



STATE OF MISSOURI  
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF: )  
)  
GAINES B. SMITH )  
CRD# 1305480 )  
Respondent. ) Case No. AP-15-05  
)  
Serve: Gaines B. Smith )  
6 Magnolia Dr. )  
Belleville, IL 62221 )

**CONSENT ORDER**

**SUMMARY OF THE SECURITIES DIVISION’S ALLEGATIONS**

1. The Missouri Securities Division of the Office of Secretary of State (“Division”), through Enforcement Counsel Tyler B. McCormick, has alleged that Gaines B. Smith (“Smith”) had at least five clients in the State of Missouri without being registered or exempt from registration in violation of Section 409.4-402, RSMo (Cum. Supp. 2013)<sup>1</sup> and that this constitutes grounds to issue an order pursuant to Section 409.6-604, RSMo.
2. Respondent and the Division desire to settle the allegations and the matters raised by the Division relating to the Respondent’s alleged violations of Section 409.4-402.

**CONSENT TO JURISDICTION**

3. Respondent and the Division stipulate and agree that the Missouri Commissioner of Securities (“Commissioner”) has jurisdiction over 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 Order pursuant to Section 409.6-604(h), which provides:

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<sup>1</sup> Unless otherwise noted, all statutory references are to the 2013 cumulative supplement to the Revised Statutes of Missouri.

“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 rights to a hearing with respect to this matter.
6. Respondent waives any rights 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 Division that, should the facts contained herein prove to be false or incomplete, the Division reserves the right to pursue any and all legal or administrative remedies at its disposal.

#### CONSENT TO COMMISSIONER’S ORDER

8. Respondent and the 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.
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 Division, 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. Gaines Financial Corporation was an Illinois-registered broker-dealer with an office address of 1919 North Belt East, Belleville, Illinois 62221. Gaines Financial Corporation was registered in Illinois through the Central Registration Depository System (“CRD”)

with CRD number 5391. Gaines Financial Corporation terminated its registration on February 28, 2013. Gaines Financial Corporation has never been registered in Missouri as a broker-dealer.

13. Gaines B. Smith was the President of Gaines Financial Corporation. Smith is registered in Missouri with CRD number 1305480. Smith's mailing address is 6 Magnolia Drive, Belleville, Illinois 62221. Smith was not registered as an agent in Missouri prior to October 30, 2012.
14. In October of 2012, Smith sent an application to register as an agent in Missouri, along with accompanying fees and documentation. Smith's application was approved effective October 30, 2012.
15. Smith disclosed to the Division that prior to October 30, 2012, Smith had inadvertently serviced at least five clients residing in Missouri without being registered as an agent in Missouri. Specifically, Smith stated that of these clients:
  - a. two had established accounts with Smith while they were residents of Illinois and that the clients subsequently relocated to Missouri; and
  - b. two had inherited accounts from relatives who had been residents of Illinois and longstanding clients of Smith.

## II. CONCLUSIONS OF LAW

16. The Commissioner finds that Respondent Smith transacted business as an unregistered agent in this state, in violation of Section 409.4-402, and that this violation constitutes grounds to issue an order pursuant to Section 409.6-604.
17. The Commissioner, after consideration of the stipulations set forth above and on consent of the Respondent and the Division, finds and concludes that the Commissioner has jurisdiction over Respondent in 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.

## III. ORDER

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

1. Respondent, their agents, employees and servants, and all other persons participating in the above-described violations with knowledge of this order are permanently enjoined and restrained from violating Section 409.4-404(a) and Section 409.4-404(d);
2. Respondent Smith is ordered to pay \$5,000 to the Investor Education and Protection Fund for violations of the Missouri Securities Act. This amount shall be sent within 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.

3. The Commissioner may refer this matter for enforcement as provided in Sections 409.6-603 and 409.6-604.
4. 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 17<sup>TH</sup> DAY OF FEBRUARY, 2015.



JASON KANDER  
SECRETARY OF STATE

*Andrew M. Hartnett*

ANDREW M. HARTNETT  
COMMISSIONER OF SECURITIES

Consented to by:

THE MISSOURI SECURITIES DIVISION

*Tyler B. McCormick*

Tyler B. McCormick  
Enforcement Counsel

RESPONDENT

*Gaines B. Smith*

Gaines B. Smith