



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:)
)
WOODBURY FINANCIAL SERVICES, INC.,)
) Case No. AP-14-08
Respondent.)
)
Serve: Woodbury Financial Services, Inc.)
c/o Jeffrey J. Kalinowski, Esq.)
Bryan Cave LLP)
One Metropolitan Square)
211 N. Broadway, Suite 3600)
St. Louis, MO 63102)

CONSENT ORDER

SUMMARY OF ENFORCEMENT SECTION'S ALLEGATIONS

1. The Enforcement Section of the Missouri Securities Division of the Office of Secretary of State ("Enforcement Section"), through Assistant Commissioner Mary S. Hosmer, has alleged that Woodbury Financial Services, Inc. ("Woodbury" or "Respondent"), failed to reasonably supervise a Missouri registered agent, Joshua D. Gould ("Gould"), who engaged in dishonest and unethical practices in Missouri in violation of Section 409.4-412(d)(13), RSMo. (Cum. Supp. 2012). Woodbury's failure constitutes grounds to revoke, suspend, condition limit or impose a civil penalty on Woodbury's registration in Missouri pursuant to Section 409.4-412(d)(9), RSMo. (Cum. Supp. 2012).
2. Respondent and the Enforcement Section desire to settle the allegations and the matters raised by the Enforcement Section relating to the Respondent's above alleged violation while Gould was a Missouri registered broker-dealer agent with Respondent.

CONSENT TO JURISDICTION

3. Respondent and the Enforcement Section stipulate and agree that the Missouri Commissioner of Securities ("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. 2012), 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 Respondent’s right to a hearing with respect to this matter.
6. Respondent waives any right that Respondent 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, 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 positions in defense of litigation or in defense of other legal proceedings in which the Commissioner 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. Woodbury is a Missouri registered broker-dealer based in Oakdale, Minnesota with a main address of 7755 Third Street North, Oakdale, Minnesota 55128. Woodbury is registered in Missouri through the Central Registration Depository ("CRD") with number 421.
13. Gould was a Missouri-registered broker-dealer agent with Woodbury and was located at the branch office address of 8630 Delmar Boulevard, Suite 100, St. Louis, Missouri 63124, from October 7, 2008, through November 2, 2010. A check of the CRD indicates that Gould, CRD number 4617397, was discharged by Woodbury due to unauthorized withdrawals and misappropriated funds. Gould has a last known residential address of 8142 Amherst Avenue, St. Louis, Missouri 63130.
14. Pacific Mutual Alliance, LLC ("PMA") was a Missouri registered limited liability company with charter number LC0741683 and a last known registered office address of 8909 Ladue Road, St. Louis, Missouri 63124. A check of the records maintained by Missouri Secretary of State Business Services Corporations Division ("Missouri Corporations Division") indicates Gould was a managing member of PMA and that PMA was dissolved on August 15, 2011.
15. On February 17, 2011, the Commissioner issued a Cease and Desist Order against Gould. Subsequently Gould and the Enforcement Section entered into a Consent that, among other things, permanently barred Gould from applying for registration as an agent or investment adviser representative in the State of Missouri.
16. On April 29, 2011, Gould pled guilty to wire and mail fraud charges brought by the United States Attorney's Office, Eastern District of Missouri. In his criminal plea, Gould admitted to knowingly participating in a fraudulent scheme from May 2007 through October 2010. From October 2008 through November 2010, Gould was a registered representative of Woodbury, during which time Gould defrauded and obtained money from numerous Woodbury clients. On July 22, 2011, Gould was sentenced to a ninety-seven (97) month term of incarceration and ordered to pay in excess of \$4.3 million in restitution. Gould is currently in federal prison.
17. From approximately October 2008 through October 2010 (the "Relevant Period"), Gould defrauded more than twenty-two (22) investors, some of whom were Woodbury customers, out of over two million dollars (\$2,000,000).

18. Gould primarily operated his fraudulent scheme through PMA, which Gould controlled. At least four (4) Woodbury clients made direct investments with Gould through PMA. Gould convinced these investors to transfer money to PMA.
19. Once the investors transferred funds to PMA, Gould misappropriated the funds to subsidize his extravagant lifestyle that included, but was not limited to, automobile payments; mortgage payments; as well as expenses related to: the renovation of Gould's personal residence, jewelry, personal credit card bills, and adult entertainment.
20. In addition, Gould executed approximately forty-nine (49) unauthorized withdrawals in Woodbury client brokerage accounts during the Relevant Period. All of the unauthorized withdrawals were processed via wire transfer through Woodbury and sent to a checking account owned and/or controlled by Gould.
21. During the time the unauthorized withdrawals and private securities transactions occurred, Gould was a Missouri registered broker-dealer agent with Woodbury. Woodbury was the broker-dealer in charge of supervising Gould.
22. In March 2011, the Enforcement Section opened an investigation concerning Woodbury's supervision of Gould.
23. During this investigation Woodbury provided documents and information to the Enforcement Section relating to Woodbury's supervision of Gould. The Enforcement Section also interviewed Gould and various compliance and supervisory personnel of Woodbury. The documents, information and interviews revealed, among other things:
 - a. During the Relevant Period, Gould initiated forty-nine (49) unauthorized wire transfer withdrawals in ten (10) Woodbury client brokerage accounts totaling approximately nine hundred ninety thousand dollars (\$990,000). Woodbury processed all of the unauthorized withdrawals;
 - b. The December 2008 New Representative Office Inspection and the February 8, 2010, branch office audits were incomplete. In addition, the February 2010 audit, conducted by Woodbury contained deficiencies concerning personal brokerage account records that were not available for review and client files that did not have delivery receipts. The Audit Summary Report for the February 2010 audit indicated that both deficiencies required follow up. The Enforcement Section received no evidence that Gould's field supervisor or Woodbury's compliance department followed up on the incompleteness and deficiencies of the audits;
 - c. While registered with Woodbury, Gould used his Woodbury approved e-mail address to send multiple statements regarding an undisclosed outside business activity to a Woodbury client. Woodbury provided no evidence that the e-mails sent from Gould's approved e-mail address, containing statements from an

undisclosed outside business activity, had been reviewed or that a red flag had been triggered;

