



STATE OF MISSOURI  
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:

JOHN D. MYERS; KENNETH D. MARG;  
DANIEL S. MADASZ, SR.;  
SKYTEC SECURITY SERVICES, LLC; and  
SKYTEC SERVICE KC, LLC,

*Respondents.*

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) Case No.: AP-21-02  
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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER TO CEASE AND DESIST AND ORDER AWARDING RESTITUTION, CIVIL PENALTIES, AND COSTS**

Now on this 30<sup>th</sup> day of September, 2021, the Missouri Commissioner of Securities (“the Commissioner”), having reviewed this matter, issues the following findings and order:

**I. PROCEDURAL BACKGROUND**

1. On February 9, 2021, the Enforcement Section of the Securities Division of the Office of Secretary of State (“the Enforcement Section” or “Petitioner”), through Director of Enforcement Douglas M. Jacoby, submitted a Petition for Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, Costs, and Other Administrative Relief Should Not Be Imposed (“the Petition”) in this matter.
2. On February 23, 2021, the Commissioner issued an Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, Costs, and Other Administrative Relief Should Not Be Imposed (“the Order”).
3. On March 12, 2021, Respondent Daniel S. Madasz, Sr. (“Madasz”) filed a Request for Hearing through counsel Anthony L. Gosserand.
4. On March 17, 2021, the Commissioner issued an Order setting forth the scheduling deadlines, setting the matter for hearing June 22-24, 2021.
5. On March 25, 2021, Respondent Kenneth D. Marg (“Marg”) filed a *pro se* Request for Hearing.
6. On March 26, 2021, Respondent John D. Myers (“Myers”) filed a *pro se* Request for Hearing.
7. On March 29, 2021, Madasz filed an Answer to the Order.

8. On March 30, 2021, Marg filed a *pro se* Answer to the Order.
9. On April 6, 2021, Myers filed a *pro se* Answer to the Order.
10. At no point in the litigation of this matter did Respondents Skytec Security Services, LLC (“Skytec”), or Skytec Service KC, LLC (“Skytec Service KC”), ever request a hearing or file an Answer. No attorney entered an appearance in this matter on behalf of either entity.
11. On May 25, 2021, counsel Daniel S. Simon filed an entry of appearance on behalf of Marg in this matter.
12. On May 25, 2021, at pre-hearing conference held in this matter, counsel Gosserand advised the Commissioner and the parties that Madasz was in custody of the Kansas Department of Corrections serving a prison sentence likely to extend into late 2021, if not later, and that efforts to arrange Madasz to appear for a hearing either in person or in some manner have been unsuccessful.
13. On May 25, 2021, the Commissioner issued an Order staying this action as to Madasz and rescheduling Madasz’s hearing for November 2-4, 2021.
14. On June 21, 2021, Petitioner filed a Motion to Continue the hearing as to Marg and Myers.
15. On June 21, 2021, the Commissioner issued an Order granting Petitioner’s Motion and rescheduling the hearing as to Marg and Myers for July 27-29, 2021.
16. On June 29, 2021, Petitioner and Marg entered into a Consent Order, which was approved by the Commissioner on that same date. The terms of the Consent Order resolved all pending claims in this matter against Marg.
17. Despite being dutifully notified of the Commissioner’s Scheduling Orders of March 17, 2021, May 25, 2021, and June 21, 2021, Myers did not participate in the pretrial conferences nor did he comply with any of the filing deadlines set forth in the scheduling orders.
18. On July 27, 2021, Petitioner appeared by Director of Enforcement Douglas M. Jacoby and Enforcement Counsel Steven M. Kretzer. Respondents Myers, Skytec, and Skytec Service KC failed to appear for the hearing or have counsel appear on their behalf.
19. The Enforcement Section made an opening statement and presented evidence in the form of live testimony and exhibits. Testifying live on behalf of Petitioner were aggrieved investors Virginia Perkins (“MR1”) and Dr. Weldon Harris (“MR7”) along with Enforcement Section investigator Jennifer Chinn (“Chinn”).
20. The Commissioner finds the testimony of MR1, MR7, and investigator Chinn credible, relevant, material, and compelling.
21. During the hearing, the following exhibits of Petitioner’s were admitted into evidence following evidentiary foundations by the witnesses and without objection: A1, A2, A3, B1, B2, B3, B4,

B5, B6, B7, B8, B9, B10, B11, B12, B13, B14, B14a, B14b, B15, B16, B16a, B16b, B17, B18, B19, B20, B21, B22, C1, C2, C3, C4, C5, C6, C7, C8, D1, D2, D3, E1, E2, F1, F2, F3, F4, F5, F6, G1, G2, G3, H, I, J1, J2, K, L, M1, M2, M2a, M3, N, O1, O2, O3, O4, O5, O6, O7, P1 and P2. The Commissioner finds the exhibits to be reliable, relevant, material, and compelling.

