



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:)
)
DMK ADVISOR GROUP, INC.,) Case No. AP-20-16
CRD# 41067,)
)
Respondent.)

CONSENT ORDER

INTRODUCTION

1. On November 21, 2019, the Financial Industry Regulatory Authority, Inc. (“**FINRA**”) issued an Acceptance, Waiver, and Consent (“**AWC**”) against Harold A. Schwartz (“**Schwartz**”), a Missouri-registered broker-dealer agent, for impersonating a customer multiple times, in violation of FINRA Rule 2010.¹ Pursuant to the AWC, Schwartz consented to a suspension from association with any FINRA-member firm in any capacity for thirty days and a \$5,000 fine. The Enforcement Section of the Missouri Securities Division of the Office of Secretary of State (“**Enforcement Section**”), through Enforcement Counsel, Steven M. Kretzer, alleges that Schwartz’s current employer, DMK Advisor Group, Inc. (“**DMK**”), failed to promptly notify the Securities Division of the aforementioned AWC as required pursuant to a plan of heightened supervision (“**Heightened Supervision Agreement**”) of Schwartz executed on June 20, 2019 between the Securities Division and DMK, in violation of 15 CSR 30-51.173(1)(A) and (C). Furthermore, the Enforcement Section alleges that DMK failed to engage Schwartz quarterly and provide a report to the Missouri Securities Office as contemplated in the Heightened Supervision Agreement with respect to Schwartz.
2. Respondent and the Securities Division desire to settle the allegations and the matters raised by the Securities Division relating to alleged violations of 15 CSR 30- 51.173(1)(A) and (C).

¹ See FINRA AWC issued in Matter No. 2019061715601.

CONSENT TO JURISDICTION

3. Respondent and the Securities Division stipulate and agree that the Missouri Commissioner of Securities (“**the Commissioner**”) has jurisdiction over Respondents and these matters pursuant to the Missouri Securities Act of 2003, Chapter 409, *et seq.*
4. Respondent and the Securities Division 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.”

WAIVER AND EXCEPTION

5. Respondent waives any 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 the 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 Securities Division that, should the facts contained herein prove to be false or incomplete, the Securities 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 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.
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 Respondents’ (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 it 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 or the Findings of the Commissioner, but consent 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.

THE COMMISSIONER’S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

I. FINDINGS OF FACT

12. Schwartz is a Highlands Ranch, Colorado, resident and has been associated with several broker-dealers and investment advisers since 1977. Schwartz is registered in the Central Registration Depository (“CRD”) with number 841225. Most recently, since 2019, Schwartz has been associated with DMK as a broker-dealer agent. Schwartz conducts broker-dealer agent business for DMK at 7114 West Jefferson Ave., Suite 305, Lakewood, Colorado 80235.
13. DMK is a Colorado-based dual registrant with an address of 7114 West Jefferson Ave., Suite 305, Lakewood, Colorado 80235. DMK is registered in CRD with number 41067. DMK has been registered in the State of Missouri continuously since February 14, 2018 as a broker-dealer and since September 9, 2020 as an investment adviser.
14. On February 1, 2019, upon voluntarily terminating his employment with another Missouri broker-dealer² and joining DMK, Schwartz applied to re-register as a broker-dealer agent for DMK with the State of Missouri as required upon switching firms.
15. As a result of the alleged conduct and activity Schwartz engaged in while employed at Royal Alliance, the Securities Division required DMK to implement the Heightened Supervision Agreement as a precondition to his registration in Missouri. The terms of the Heightened Supervision Agreement were agreed and affirmed in separate written affidavits by both Schwartz and DMK on June 20, 2019.
16. Among other things, the Heightened Supervision Agreement requires DMK to **promptly** send the Missouri Securities Commissioner any documentation of regulatory investigations, actions and/or proceedings related to Schwartz.
17. The Securities Division approved Schwartz’s application on June 25, 2019.
18. On November 21, 2019, FINRA issued the previously mentioned AWC. In the AWC, Schwartz consented to a suspension from association with any FINRA-member firm for thirty business days and agreed to pay \$5,000 for impersonating customers in violation of FINRA Rule 2010.
19. Absent any notice from Respondent, the Securities Division discovered the AWC while conducting a review of Schwartz pursuant to his application for registration as an investment adviser representative in September, 2020.³
20. As required by the Heightened Supervision Agreement, Respondents were obligated to

² Prior to joining DMK, Schwartz was employed between November 2017 and February 2019 as an investment adviser representative at Royal Alliance Associates, Inc. (CRD #23131)(“**Royal Alliance**”), a Missouri-registered dual registrant, and between June 2015 and February 2019 as a broker-dealer agent.

