

State of Missouri
Office of Secretary of State

Case No. AP-05-07

IN THE MATTER OF:

MESA-DATA SERVICES, INC.;
KURT J. HOLDEMAN

Serve both at:

305 Johnston Drive
Raymore, Missouri 64083

Serve both also at:

P.O.Box 48035
Kansas City, Missouri 64141

Respondents.

ORDER TO CEASE AND DESIST

On the 2nd day of March 2005, for the Securities Division, Mary S. Hosmer, Assistant Commissioner of Securities submitted a petition for a Cease and Desist Order. After reviewing the petition, the Commissioner issues the following findings of fact, conclusions of law and order:

FINDINGS OF FACT

1. Mesa-Data Services, Inc. ("Mesa"), was a Missouri corporation that purported to perform data storage services and has a business address of 305 Johnston Drive, Raymore, Missouri 64083. At all times pertinent to this investigation, Mesa's corporate registration was dissolved and Mesa was operating as an unregistered business entity.
2. Kurt J. Holdeman ("Holdeman") purported to be the President and CEO of Mesa and has an address of 305 Johnston Drive, Raymore, Missouri 64083.
3. As used in this document, the term "Respondents" refers to Mesa and Holdeman.

MR

4. In early September 2004 Holdeman approached a Missouri resident ("MR") after learning that MR was cashing in a 401K account and requested that MR invest in Mesa's stock. Holdeman told MR, among other things, the following:
 - a. Holdeman was the owner and CEO of Mesa;
 - b. Mesa was a computer storage backup system that stores information for such companies as Sony out of Japan and Best Buy;
 - c. Holdeman had approximately 400 operators on his payroll that keyed data into Mesa's system;
 - d. Best Buy was going to buy Mesa and MR should invest in Mesa before this buyout takes place;
 - e. MR would make a tremendous amount of money through the investment in Mesa; and
 - f. If MR invested \$5,000 in Mesa, MR would receive a stock certificate and a purchase agreement.
5. In mid September 2004, Holdeman telephoned MR several times a week asking MR if MR had received the money from the

401K Account.

6. During one of the September 2004 telephone calls, MR told Holdeman that MR would only be able to invest \$2,500. Holdeman told MR that Holdeman would still give MR a stock certificate for 5,000 shares and MR could make payments to Holdeman for the balance.
7. On or about September 21, 2004, Holdeman telephoned MR again about investing in Mesa. MR agreed to invest \$2,500 in Mesa. Holdeman told MR to overnight a cashier's check made payable to Holdeman. MR invested \$2,500 with Holdeman. Holdeman told MR that he would send MR the Mesa stock certificate and purchase agreement the following day.
8. In October 2004, MR asked Holdeman why MR had not received a stock certificate or purchase agreement. MR asked Holdeman for a return of MR's \$2,500 investment.
9. In late 2004, Holdeman told MR that Holdeman would repay MR in \$1,000 increments. Holdeman stated that the first \$1,000 payment would be in December 2004.
10. In January 2005, Holdeman told MR that Holdeman was expecting a check for \$34,000 from Sony Corporation out of Japan and as soon as that check cleared, Holdeman would pay MR \$1,000.
11. In February 2005, MR contacted Holdeman and asked for a return of the entire \$2,500 investment. To date, MR has not received a return of MR's investment.
12. A check of the records maintained by the Missouri Commissioner of Securities confirmed no registration, granted exemption or notice filing indicating status as a "federal covered security" for any of the securities offered by the Respondents in the State of Missouri.
13. A check of the records maintained by the Commissioner confirmed no registration for Respondents to sell securities in the State of Missouri.
14. On February 11, 2004, in a response to a request from the Securities Division, counsel for the Respondents stated, among other things, that the sales of securities were exempt under RSMo Â§ 409.402(b)(9) in that Mesa had only 25 investors. In addition, counsel stated that the securities were exempt pursuant to Regulation D under the Securities Act of 1933.
15. Mesa has not made any Regulation D filing with the State of Missouri.
16. Records obtained by the Division indicate that at least 30 individuals invested in Mesa's stock, promissory notes or had loan agreements with Mesa. These individuals invested over \$900,000.
17. Bank records confirmed the following total amounts taken by Holdeman from the Mesa Data Business Expense Account from January 2000 through March 2004.