22. Director of Enforcement Jacoby made a closing statement on behalf of Petitioner. No argument was provided by Respondents Myers, Skytec, or Skytec Service KC. The matter was considered submitted and the parties were directed to file Proposed Findings of Fact and Conclusions of Law consistent with the Scheduling Order.

## **II. FINDINGS OF FACT**

### **A. SUMMARY OF FINDINGS**

Having reviewed the unrefuted and credible evidence submitted, including all admitted exhibits, the hearing transcript, the June 29, 2021, Consent Order regarding Marg, and the Petitioner's Proposed Findings of Fact and Conclusions of Law, the Commissioner hereby makes the following findings of fact:

Between February 1, 2014 and June 1, 2018 ("the Relevant Period"), Respondents raised \$1,024,167 through the offer and sale of unregistered, non-exempt securities in the form of twelve (12) promissory notes to eight (8) Missouri residents. The Respondents acted in concert in furtherance of their business activities, involving multiple persons and entities over several years. In connection with such offers and sales, Myers, either directly or indirectly through Madasz, made untrue statements and material omissions that misled investors into investing in the fledgling enterprises of Skytec and Skytec Service KC. Once in possession of the investors' funds, Myers misappropriated the funds for his own personal benefit and operated a Ponzi-like scheme in which new investor funds were used to pay earlier investors. Skytec and Skytec Service KC did not file any Answer to the Petition or a Request for Hearing.

### **B. RESPONDENTS AND RELATED PARTIES**

23. Myers is a sixty-five-year-old Arizona resident and the founder of Skytec. During the Relevant Period, Myers was an owner and a signatory to the bank accounts of Skytec and each of its affiliated entities relevant in this matter.
24. Marg is a sixty-seven-year-old Arizona resident. During the Relevant Period, Marg was an owner and president of Skytec and signatory to the bank accounts of Skytec and Skytec Service KC.
25. Madasz is a seventy-year-old Raymore, Missouri resident. During the Relevant Period, Madasz was the senior vice president of business development and vice president of finance for Skytec, with the principal responsibility to raise capital for that entity. Additionally, Madasz conducted a financial consulting business under the name MadaszConsulting, Inc. ("MadaszConsulting"), of which he was a board member. Madasz conducted activities for both enterprises in Missouri and at least two different office locations in the State of Kansas during the Relevant Period.

26. Skytec f/k/a Skyline Security Services, LLC, is a Delaware limited liability company formed on July 22, 2013, with a last known primary place of business at 8603 E. Royal Palm Rd., Suite 100, Scottsdale, Arizona 85258. Skytec's business mainly focused on selling and installing security monitoring equipment to homes and businesses across the United States. In 2015, Skytec expanded its services to include residential roof repair.
27. Skytec Service KC operated from the primary business address of 8603 E Royal Palm Rd., Scottsdale, Arizona 85258. According to records at Enterprise Bank and Trust ("Enterprise Bank"), where Madasz and Myers established a checking account for Skytec Service KC on June 16, 2016. Skytec Service KC is represented as a Kansas limited liability company; however, no record of such entity exists with the State of Kansas or, for that matter, with the States of Missouri or Arizona. Madasz, Myers, and Marg were all signatories on the Enterprise Bank account of Skytec Service KC from its inception until Madasz succeeded as sole signatory on May 12, 2017. During the Relevant Period, Madasz, Myers and Marg were each a 1/3 owner of Skytec Service KC, which engaged in a "roofing and security systems" business.
28. David Robins ("Robins") is a sixty-nine-year-old Kansas resident with a last known address of 516 S Floyd St., Wichita, Kansas 67209. During the Relevant Period, Robins was an independent foreign exchange day trader.
29. Forge Trust Company f/k/a IRA Services Trust Company ("Forge Trust") is a non-depository trust company chartered by the State of South Dakota and regulated by the South Dakota Division of Banking. Forge Trust Company provides administrative and custody services to individuals, financial advisers, and investment issuers for individual retirement account ("IRA") funded investments in real estate, private stock, private equity and other alternative investments
30. MadaszConsulting is a Missouri corporation organized by Madasz in November 2011, with a last known place of business at 11906 E. 203rd St., Raymore, Missouri 64083. MadaszConsulting provided, among other things, advisory services to individuals in the areas of tax planning, retirement planning, insurance, trusts, and benefits planning, as well as specialized services to business entities, including assistance with formation, review and drafting corporate documentation, and the provision of accounting and capital raising services. Despite being subject to administrative dissolution by the Missouri Secretary of State's Office since June 13, 2013, for failing to file a correct and current annual report, MadaszConsulting was continuously operated by Madasz from its date of organization in 2011 through at least 2017. While maintaining a couple of physical office locations in Missouri and Kansas, Madasz routinely conducted business in the homes of clients or mutually agreed upon restaurant locations in the State of Missouri as discussed further below.
31. National Marketing Company, LLC, dba Skytec Roofing ("Skytec Roofing"), is a Delaware limited liability company formed on March 20, 2015. Skytec Roofing was in the roofing business. Skytec Roofing's registration was involuntarily canceled by the State of Delaware on June 1, 2018, for neglect, refusal, or failure to pay its annual taxes.
32. Skytec Funding Company, LLC ("Skytec Funding"), is a Delaware limited liability company formed on July 23, 2013. Skytec Funding is in the business of "security technology." Skytec Funding's registration was involuntarily canceled by the State of Delaware on June 1, 2016, for