- d. Gould used outside businesses undisclosed to Woodbury, including PMA, to accept investments from victims and to make payouts;
 - e. At least four (4) Woodbury clients and one (1) non-Woodbury client made direct investments via personal checks and wire transfers to a commercial business checking account controlled by Gould, totaling approximately two hundred thirty thousand nine hundred and one dollars (\$230,901.00). None of the direct investments were detected by Woodbury;
 - f. Woodbury failed to review or approve the outside business activity associated with two (2) limited liability company accounts in which Gould had a beneficial interest:
 - i. On October 30, 2008, Gould signed a Woodbury New Account Form to open a brokerage account in the name of PMA. Gould served as Trustee of this account; and
 - ii. On February 24, 2009, Gould signed a Woodbury New Account Form to open a brokerage account in the name of Apex. Gould was listed as President of Apex;
 - g. On July 9, 2008, a PMA checking account was opened with Enterprise Bank & Trust ("PMA Checking"). The signature card indicates this was a commercial business account with Gould listed as the authorized signor. The account holder and account title was "Pacific Mutual Alliance, LLC";
 - h. On September 1, 2008, Gould signed a "Representative application and contract assignment" form, which established the direct deposit of Gould's commission payments to an account which Gould represented to Woodbury was an individual account but, in fact, was the PMA checking account. Woodbury unknowingly made commission payments to the PMA checking account;
24. Woodbury failed to reasonably supervise Gould by, among other things:
- a. failing to adequately review third-party transmittals and third-party wire transactions;
 - b. failing to adequately follow-up and remedy branch office audit deficiencies;
 - c. failing to adequately review and approve incoming and outgoing correspondence;
 - d. failing to detect unapproved private securities transactions of Gould; and

- e. failing to review and/or approve the outside business activity associated with two limited liability company accounts in which Gould had a beneficial interest.
25. As a result of the conduct described above, Woodbury failed to reasonably supervise Gould within the meaning of Section 409.4-412, RSMo. (Cum. Supp. 2012).
26. Woodbury has provided information not unacceptable to the Enforcement Section that it has in place policies, procedures, and controls to, among other things:
- a. detect, identify, and investigate an agent engaged in violations of the securities laws, including matters addressed in paragraph 23 of this Order;
 - b. train supervisors on the detection, identification, and investigation of violations of the securities laws, including matters addressed in paragraph 23 of this Order;
 - c. review offices and agents with a view to detect, identify, and investigate violations of the securities laws, including matters addressed in paragraph 23 of this Order; and
 - d. oversee supervisors in order to detect, identify, and investigate violations of the securities laws, including matters addressed in paragraph 23 of this Order.
27. During the course of the Enforcement Section's investigations, Woodbury paid over one million nine-hundred thousand dollars (\$1,900,000) to investors affected by Gould's activities.

II. CONCLUSIONS OF LAW

28. The Commissioner finds Respondent in violation of Section 409.4-412 RSMo. (Cum. Supp. 2012) and that this conduct constitutes grounds to discipline Respondent under Section 409.4-412(d)(9), RSMo. (Cum. Supp. 2012), for Gould's activities in violation of Section 409.4-412(d)(13), RSMo. (Cum. Supp. 2012).
29. 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. 2012).

III. ORDER

NOW, THEREFORE, it is hereby Ordered that:

1. Woodbury is hereby CENSURED.

2. Woodbury represents that Woodbury has settled with clients regarding funds improperly received by Gould. To date, Woodbury has compensated twenty-two (22) individuals impacted by Gould's actions in the amount of approximately one million nine-hundred thousand dollars (\$1,900,000).
3. Woodbury shall pay to the Missouri Secretary of State's Investor Education and Protection Fund the sum of one hundred fifty thousand dollars (\$150,000). This payment shall be sent within ten (10) days of the effective date of this Consent Order 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.
4. Woodbury is ordered to pay twenty thousand dollars (\$20,000) as the cost of this investigation. This amount shall be sent within ten (10) days of the effective date of this Consent Order 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.
5. Respondents shall pay their own costs and attorneys' fees with respect to this matter.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,
MISSOURI THIS 25TH DAY OF JUNE, 2014.



JASON KANDER
SECRETARY OF STATE

Andrew M. Hartnett

ANDREW M. HARTNETT
COMMISSIONER OF SECURITIES

Consented to by:
THE ENFORCEMENT SECTION OF THE
MISSOURI SECURITIES DIVISION

MSA

Mary S. Hosmer
Assistant Commissioner of Securities

WOODBURY FINANCIAL SERVICES, INC.

BY:

Richard D. Fergesen

NAME:

Richard D. Fergesen

TITLE:

President

Approved as to Form:

Jeffrey J. Kalinowski

Jeffrey J. Kalinowski
Attorney for Woodbury Financial Services, Inc.