³ Respondent Schwartz subsequently withdrew his application for registration as an investment adviser representative in Missouri.

promptly notify the Securities Division regarding any regulatory action taken against Schwartz. Further, DMK failed to provide the Securities Division with quarterly reports regarding its supervision of Schwartz, as agreed upon in the Heightened Supervision Agreement.

21. The Enforcement Section alleges that DMK's breach of its obligation and responsibility to provide both quarterly reports and prompt notice pursuant to the Heightened Supervision Agreement represents a failure to implement reasonable supervision by DMK under 15 CSR 30- 51.173(1)(A) and (C).

II. CONCLUSIONS OF LAW

22. **THE COMMISSIONER CONCLUDES** that DMK failed to comply with its obligations with respect to the Heightened Supervision Agreement, when it failed to provide the Securities Division with quarterly reporting and also failed to promptly notify the Securities Division of the FINRA AWC in Matter No. 2019061715601, in violation of 15 CSR 30-51.173(1)(A) and (C).
23. **THE COMMISSIONER CONCLUDES** that the violations above are sufficient to issue an order in accordance with Section 409.6-604.
24. The Commissioner, after consideration of the stipulations set forth above and on consent of Respondent and the Enforcement Section, 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.

III. ORDER

NOW, THEREFORE, it is hereby Ordered that:

1. DMK shall pay \$10,000 to the Missouri Secretary of State's Investor Education and Protection Fund for violations of 15 CSR 30-51.173(1)(A) and (C). Respondent DMK shall pay \$5,000 in five payments of \$1,000 payable to the Missouri Secretary of State's Investor Education and Protection Fund with the first payment sent to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101, by November 15, 2020. Four subsequent payments shall be due on the 15th of each month;
2. DMK's payment of the remaining \$5,000 is suspended and provided Respondent complies with the terms of this Consent Order for two (2) years from the date of this Order, the suspended amount shall be fully and finally waived. However, this amount shall become immediately due upon the sooner of (1) Respondent's noncompliance with the terms of the Consent Order or (2) a finding, after notice and opportunity for a hearing, by the Commissioner, the Missouri Administrative Hearing Commission, or a court of competent jurisdiction that Respondent has violated the Missouri Securities Act. The \$5,000 payment shall be due immediately and in addition to all other penalties then available under the law;

3. Respondent, its agents and employees, and all other persons participating in the above-described alleged violations with knowledge of this Order, are permanently enjoined and restrained from engaging in violations of 15 CSR 30-51.173(1)(A) and (C) by failing to appropriately notify the Division under the terms of the Enhanced Supervisory Measures as to DMK; and
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 16 DAY OF OCTOBER, 2020.



JOHN R. ASHCROFT
SECRETARY OF STATE

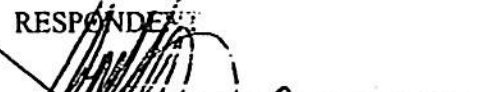

DAVID M. MINNICK
COMMISSIONER OF SECURITIES

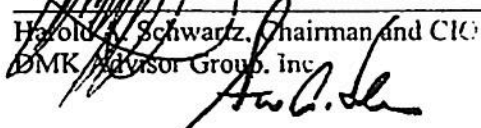
Consented to by:

THE MISSOURI SECURITIES DIVISION


Steven M. Kretzer
Enforcement Counsel

RESPONDENT


Harold S. Schwartz, Chairman and CEO
DMK Advisor Group, Inc.


Stephen A. Kohn, President and CEO
DMK Advisor Group, Inc.