neglect, refusal, or failure to pay its annual taxes.

33. Skytec Security of Kansas City, LLC (“Skytec Kansas City”) is a Delaware limited liability company formed through an organizer at LegalZoom.com on October 28, 2014, with a primary business address at 8603 E Royal Palm Rd., Scottsdale, Arizona 85258. The entity appears to have had no business or bank account and existed in name only.

### **C. BACKGROUND**

34. Madasz was originally introduced to Myers, Marg, and Skytec through a third party in August 2013. The third party had recruited Madasz to identify and introduce prospective investors interested in loaning money to finance a business venture of the third party: Skytec Security Operations, LLC (“Skytec Operations”), an affiliate of Skytec.<sup>1</sup>
35. On January 24, 2014, Marg sent Madasz an email (with copy to Myers) confirming a job offer to Madasz to join Skytec as “Sr. Vice President, Business Development” for a monthly salary of \$11,000. According to the email, Madasz’s immediate duties would include, among other things, raising necessary capital for Skytec’s regional operations.
36. Madasz accepted the offer and formally became a full-time W-2 employee of Skytec on February 1, 2014.
37. To source investors, Madasz targeted individuals who were clients of his defunct consulting enterprise, MadaszConsulting. In many instances, these individuals had known Madasz for years and implicitly trusted him.

### **D. THE OFFERING AND SALE OF SKYTEC NOTES TO INVESTORS**

#### **Investment by Missouri Resident 1 (“MR1”)**

38. Shortly after joining Skytec, Madasz re-connected via telephone with a then sixty-four-year-old Belton, Missouri resident, MR1. Months earlier, in October 2013, MR1 had invested in Skytec Operations as the result of an introduction by Madasz. MR1 was also a MadaszConsulting client. Through his position as MR1’s financial planner, Madasz had intimate knowledge of MR1’s finances and knew MR1 recently received approximately \$125,000 from the sale of an investment property, which MR1 planned to invest in the stock market.
39. At Madasz’s request, MR1 met with Madasz at the 54<sup>th</sup> Street Grill and Bar in Lee’s Summit, Missouri to discuss an alternative investment plan Madasz wanted to present to MR1 from the sales proceeds of the investment property. There Madasz, on behalf and for the benefit of Skytec, solicited MR1 to invest the sales proceeds with Skytec.
40. Madasz encouraged MR1’s investment with upbeat comments like “Everything looks good,” “Business is good,” and “The business is growing.” Madasz expressed excitement over the

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<sup>1</sup> See AP-20-11, *In the Matter of Patrick S. Kucera, Henrik R. Jensen, Skytec Security Midwest LLC and Skytec Security Operations LLC* (filed June 15, 2020).

future prospects of Skytec and told MR1 that MR1 would make more money investing with Skytec than investing in the stock market.

