

State of Missouri  
Office of Secretary of State

Case No. AP-09-28

IN THE MATTER OF:

MARK ANDREW MCEWEN,

Respondent.

Serve: Mark McEwen at:

2403 Charann

Saint Peters, Missouri 63301

**FINAL ORDER TO CEASE AND DESIST AND ORDER IMPOSING CIVIL  
PENALTIES AND AWARDING COSTS**

On March 16, 2010, the Enforcement Section of the Securities Division of the Office of Secretary of State (the "Enforcement Section"), by and through Assistant Commissioner, Mary S. Hosmer, submitted a Petition for Final Order to Cease and Desist and Payment of Civil Penalties and Costs as to Respondent Mark Andrew McEwen (the "Petition"). After reviewing the Petition, the Commissioner issues the following findings of facts, conclusion of law, and order:

**PROCEDURAL BACKGROUND**

1. On June 26, 2009, the Enforcement Section, submitted a Petition to the Commissioner for, among other things, an Order to Cease and Desist and Order to Show Cause Why Civil Penalties and Costs Should not be Imposed (the "C&D Petition") in the above-styled matter.
2. On July 9, 2009, the Commissioner issued an Order to Cease and Desist and Order to Show Cause Why Civil Penalties and Costs Should not be Imposed (the "C&D Order") against the Respondent Mark McEwen.
3. On August 11, 2009, Respondent Mark McEwen ("McEwen") submitted a document titled, "Response to order to cease and desist and order to show cause why civil penalties and costs should not be imposed" (the "Response") to the Commissioner.
4. On August 21, 2009, the Commissioner sent notice of a status conference to McEwen at the address listed above ("McEwen's address"). This status conference was set for September 23, 2009.
5. On September 23, 2009, McEwen appeared by telephone for the status conference.
6. On September 25, 2009, McEwen submitted a letter to the Commissioner requesting a hearing in this matter.
7. The Commissioner set a hearing for January 6, 2010.
8. The Commissioner set a pre-hearing conference on the Petition for December 2, 2009.
9. On November 4, 2009, the Enforcement Section sent a notice of a deposition to McEwen. This notice set McEwen's deposition for November 20, 2009.
10. On November 20, 2009, McEwen failed to appear for this deposition. McEwen did not contact the Enforcement Section regarding this deposition nor did he return calls made to him by the Enforcement Section regarding this deposition.
11. On December 2, 2009, McEwen failed to appear for the pre-hearing conference in this matter.
12. On January 6, 2010, McEwen failed to appear for the hearing in this matter.
13. McEwen has not contacted or communicated with the Commissioner since the September 25, 2009, request for a hearing.
14. In the Petition, the Enforcement Section requested a Final Order to Cease and Desist in this matter.
15. In the Petition, the Enforcement Section requested that the Commissioner issue an order requiring Respondent Mark McEwen to pay costs of the investigation in this matter in the amount of eight thousand two hundred dollars (\$8,200).
16. In the Petition, the Enforcement Section requested that the Commissioner issue an order imposing a civil penalty of ten thousand dollars (\$10,000) against Respondent Mark McEwen for multiple violations of Section 409.5-501, RSMo. (Cum. Supp. 2009).

**FINDINGS OF FACT**

18. The Commissioner adopts and incorporates the Findings of Facts, paragraphs 1-39, in the C&D Order.

### **CONCLUSIONS OF LAW**

19. The Commissioner adopts and incorporates the Conclusions of Law, paragraphs 48-51, in the C&D Order.

20. This Order is in the public interest and consistent with the purposes intended by the Missouri Securities Act of 2003.

### **Order**

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

- A. The Cease and Desist Order entered in Case Number AP-09-28 on July 9, 2009, is **FINAL**.
- B. Pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2009), Respondent Mark McEwen shall pay a civil penalty in the amount of seven thousand five hundred dollars (\$7,500) to the State of Missouri for multiple violations of Section 409.5-501(2), RSMo. (Cum. Supp. 2009). This amount shall be made payable to the State of Missouri and paid within thirty (30) days of the date of this Order. The Secretary of State shall forward these funds to the state treasury for the benefit of county and township school funds as provided in Article IX, Section 7 of the Constitution of Missouri. Respondent Mark McEwen shall deliver this payment to the Securities Division, 600 W. Main Street, P.O. Box 1276, Jefferson City, Missouri 65102.
- C. Pursuant to Section 409.6-604(e), RSMo. (Cum. Supp. 2009), Respondent Mark McEwen shall pay, within thirty (30) days from the date of this Order, the additional sum of eight thousand two hundred dollars (\$8,200) as reimbursement for costs of the investigation and administration of this matter. This amount shall be made payable to the Missouri Secretary of State's Investor Education and Protection Fund. Respondent shall deliver this payment to the Securities Division, 600 West Main Street, P.O. Box 1276, Jefferson City, Missouri 65102.
- D. Pursuant to Section 409.6-604(f), RSMo. (Cum. Supp. 2009), this matter shall be referred to the Missouri Attorney General's Office to collect the penalties and costs described in this Order, as necessary.
- E. Respondents shall pay their own costs and attorney's fees with respect to this matter.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 23<sup>RD</sup> DAY OF MARCH, 2010.

ROBIN CARNAHAN  
SECRETARY OF STATE

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

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 23<sup>rd</sup> day of March, 2010, copies of the foregoing Order in the above-styled case was **mailed by certified U.S. Mail, postage prepaid, to:**

Mark Andrew McEwen  
2403 Charam  
Saint Peters, Missouri 63301

**And hand delivered to:**

Mary S. Hosmer  
Assistant Commissioner  
Securities Division

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John Hale, Specialist

