying to take MR4's investment funds in a divorce proceedings.

17. The Commissioner finds, pursuant to Section 409.6-605(b), that the Order in Section III is necessary or appropriate in the public interest or for the protection of investors and is consistent with the purposes of the Missouri Securities Act of 2003.

### **III. 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 violating or materially aiding in any violation of Section 409.3-301, RSMo. (Cum. Supp. 2011), by offering or selling any securities in the State of Missouri unless those securities are registered with the Securities Division of the Office of the Secretary of State.

It is **FURTHER 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 violating or materially aiding in any violation of Section 409.5-501, RSMo. (Cum. Supp. 2011), 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.

It is **FURTHER 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 violating or materially aiding in any violation of Section 409.5-501, RSMo. (Cum. Supp. 2011), by, in connection with the offer or sale of securities, 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 Mitchell, 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 violating or materially aiding in any violation of Section 409.4-402(a), RSMo. (Cum. Supp. 2011), by transacting business as an unregistered agent.

It is **FURTHER ORDERED** that Respondent METV, its 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 violating or materially aiding in any violation of Section 409.4-402(d), RSMo. (Cum. Supp. 2011), by transacting business as an unregistered agent.

### **IV. STATEMENT**

Pursuant to Section 409.6-604(b), RSMo. (Cum. Supp. 2011), the **COMMISSIONER HEREBY STATES** that he will determine whether to grant the Enforcement Section's requests:

- (1) for civil penalties of up to ten thousand dollars (\$10,000) against each Respondent for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2011),
- (2) for civil penalties of up to fifteen thousand dollars (\$15,000) against each Respondent for multiple violations of Section 409.3-301 against elderly persons, RSMo. (Cum. Supp. 2011),
- (3) for civil penalties of up to ten thousand dollars (\$10,000) against Respondent Mitchell for multiple violations of Section 409.4-402(a), RSMo. (Cum. Supp. 2011),
- (4) for civil penalties of up to fifteen thousand dollars (\$15,000) against Respondent Mitchell for multiple violations of Section 409.4-402(a) against elderly persons, RSMo. (Cum. Supp. 2011),
- (5) for civil penalties of up to ten thousand dollars (\$10,000) against Respondent METV for multiple violations of Section 409.4-402(d), RSMo. (Cum. Supp. 2011),
- (6) for civil penalties of up to fifteen thousand dollars (\$15,000) against Respondent METV for multiple violations of Section 409.4-402(d) against elderly persons, RSMo. (Cum. Supp. 2011),
- (7) for civil penalties of up to ten thousand dollars (\$10,000) against each Respondent for multiple violations of Section 409.5-501, RSMo. (Cum. Supp. 2011),
- (8) for civil penalties of up to fifteen thousand dollars (\$15,000) against each Respondent for multiple violations of Section 409.5-501 against elderly persons, RSMo. (Cum. Supp. 2011),
- (9) for 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 (8%) per year from the date of the violation causing the loss,
- (10) for the disgorgement of any profits arising from the conduct of Respondents (Cum. Supp. 2011), and
- (11) for costs pursuant to Section 409.6-604(e), RSMo. (Cum. Supp. 2011)

at a hearing on the merits or, if none is requested, in a Final Order.

Pursuant to Section 409.6-604(b), RSMo. (Cum. Supp. 2011), the **COMMISSIONER FURTHER STATES** that any person subject to this order may request a hearing. Such person must make this request with Commissioner no later than 30 days from the date that the person was served with the order ("date of service"). If the Commissioner receives such a request, the hearing will be set within 15 days. If the Commissioner does not receive such a request 30 days from the date of service and no hearing is otherwise ordered, then this order becomes final by operation of law.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS SIXTH DAY OF MARCH, 2013.

JASON KANDER  
SECRETARY OF STATE

(Signed/Sealed)  
ANDREW M. HARTNETT  
COMMISSIONER OF SECURITIES



State of Missouri  
Office of Secretary of State

Case No. AP-13-03

IN THE MATTER OF:

MULTICAST ENTERTAINMENT.TV CORPORATION;

AND DARYL MITCHELL,

Respondents.

**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 § 409.6-604(b), RSMo. (Cum. Supp. 2011), 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:

**Andrew M. Hartnett, 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 6th day of March, 2013, 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**, and, pursuant to Section 536.0677(2), RSMo., a copy of the **Petition for Order to Cease and Desist and Order to Show Cause Why Restitution, Disgorgement, Civil Penalties, and Costs Should Not Be Imposed and Petition for Revocation of Agent Registration**, in the above styled case were **mailed by Certified U.S. mail to:**

Multicast Entertainment.TV Corporation  
1601 Meadowlark Lane, Suite D

Kansas City, Kansas 66102

and

Multicast Entertainment TV Corporation  
108 North East Greystone Drive  
Lee's Summit, Missouri 64086

Daryl Mitchell  
108 North East Greystone Drive  
Lee's Summit, Missouri 64086

**and by hand delivery to:**

Mary S. Hosmer  
Assistant Commissioner of Securities  
Missouri Securities Division

[1] Neither Mitchell nor MR4 has a copy of this contract. Upon information and belief, MR4's contract with Mitchell and METV contained, among other things, the same or similar claims as those described for MR1 and MR2's purchase agreement with Mitchell and METV.

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John Hale, Specialist