41. Madasz did not provide MR1 any financial information or other company-related documentation to support his statements.
42. On or around June 4, 2014, based solely on Madasz's continued advice and encouragement that MR1 invest money into another Skytec enterprise, MR1 agreed to enter into a two-year unsecured convertible promissory note ("Convertible Note") in the amount of \$125,000 with Skytec.
43. The Convertible Note contained, among other things, the following terms:
  - a. "[f]or value received, [Skytec], a Delaware corporation (*sic*) (the "Company"), promises to pay to [MR1] (the "Holder"), the principal sum of One Hundred Thousand Dollars (*sic*) plus interest;"<sup>2</sup>
  - b. "interest shall accrue from the date of this [Convertible Note] on the unpaid principal amount at a rate equal to twelve (12%) percent paid monthly;"
  - c. "interest shall accrue on this [Convertible Note] but shall not be due and payable until the Maturity Date;"
  - d. "[u]nless converted...., this [Convertible Note] will automatically mature and be due and payable on June 4, 2016;" and
  - e. "[t]he entire amount of principal and accrued interest on this [Convertible Note] may be converted into shares of the [Skytec]'s Regional entity, [Skytec Kansas City]<sup>3</sup> (the 'Equity Securities') at the discretion of the note holder. The note holder shall be entitled to convert to a 5.36% equity position in that entity".
44. At the top of the first page of the Convertible Note, in all capital letters, was the following disclosure:

*THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH*

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<sup>2</sup> Due to Skytec's constant recycling of documents from prior transactions, such oversights and drafting errors appear routinely in Skytec investment-related documentation. Despite this particular drafting error on MR1's Convertible Note, the correct amount of MR1's actual investment appears at the top of the Convertible Note document as "\$125,000".

<sup>3</sup> The entity name appearing on the document is "Skytec Security Kansas City, LLC" rather than "Skytec Security of Kansas City, LLC" due to, based on information and belief, a typographical error by the document's drafter(s).

*REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933 (“Securities Act Disclosure”).*

45. The document also contains the following statement:

*In no event shall any shareholder, officer or director of [Skytec] be liable for any amounts due or payable pursuant to this [Convertible Note] (“Limitation of Liability Language”).*

46. The copy of the Convertible Note admitted at the hearing was not signed by either party. However, MR1 testified that the document marked as Exhibit O1 was the agreement entered into by MR1 and the Respondents.

47. At all times relevant to this matter, there was no registration, granted exemption or notice filing in the State of Missouri indicating status as a “federal covered security” for the Convertible Note offered and sold to MR1.

48. At no time prior to the purchase of the Convertible Note had Madasz or anyone else from Skytec disclosed the following material information to MR1:

- a. Skytec Kansas City, at the time, was a non-operational entity with no revenue or bank account;
- b. Myers pled guilty to felony wire fraud in 2005 for which he was sentenced to five months in prison at Leavenworth Prison Camp, fined \$50,000, and served three years supervised probation; and
- c. There was no registration, granted exemption or notice filing in the State of Missouri indicating status as a “federal covered security” for the Convertible Note.

49. Skytec’s Wells Fargo bank account ending in #9789 (“Skytec Account #9789”), which was admitted during the hearing as Exhibit B14, shows a deposit on June 4, 2014, via Fedwire, for \$125,000 from MR1’s account at Community America Credit Union. At the time of the deposit, Skytec Account #9789 had a negative balance of (\$546.01).

50. Contrary to Madasz’s positive comments about Skytec to MR1, Skytec Account #9789 shows Skytec was so desperate for funds that within forty-eight hours from the time MR1’s funds were deposited into Skytec Account #9789, Myers and Marg spent more than \$59,900.00 – nearly fifty percent – of MR1’s investment in a flurry of payments to, among other things, cover overcharges in various Skytec bank accounts (including the accounts of Skytec affiliates), past due bills, past due payments to credit cards companies, past due commissions to sales personnel, and past due payroll to Skytec employees.

51. Skytec Account #9789 also shows, among the thirty (30) withdrawal transactions that occurred on June 4, 2014 and June 5, 2014, the following misappropriation of MR1’s funds:

- a. A June 4, 2014, payment of \$400.00 to Myers’s personal bank account at Wells Fargo

ending in #1477 (“Myers’s Personal Account #1477”) to cure a non-business-related overdraft;

- b. A June 4, 2014, payment of \$12,000 to the personal bank account of Myers’s spouse, who had no discernible affiliation with Skytec or any of its affiliates;
  - c. A June 5, 2014, payment of \$210.00 to the City of Scottsdale, Arizona to pay a summons associated with a motor vehicle violation by Myers;<sup>4</sup> and
  - d. A June 5, 2014, payment of \$1,200.00 to satisfy the debt accrued on the personal Discover credit card of Myer’s spouse, which consisted of personal expenses.
52. Skytec Account #9789 further shows that from June 6, 2014, through June 20, 2014, Myers misappropriated MR1’s investment for his own personal use, including, but not limited to, the following expenses:
- a. A second payment of \$12,000<sup>5</sup> on June 18, 2014, to the personal bank account of Myers’s spouse;
  - b. Payments totaling \$1,768.00<sup>6</sup> to satisfy the debt accrued on the personal Discover credit card of Myer’s spouse; and
  - c. Payments, based on information and belief, by Myers, totaling \$94.37 for food and drink.
53. By the close of business on June 20, 2014 – just seventeen days after MR1 invested \$125,000 in Skytec – Myers completely exhausted MR1’s funds.
54. To date, MR1 has not received all the interest payments or any return of the \$125,000 principal amount invested in Skytec.