Year	Checks to Holdeman	Checks to "Cash"	Total Amount
2000	\$79,400.00	\$50,010.01	\$129,410.01
2001	55,850.00	\$39,465.56	\$95,315.56
2002	\$36,550.00	\$28,400.00	\$64,950.00
2003	\$21,900.00	\$31,100.00	\$53,000.00
2004	January-March only available--\$18,725.00 taken in "Cash" only.		

18. Respondents were not registered to offer and sell securities in the State of Missouri.
19. Respondents offered and sold unregistered, non-exempt securities to Missouri residents.
20. These securities were not federal covered securities.
21. In connection with the offer, sale or purchase of a security Holdeman and Mesa omitted to state the following material facts to MR:
 - a. The securities offered and sold by Respondents were not legally saleable in the State of Missouri;
 - b. Holdeman was not legally able to sell securities in the State of Missouri;
 - c. Mesa was administratively dissolved by the State of Missouri Corporations Division on August 21, 1996;
 - d. Holdeman was using investor money to pay personal expenses;

- e. Mesa and Holdeman were evicted from Mesa's initial business location for failure to pay \$40,000 in back rent; and
 - f. Mesa and Holdeman had failed to pay principal and interest on several investor promissory notes.
22. In connection with the offer, sale or purchase of a security to Missouri residents, Holdeman and Mesa made the following untrue statements of material fact:
- a. Holdeman told MR that Best Buy was going to buyout Mesa, when in fact a representative of Best Buy told the Division that "Best Buy Co., Inc. has no record of and has never engaged in discussions or negotiations with Mesa Data or Kurt Holdeman relative to the acquisition of or an investment into Mesa Data."
 - b. Holdeman told MR that MR would receive a stock certificate for MR's investment in Mesa when, in fact, MR has never received this certificate.
23. These securities were not federal covered securities.
24. This order is in the public interest.

CONCLUSIONS OF LAW

1. Â§409.1-102, RSMo Cumulative Supp. 2004 includes "stock" within the definition of a security. The interests offered and sold by Respondents as described in the above findings of fact constitute securities.
2. Â§409.5-501, RSMo Cumulative Supp. 2004, provides that 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. The conduct described in the above findings of fact constitutes a violation of this section.
3. Â§409.4-402(a), RSMo Cumulative Supp. 2004, provides that it is unlawful for an individual to transact business in this state as an agent unless the individual is registered under the act or is exempt from registration, as set forth at Â§409.4-402(b). The conduct described in the above findings of fact constitutes a violation of this section.
4. Â§409.3-301, RSMo Cumulative Supp. 2004 provides that it is unlawful for any person to offer or sell any 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. The conduct described in the above findings of fact constitutes a violation of this section.
5. Â§409.5-503, RSMo Cumulative Supp. 2004 provides that the person claiming an exemption, exception, preemption or exclusion has the burden of proving its applicability. As described in the above findings of fact, Respondents failed to prove any exemptions, exceptions, preemption or exclusions.
6. Â§409.5-505, RSMo Cumulative Supp. 2004 provides that it is unlawful for a person to make or cause to be made, in a record that is used in an action or proceeding or filed under this act, a statement that, at the time and in the light of the circumstances under which it was made, is false or misleading in a material respect, or, in connection with the statement, to omit to state a material fact necessary to make the statement made, in the light of the circumstances under which it was made, not false or misleading.
7. Â§409.6-602(b), RSMo Cumulative Supp. 2004 provides that, for the purpose of an investigation under the 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.
8. Â§409.6-604(a), RSMo Cumulative Supp. 2004 provides:

