



STATE OF MISSOURI  
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF: )  
)  
THOMAS K. ELDER, CRD No. 1502491, )  
) Case No.: AP-17-19  
*Respondent.* )

**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 Director of Enforcement Saundra J. McDowell, has alleged that Thomas K. Elder (“Elder” or “Respondent”), a registered investment adviser representative for Trustmont Advisory Group, Inc. (“Trustmont”), violated Sections 409.4-406(b) and 409.4-412(d), RSMo. (2016)<sup>1</sup> by, among other things: (a) soliciting an elderly client for a personal loan prior to being employed by Trustmont and failing to disclose the solicitation and loan to Trustmont, and (b) failing to timely amend the Uniform Application for Securities Industry Registration or Transfer Form (“U4”) to disclose tax liens. These violations constitute grounds to discipline Elder pursuant to Section 409.4-412 and issue an order pursuant to Section 409.6-604.
2. Respondent and the Enforcement Section desire to settle the allegations and the matters raised by the Enforcement Section relating to the Respondent’s alleged violations of Sections 409.4-406(b) and 409.4-412(d).

**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), which provides:

“The commissioner is authorized to issue administrative consent orders in the settlement of any proceeding in the public interest under this act.”

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<sup>1</sup> Unless otherwise noted, all statutory references are to the 2016 Revised Statutes of Missouri.

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 in a material way, 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 connection with litigation, arbitration, or other legal proceeding 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. Elder is a 55 year-old Missouri resident with an address at 10201 Northwest River Hills Drive, Parkville, Missouri 64152. Elder was an investment adviser representative at Trustmont from June 6, 2016, to January 4, 2017. Elder is assigned Central Registration Depository ("CRD") number 1502491.

13. Maverick Wealth Technologies & Associates, LLC (“MWT”) is a limited liability company organized in the state of Missouri on June 19, 2015. Its registered agent is Thomas K. Elder, 1251 Northwest Briarcliff Parkway, Suite 140, Kansas City, Missouri, 64116. A check of the records maintained by the Commissioner indicates that at all times relevant to this matter, there was no registration, granted exemption, or notice filing indicating status as a “federal covered security” for any securities issued by MWT.
14. Trustmont is a Securities and Exchange Commission (“SEC”) registered investment adviser located at Scenic Drive Professional Center, 200 Brush Run Road, Suite A, Greenburg, Pennsylvania, 15601. Trustmont is assigned CRD number 106015.
15. On or about January 5, 2017, the Missouri Securities Division received notification from Trustmont that Elder had been terminated for failing to report tax liens in a timely manner and “a violation of fiduciary duty and conflict of interest rules” related to a loan Elder received from a client.
16. On or about March 31, 2017, the Enforcement Section began an investigation and found, among other things:
  - a. Elder was recently terminated from Trustmont; and
  - b. a 79-year-old client from Lees Summit, Missouri, later identified as “MR”, indicated a lawsuit may be filed against Elder for a loan Elder received from MR that was in default.
17. On April 5, 2017, the Enforcement Section sent a letter to the Chief Compliance Officer (“CCO”) for Trustmont requesting more information concerning Elder’s termination.
18. On April 5, 2017, Trustmont’s CCO emailed the Enforcement Section a copy of a draft lawsuit, completed by a Kansas City, Missouri attorney, that alleged, among other things, Elder had borrowed \$7,500 from MR in or around November 2010, and failed to pay the loan back. Instead, it was alleged that Elder discounted MR’s advisory fees to pay back the loan.

**Enforcement Letter to Elder Requesting Information**

19. On April 10, 2017, the Enforcement Section sent a letter to Elder requesting, among other things, the following information:
  - a. a copy of the promissory note with MR;
  - b. a copy of the repayment schedule provided to MR detailing the discounting of MR’s fees to pay the loan; and

- c. a narrative explaining why the following tax liens were not timely disclosed in U4 filings:
  - i. \$12,710 Kansas state tax lien/warrant filed April 5, 2016, that was not reported until October 6, 2016;
  - ii. \$19,090 IRS tax lien filed December 30, 2010, that was not reported until August 16, 2011;
  - iii. \$14,913 IRS tax lien filed November 8, 2004, that was not reported until August 16, 2011;
  - iv. \$7,366 IRS tax lien filed June 30, 2003, that was not reported until August 16, 2011;
  - v. \$25,743 IRS tax lien filed June 3, 2003, that was not reported until August 16, 2011; and
  - vi. \$68,068 IRS tax lien filed April 2, 2002, that was not reported until August 16, 2011.