### **Investment by Missouri Resident 2 (“MR2”)**

55. Madasz similarly re-connected via telephone with a then seventy-six-year-old Independence, Missouri resident and MadaszConsulting client, MR2. MR2 originally met Madasz at a local church and knew Madasz for more than twenty years. MR2 trusted Madasz implicitly.
56. Following the death of MR2’s husband in August 2012, MR2 cashed in some insurance policies on or around June 2014 – at the time, the most significant percentage of MR2’s net worth, not including her home – for approximately \$100,000.
57. Through his position as MR2’s financial planner, Madasz had intimate knowledge of MR2’s

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<sup>4</sup> Case #M-0751-TR-2014007564, Complaint #01921601. Payment was made in the form of a check, originally dated May, 24, 2014, which had been rejected prior to the Fedwire deposit by MR1 on June 4, 2014, for insufficient funds in the account, but ultimately was cleared against Skytec Account #9789 on June 5, 2014.

<sup>5</sup> This amount is in addition to the prior referenced payment of \$12,000.00 on June 4, 2014.

<sup>6</sup> This amount is in addition to the prior referenced payment of \$1,200.00 on June 4, 2014.



finances and knew about the imminent proceeds from the insurance policies. Madasz met with MR2 at her home in Independence, Missouri, to discuss plans for the funds and, on behalf and for the benefit of Skytec, recommended MR2 invest in Skytec.

58. During discussions with MR2 about investments in Skytec, Madasz never disclosed to MR2 that Madasz was actually a Skytec employee with primary responsibility of raising capital for Skytec.
59. Madasz did not provide MR2 a copy of Skytec's most recent financials or any company-related offering documentation, but did offer his comments that Skytec "would be a good investment for [MR2]" and that Madasz personally, along with other members of Madasz's family were already invested in Skytec.
60. On or around June 17, 2014, based solely on Madasz's recommendation and advice, MR2 agreed to invest the insurance policy proceeds with Skytec. MR2 invested \$116,667 in Skytec.
61. At the time of MR2's investment in Skytec, MR2 was retired, widowed and living off her retirement savings and social security. MR2 was not an 'accredited investor,' as that term is defined in Regulation D.
62. 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 in the State of Missouri indicating status as a "federal covered security" for the investment offered and sold to MR2.
63. At no time prior to the purchase of the investment had Madasz or anyone else from Skytec disclosed the following material information to MR2:
  - a. Madasz was an employee of Skytec, with a primary job responsibility to raise capital for Skytec;
  - b. Myers pled guilty to felony wire fraud in 2005, for which he was sentenced to five months in prison at Leavenworth Prison Camp, fined \$50,000 and served three years supervised probation; or
  - c. There was no registration, granted exemption or notice filing in the State of Missouri indicating status as a "federal covered security" for the investment offered and sold to MR2.
64. Bank records from Skytec Account #9789 shows a deposit from MR2's account at Bank of America on June 17, 2014, via Fedwire, for \$116,667, which became commingled with other funds already in the account.
65. A first-in-first-out ("FIFO") analysis of Skytec Account #9789 shows, among other things, the following misappropriation of MR2's funds:

