

State of Missouri  
Office of Secretary of State

Case No. AP-09-01

IN THE MATTER OF:

Raymond James Financial Services, Inc.

**CONSENT ORDER**

SUMMARY OF ENFORCEMENT SECTION'S ALLEGATIONS

1. After receiving a complaint the Enforcement Section of the Missouri Securities Division conducted an investigation into Respondent's sale of a variable annuity to a Missouri resident. The Division found facts that led the Division to believe that the Respondent's registered representative committed a violation of the Missouri Securities Act by not having a reasonable basis to recommend the selling of a security to purchase a variable annuity and that Respondent failed to reasonably supervise the registered representative in this transaction. The Division alleges that the Respondent's actions constitute grounds to discipline the registration of Raymond James Financial Services, Inc. ("RJFS") pursuant to Section 409.4-412, RSMo. (Cum. Supp. 2008).
2. Respondent and the Securities Division desire to settle the allegations and the matters raised by the Securities Division relating to Respondent's activities.

CONSENT TO JURISDICTION

3. Respondent and the Enforcement Section of the Securities Division stipulate and agree that the Commissioner has jurisdiction over this Respondent and these matters pursuant to the Missouri Securities Act of 2003, Chapter 409, *et seq.*
4. Respondent and the Division stipulate and agree that the Commissioner has authority to enter this Consent Order pursuant to Section 409.6-604(h), RSMo. (Cum. Supp. 2008), 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 its rights to a hearing with respect to this matter.
6. Respondent waives any rights that it 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 of Securities 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 and the Securities Division stipulate and agree that with this Order, this matter is fully and finally resolved, and no further action shall be taken by the Securities Division against Respondent and its representatives and agents regarding any act or omission committed prior to the date hereof. Should the facts contained herein prove to be false, the Securities Division reserves the right to pursue any and all legal and administrative remedies at its disposal.
8. This Order represents a settlement between the parties. It is expressly understood that this stipulation and Order are for the purpose of resolving this matter only and are not to constitute admissions of liability or wrongdoing for any other purpose or proceeding.

CONSENT TO COMMISSIONER'S ORDER

9. Respondent and the Securities Division 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.
10. 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 a factual basis. Nothing in this paragraph affects Respondent's (a) testimonial obligations; or (b) right to take legal or factual position in defense of litigation or in defense of other legal proceedings in which the Commissioner of Securities is not a party; or (c) right to make public statements that are factual.
11. Respondent agrees that Respondent is not the prevailing party in this matter since the parties have reached a good faith settlement.
12. Respondent neither admits nor denies the allegations made by the Securities Division or the Commissioner's Findings of Fact,

Conclusions of Law and Order as set forth below but consents thereto solely for the purposes of this matter and any proceeding that may be brought to enforce the terms of this Consent Order.

#### FINDINGS OF FACT

13. RJFS is a registered broker-dealer in Missouri with a principal address of 880 Carillon Parkway St. Petersburg, FL 33716. RJFS is registered in Missouri through the Central Registration Depository ("CRD") with number 17073.
14. Michael Bennitt was, at all pertinent times, a registered agent and producing branch manager in RJFS's Springfield, Missouri office located at Great Southern Bank.
15. In or around January 2006, MR1 and MR2, 79 and 78 respectively at the time, met with Bennitt at the bank. They were seeking additional income to meet their living expenses.
16. When MR1 and MR2 met with Bennitt in January 2006, MR1 and MR2's investments at the time consisted of: General Electric ("GE") common stock, four variable annuities, a variable life insurance policy and a small cash account at RJFS.
17. Bennitt recommended that MR1 and MR2 sell the stock in GE and purchase a variable annuity.
18. On January 3, 2006, MR1 and MR2 sold all of the GE stock and except for a small amount set aside for taxes used the proceeds from the sale to purchase a Hartford variable annuity.
19. The Division in its investigation found facts that led it to believe that RJFS allowed Bennitt, a producing branch manager, to endorse the New Business/Additional Deposits Transmittal Form and New Account Form as both the financial adviser and as the branch manager in this transaction.
20. The Division in its investigation found facts that led it to believe that Bennitt's recommendation to MR1 and MR2 to sell the GE stock and purchase the Hartford annuity was not suitable, for among other reasons:
  - (a) MR1 and MR2's ages before the annuity could be surrendered penalty free;
  - (b) the large percentage of MR1 and MR2's assets in annuities;
  - (c) the availability of additional income from MR1 and MR2's existing annuities; or
  - (c) the rider that was to produce the additional income was not available to MR1 and MR2.
21. The Division in its investigation found facts that led it to believe that, specifically with regard to MR1 and MR2's transaction only, the firm's supervision of the annuity purchase and Bennitt was not reasonable.
22. The Division in its investigation found facts that led it to believe that, when Bennitt made the recommendation to MR1 and MR2 to sell the GE stock and purchase the Hartford annuity, he did so without reasonable grounds to believe that the recommendation was suitable and thereby violated Section 409.4-412(d)(13) RSMo. (Cum. Supp. 2008).
23. Section 409.4-412(d), RSMo. (Cum. Supp. 2008), provides that, "A person may be disciplined under [Section 409.4-412] (a) to (c), [RSMo. (Cum. Supp. 2008),] if the person:
  - (9) has failed to reasonably supervise an agent... if the agent... was subject to the person's supervision and committed a violation of the Missouri Securities Act...."
24. Section 409.4-412(b), RSMo. (Cum. Supp. 2008), provides in part that if the commissioner finds that the order is in the public interest and subsection (d) authorizes the action, an order issued under this act may revoke, suspend, condition or limit the registration of a registrant and, if the registrant is a broker-dealer, any partner, officer, or director, any person having a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer.
25. Section 409.4-412(c), RSMo. (Cum. Supp. 2008), provides in part that if the commissioner finds that the order is in the public interest and subsection (d)(1) to (6), (8), (9)... authorizes the action, an order under this act may censure, impose a bar, or impose a civil penalty in an amount not to exceed a maximum of five thousand dollars for a single violation or fifty thousand dollars for several violations on a registrant...

#### CONCLUSIONS OF LAW

26. The Commissioner, after consideration of the stipulations set forth above and on the consent of Respondent and the Securities Division, finds and concludes that the Commissioner has jurisdiction over this 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. 2008).

**ORDER**

**NOW, THEREFORE,** it is hereby Ordered that:

1. Respondent shall pay to the Missouri Secretary of State's Investor Education and Protection Fund the sum of fifty thousand dollars (\$50,000) immediately upon the effective date of this Order. This amount shall be sent to the Securities Division and the Division will forward the funds to the Missouri Secretary of State's Investor Education and Protection Fund;
2. Respondent is ordered to pay two thousand three hundred dollars (\$2,300.00) as the cost of this investigation. This amount shall be payable to the Missouri Secretary of State's Investor Education and Protection Fund. This amount shall be immediately due and payable, and shall be submitted to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101; and
3. Respondent shall pay its 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 17TH DAY OF FEBRUARY, 2009.

ROBIN CARNAHAN  
SECRETARY OF STATE

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

Consented to by:

Lori J. Neidel  
Chief Enforcement Counsel  
Missouri Securities Division

Raymond James Financial Services, Inc.

By: (signature)  
Signature

(printed name)  
Printed or typed name

Title: \_\_\_\_\_