**Elder June 7, 2017 Response**

- 20. In his June 7, 2017, response to the Enforcement Section, Elder stated to the Enforcement Section, among other things:
  - a. Elder borrowed \$7,500 from MR in November of 2010;
  - b. a promissory note was executed between Elder and MR that specified, among other things:
    - i. annual interest rate of 8%;
    - ii. Elder “will pay the entire amount of principal and interest on or before October 31, 2011”;
    - iii. “This is an unsecure note”;
    - iv. “All notices must be in writing”; and
    - v. Elder signed the note representing MWT on November 4, 2010.
- 21. Elder stated that the funds were used “to help achieve some financial stability for both personal and business related expenses.”

22. On July 18, 2017, Elder told the Enforcement Section that no payments had been made on the loan from MR and that sometime in 2011 or 2012, Elder and MR made a verbal agreement whereby Elder would discount MR's advisory fees instead of making cash payments to MR.
23. With regard to the tax liens not being reported in a timely manner, Elder explained to the Enforcement Section that he had no explanation other than he either didn't realize the liens had been filed or he thought that he had disclosed them and overlooked the fact that he had not disclosed them. Elder told the Enforcement Section that he was unaware of the \$12,710 Kansas tax lien/warrant until it was brought to his attention by Trustmont sometime in October 2016.

## II. CONCLUSIONS OF LAW

24. The Commissioner finds Respondent solicited an elderly client for a personal loan and failed to timely amend the U4 to disclose tax liens, and that this conduct constitutes grounds to discipline Respondent pursuant to Section 409.4-412 and issue an order pursuant to Section 409.6-604.
25. 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.

## III. ORDER

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

26. Respondent, his 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 engaging in violations of Sections 409.4-406(b) and 409.4-412(d).
27. Respondent is hereby CENSURED.
28. Respondent shall pay restitution in the amount of \$10,000. This amount shall be paid in monthly installments of \$275 for a period of 35 months. The final payment shall be in the amount of \$375 and paid on the 36th month. The payments shall be made payable to the Missouri Secretary of State's Investor Restitution Fund and sent to the Securities Division at 600 West Main Street, Jefferson City, Missouri 65101. The Commissioner will take reasonable and necessary actions to distribute such funds to the investor. All pending payments shall become due immediately upon the sooner of (1) Respondent's noncompliance with the terms of this Consent Order, or (2) a finding, after notice and opportunity for a hearing, by the Commissioner or a court of competent jurisdiction that

Respondent has violated the Missouri Securities Act. Such immediately due payments shall be in addition to all other penalties then available under the law.


29. Respondent shall also pay \$1,000 to the Missouri Secretary of State's Investor Education and Protection Fund. This amount shall be paid within 90 days of the effective date of this Consent Order. The payment shall be made payable to the Missouri Secretary of State's Investor Education and Protection Fund and sent to the Securities Division at 600 West Main Street, Jefferson City, Missouri 65101.
30. Respondent shall pay \$500 as the cost of this investigation. This amount shall be suspended provided Respondent complies with the terms of this Consent Order and does not violate the Missouri Securities Act for a period of three years from the date of execution of this Consent Order. This suspended amount shall become due immediately upon the sooner of (1) Respondent's noncompliance with the terms of this Consent Order, or (2) a finding, after notice and opportunity for a hearing, by the Commissioner or a court of competent jurisdiction that Respondent has violated the Missouri Securities Act. Such immediately due payments shall be in addition to all other penalties then available under the law.
31. After three years from the date of this Consent Order, provided Respondent has complied with all terms of this Consent Order, all suspended payments referenced in paragraph 30 above shall be waived.
32. Respondent shall pay its 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 6th DAY OF September, 2017.

JOHN R. ASHCROFT  
SECRETARY OF STATE

  
DAVID M. MINNICK  
COMMISSIONER OF SECURITIES



Consented to by:

THE ENFORCEMENT SECTION OF THE  
MISSOURI SECURITIES DIVISION



Sandra J. McDowell  
Director of Enforcement



Thomas K. Elder  
RESPONDENT

Approved as to Form:



J.R. Hobbs  
Wyrsh, Hobbs & Mirakian, P.C.  
Attorney for Respondent