- a. A June 18, 2014, payment of \$9,500<sup>7</sup> via check #10190, which Marg wrote out to himself, in partial repayment of his original purported \$150,000 equity investments in Skytec (for which Marg held a 49% equity ownership) and an affiliate of Skytec, Network Referral Systems LLC (for which Marg held a 50% equity ownership), that allegedly provided marketing services for Skytec;
  - b. A June 23, 2014, payment of \$5,000 to satisfy the debt accrued on the personal Citi AAdvantage MasterCard of Marg ending in #2990 (“Marg’s Citi AAdvantage MasterCard #2990”) that, according to an analysis of the card activity, paid for personal expenses such as, a purchase of \$39.47 in gasoline at Fry’s Fuel in Scottsdale, Arizona;
  - c. A June 30, 2014, payment of \$1,250 via check #10226 to MR1;<sup>8</sup> and
  - d. A July 7, 2014, payment of \$2,000 to Marg’s Citi AAdvantage MasterCard #2990 that, according to an analysis of the card activity, paid for personal expenses such as a \$115 purchase of Lionel Ritchie concert tickets.
66. Further FIFO analysis of Skytec Account #9789 shows that Marg and Myers made a series of transfers from June 23, 2014, through July 22, 2014, involving a total of \$9,200 of MR2’s funds to Skytec’s Wells Fargo bank account ending in #3617 (“Skytec Account #3617”) which became commingled with other funds in the account. According to a FIFO analysis of Skytec Account #3617, MR2’s funds were misappropriated by Myers through personal purchases, like the following:
- a. \$37.39 in personal furnishings from Bungalow Furniture and Accessories in Scottsdale, Arizona;
  - b. \$367.85 purchase of tickets to the Kcon Music Festival in Los Angeles, California;
  - c. \$50.00 in gasoline from Shell Oil, Scottsdale, Arizona;
  - d. \$59.00 in services from Massage Envy in the Pima Crossing Shopping Center in Scottsdale, Arizona;
  - e. \$49.95 in services from Hand & Stone Massage and Facial Spa in Scottsdale, Arizona; and
  - f. \$35.23 in food and drink at Butter’s Pancake House in Scottsdale, Arizona.
67. Respondents failed to pay MR2 all the expected interest from MR2’s investment in Skytec or any return to MR2 of the \$116,667 principal amount MR2 invested in Skytec.

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<sup>7</sup> According to the analysis, \$8,183.74 of the total \$9,500.00 was sourced from MR2’s funds.

<sup>8</sup> Funds were debited from Skytec Account #9789 on July 8, 2014.

### Investment by Missouri Residents 3 (“MR3”) and 4 (“MR4”)

68. On October 8, 2013, Madasz met with a then sixty-nine-year-old Warrensburg, Missouri resident and former insurance client of Madasz’s, MR3, to raise capital for Henrik R. Jensen and Patrick S. Kucera’s enterprise, Skytec Operations.<sup>9</sup> At the time, MR3, who co-owned and co-managed an automotive business in Overland Park, Kansas, declined to invest.
69. Madasz maintained a dialogue with MR3 and, on behalf and for the benefit of Skytec, continued to recommend and encourage MR3 (as well as solicit other persons at MR3’s automotive business) to invest in Skytec, but to no avail. Up until September 2014, even though Madasz managed to sell some insurance policies to certain executives at MR3’s auto business, Madasz’s efforts to convert MR3 or any of MR3’s business partners into Skytec investors failed.
70. Then, on September 19, 2014, MR3 and his then sixty-nine-year-old spouse MR4 relented and decided to invest in Skytec.
71. MR3 and MR4 separately executed identical two-year unsecured promissory notes, investing \$31,100 and \$38,900, respectively, with Skytec. The promissory notes contained, among other things, the following terms:
- a. Skytec promises to pay to the promissory note holder a return of principal plus interest;
  - b. Interest shall accrue from the date of this promissory note on the unpaid principal amount at an annual rate of ten percent (10%), compounded annually;
  - c. Interest on the promissory note shall accrue but shall not be due and payable until maturity; and
  - d. The promissory note will mature on September 17, 2016.
72. At the top of the first page of the promissory notes, in all capital letters, was a Securities Act Disclosure.
73. Although neither of the promissory notes purchased by MR3 and MR4 contained a conversion feature, the following reference to convertibility appears in Section 1 of both documents:
- Unless converted as provided in Section 2, this Note will automatically mature and be due and payable September 17, 2016.*
74. The promissory notes also contained the following limitation of liability:
- In no event shall any Member, officer or director of [Skytec] be liable for any amounts due or payable pursuant to this Note (“Revised Limitation of Liability Language”).*

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<sup>9</sup> See FN1.

75. Both promissory notes were countersigned by Marg as president of Skytec.
76. At all times relevant to this matter, there was no registration, granted exemption or notice filing in the State of Missouri indicating status as a “federal covered security” for either of the promissory notes offered and sold to MR3 and MR4.
77. At no time prior to the purchase of the promissory notes offered and sold to MR3 and MR4 had Madasz, Marg, or anyone else from Skytec disclosed to MR3 and MR4 the following material information:
  - a. That Myers had pled guilty to felony wire fraud in 2005 for which he was sentenced to five months in prison at Leavenworth Prison Camp, fined \$50,000 and served three years supervised probation; and
  - b. That there was no registration, granted exemption or notice filing in the State of Missouri indicating status as a “federal covered security” for the promissory notes offered and sold to MR3 and MR4.
78. Bank records from Skytec Account #9789 show two deposits received on October 2, 2014, via Fedwire, for \$31,100 and \$38,900, from the IRA accounts of MR3 and MR4, respectively, at Forge Trust, which became commingled with other funds already in the account.
79. A FIFO analysis of Skytec Account #9789 shows all \$31,100 of MR3’s investment and \$8,727.55 of MR4’s \$38,900 investment were withdrawn on October 14, 2014, and transferred to Robins for foreign currency trading.<sup>10</sup>
80. Regarding the remaining \$20,172.45 balance of MR4’s investment, further analysis of Skytec Account #9789 shows a \$700 unexplained cash withdrawal by Myers on October 17, 2014.
81. Respondents failed to disclose to MR3 and MR4 that their investment funds would be used as described above.
82. Neither MR3 nor MR4 have received any return of principal or interest on their investments in Skytec to date.