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, is materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of this act or a rule adopted or order issued under 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 advisor under section 409.4-403(b)(1)(C); or
 3. Issue an order under section 409.2-204.
9. Â§409.6-604(d), RSMo Cumulative Supp. 2004 provides:
- In a final order . the commissioner may impose a civil penalty up to one thousand dollars for a single violation or up to ten thousand dollars for more than one violation.
10. Â§409.6-604(e), RSMo Cumulative Supp. 2004 provides:
- 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.
11. Omitting to state a material fact necessary to make the statement made not misleading, in connection with the offer, sale or purchase of a security, constitutes an illegal act, practice, or course of business under Â§409.6-604(a), RSMo Cumulative Supp. 2004.
12. Making an untrue statement of material fact, in connection with the offer, sale or purchase of a security, constitutes an illegal act, practice, or course of business under Â§409.6-604(a), RSMo Cumulative Supp. 2004.
13. Transacting business as an unregistered agent as described in the above findings of fact constitutes an illegal act, practice, or course of business under Â§409.6-604(a), RSMo Cumulative Supp. 2004.
14. The offer or sale of unregistered securities as described in the above findings of fact constitutes an illegal act, practice, or course of business under Â§409.6-604(a), RSMo Cumulative Supp. 2004.
15. The Missouri Commissioner of Securities is empowered to issue such orders as he may deem just. Â§409.6-604(a), RSMo Cumulative Supp. 2004.

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. Offering or selling investments in Mesa Data Services, Inc;
- B. Violating or materially aiding in the violation of Â§409.5-501, RSMo Cumulative Supp. 2004 by omitting to state, in connection with the offer, sale or purchase of these securities to Missouri residents, the material fact that:
 1. The securities offered and sold by Respondents were not legally saleable in the State of Missouri;
 2. Holdeman was not legally able to sell securities in the State of Missouri;
 3. Mesa was administratively dissolved by the State of Missouri Corporations Division on August 21, 1996;
 4. Holdeman was using investor money to pay personal expenses;
 5. Mesa and Holdeman were evicted from Mesa's initial business location for failure to pay \$40,000 in back rent; and
 6. Mesa and Holdeman had failed to pay principal and interest on several investor promissory notes.
- C. Violating or materially aiding in the violation of Â§409.5-501, RSMo Cumulative Supp. 2004, by making the following untrue statements of material fact to a Missouri resident that:
 1. Best Buy was going to buyout Mesa, when in fact a representative of Best Buy told the Division that Best Buy Co., Inc. had no record of and had never engaged in discussions or negotiations with Mesa Data or Kurt Holdeman relative to the acquisition of or an investment into Mesa Data; and
 2. Holdeman told MR that MR would receive a stock certificate for MR's investment in Mesa when, in fact, MR has never received this certificate.
- D. Violating or materially aiding in the violation of Â§409.4-402(a), RSMo Cumulative Supp. 2004 by transacting business as an agent without an effective registration.

E. Violating or materially aiding in the violation of Â§409.3-301, RSMo Cumulative Supp. 2004 by offering or selling any security that is not registered, unless the security is a federal covered security or has an effective exemption from registration.

IT IS FURTHER ORDERED that the Enforcement Section has petitioned for civil penalties, and specifically, the award of ten thousand dollars (\$10,000), jointly and severally, against each Respondent in this proceeding. The Commissioner will issue a final order awarding this penalty, unless Respondents request a hearing and show cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that the Enforcement Section has petitioned for an award for costs of the investigation, jointly and severally, against each Respondent in this proceeding. The commissioner will issue a final order awarding an amount to be determined after review of evidence submitted by the Enforcement Section, unless Respondents request a hearing and show cause why an award should not be made to the agency.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 2ND DAY OF MARCH, 2005.

ROBIN CARNAHAN
SECRETARY OF STATE

(Signed/Sealed)
DAVID B. COSGROVE
COMMISSIONER OF SECURITIES