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<sup>10</sup> Madasz’s fund raising was so successful for Skytec in the months of September and October 2014 – raising more than \$600,000 from a combination of Missouri and non-Missouri investors – that the money was coming in faster than Skytec could deploy the funds in its business operations. As a consequence, Madasz, Myers, and Marg discussed beneficial temporary options for the excess funds until such time that the funds may be needed. In response to their discussion, Madasz introduced Myers and Marg to Robins. According to Madasz, Robins had the skill to generate sizeable profits for Skytec in the foreign currency (“FX”) market by temporarily trading the money Skytec had raised from investors. To that end, Skytec executed two promissory notes with Robins, each authorizing payment of investor funds to trade in the FX market: the first promissory note was executed on October 3, 2014, for \$100,000 (the “Robins October Note”); the second note, which revised and superseded the October Note, was executed on November 7, 2014, for a total of \$250,000, which included the original \$100,000 associated with the October Note (the “Robins November Note”). Both notes were executed by Robins and, on behalf of Skytec, Myers. The evidence before the Commissioner leads to the conclusion that these funds were lost or converted, and in any case they were not returned to the investors.

### **Investment by Missouri Resident 5 (“MR5”) and 6 (“MR6”)**

83. In the fall of 2014, a retired Independence, Missouri couple, MR5 and MR6, were introduced to Madasz by their newly assigned agent at American Equity Investment Life Insurance Company (“American Equity”).
84. As a result of the introduction, MR5, for the benefit of MR5 and his wife MR6, became a client of MadaszConsulting. On November 12, 2014, MR5 executed a MadaszConsulting Agreement with Madasz. According to the terms of the MadaszConsulting Agreement, for a flat fee of \$4,000, MadaszConsulting was to provide MR5 with a variety of services, including but not limited to, “advice, information, judgment and knowledge” regarding income tax, trust planning, life insurance, and long-term care planning. Specifically, with respect to retirement planning, MadaszConsulting was to provide advice to MR5 on “[p]ossible use of a Qualified Plan to own IRA assets” and “[b]est use of [MR5’s] current dollars.” Further, the MadaszConsulting Agreement stated that the advice, information, judgment and knowledge of Madasz would be conveyed to MR5 through “written and/or oral recommendations...”
85. Leveraging off his knowledge of MR5 and MR6’s financial portfolio as the couple’s financial planner, Madasz, on behalf and for the benefit of Skytec, solicited MR5 and MR6 to invest in Skytec. The solicitation took place at MR5 and MR6’s home in Independence, Missouri.
86. Madasz described Skytec to MR5 and MR6 as “a good company to invest in.” Madasz told MR5 and MR6 that he was chief financial officer of Skytec and that he was raising money to help the company grow.
87. Madasz provided no offering documents or any company-related materials describing Skytec’s business, financials or executive management to MR5 or MR6. Neither MR5 nor MR6 had been introduced to or spoken with either Myers or Marg. Other than the couple’s Internet search of Skytec, which merely confirmed for them that Skytec was an actual company in Arizona, MR5 and MR6’s sole understanding of Skytec came from the brief comments Madasz made to them.
88. On January 20, 2015, while meeting with Madasz at MR5 and MR6’s home in Independence, Missouri, then sixty-seven-year-old MR5 executed a three-year unsecured promissory note, investing \$120,000 of MR5 and MR6’s joint life savings with Skytec. The promissory note contained, among other things, the following terms:
  - a. Skytec promises to pay to the promissory note holder a return of principal plus interest;
  - b. Interest shall accrue from the date of this promissory note on the unpaid principal amount at an annual rate of ten percent (10%), paid monthly (\$1,000); and
  - c. The promissory note will mature on January 20, 2018.
89. Similar to the promissory notes purchased by previous investors, MR5’s promissory note contained the following:
  - a. a Securities Act Disclosure;

- b. an erroneous reference to convertibility in Section 1; and
  - c. Limitation of Liability Language.
90. The promissory note was countersigned by Myers as chief executive officer of Skytec.
91. At all times relevant to this matter, there was no registration, granted exemption or notice filing in the State of Missouri indicating status as a “federal covered security” for the promissory note solicited and sold to MR5.
92. At no time prior to the purchase of the promissory note to MR5 had Madasz or anyone else from Skytec disclosed the following additional material information to MR5:
- a. that Myers pled guilty to felony wire fraud in 2005 for which he was sentenced to five months in prison at Leavenworth Prison Camp, fined \$50,000 and served three years supervised probation; and
  - b. that there was no registration, granted exemption or notice filing in the State of Missouri indicating status as a “federal covered security” for the promissory note offered and sold to MR5.
93. At the time of MR5’s investment in Skytec, MR5 was not an accredited investor as defined in Regulation D.
94. Bank records from Skytec Account #9789 show a deposit of \$120,000 received on January 16, 2015, via check #32665 drawn from MR5 and MR6’s savings account at Bank Midwest, which became commingled with other funds in the account.
95. A FIFO analysis of Skytec Account #9789 shows the following misappropriation of MR5’s investment:
- a. A \$1,000 payment on January 21, 2015, to the Wells Fargo Business Secured MasterCard attached to Skytec Account #9789 and possessed by Myers (“”), which consisted of personal, non-business-related expenses;
  - b. A \$68.54 payment on January 22, 2015, by Marg to the Department of Motor Vehicles in Scottsdale, Arizona for, based on information and belief, a license registration renewal;
  - c. A \$27.48 payment by Myers to Circle K in Scottsdale, Arizona on January 23, 2015;
  - d. A \$48.59 payment, based on information and belief, by Myers to NYPD Pizza in Scottsdale, Arizona on January 26, 2015;
  - e. A \$23.03 payment by Myers to The Ventura Clubhouse Grill in Scottsdale, Arizona on January 28, 2015;

- f. A transfer of \$600.00 on January 28, 2015, that included \$314.95 of MR5's investment funds to Skytec Funding Account #0039, which was then transferred to Myers's Personal Account #1477 and ultimately paid to Myer's wife by check #2046;
  - g. A \$500 payment to MR5 on February 5, 2015;
  - h. A \$1,250 payment to MR1 on February 5, 2015;
  - i. Another \$400.00 payment to Myers's Business MasterCard on February 9, 2015;
  - j. A \$25.25 payment by Marg to Butters Pancakes & Cafe in Scottsdale, Arizona on February 13, 2015; and
  - k. A \$26.38 payment by Myers to Arco gas station in Scottsdale, Arizona on February 13, 2015.
96. MR5 has not received any return of principal or all the interest on MR5's investments in Skytec to date.
97. After reviewing MR5 and MR6's qualified retirement accounts in his financial planner capacity as per the Madasz Consulting Agreement, Madasz, on behalf and for the benefit of Skytec, solicited MR5 and MR6 to make additional investments in Skytec. The solicitation took place at MR5 and MR6's home in Independence, Missouri.
98. On March 5, 2015, while paying a visit to MR5 and MR6 at their home in Independence, Madasz presented MR5 and MR6 with two additional and identical Skytec promissory notes to sign: one note, for MR5, was drafted for an investment in the amount of \$30,000; the other note, for MR6, was drafted for an investment in the amount of \$50,000. MR5 and MR6 signed the notes that day ("March Promissory Notes").
99. At the time of the investment in the March Promissory Notes MR5 and MR6 were sixty-seven and sixty-four-years-old, respectively.
100. Each of the March Promissory Notes were to pay accrued interest to the noteholder once each year at a rate of ten percent (10%) of the principal amount of the investment. Also, similar to the promissory notes purchased by previous investors, each of the March Promissory Notes contained the following:
- a. a Securities Act Disclosure;
  - b. an erroneous reference to convertibility in Section 1; and
  - c. Revised Limitation of Liability Language.
101. Each of the March Promissory Notes was countersigned by Myers as chief executive officer of Skytec.

102. At all times relevant to this matter, there was no registration, granted exemption or notice filing in the State of Missouri indicating status as a “federal covered security” for the March Promissory Notes offered and sold to MR5 and MR6.
103. At no time prior to the purchase of the March Promissory Notes had Madasz or anyone else from Skytec disclosed the following additional material information to MR5 or MR6:
  - a. that Myers pled guilty to felony wire fraud in 2005 for which he was sentenced to five-months prison sentence at Leavenworth Prison Camp, fined \$50,000 and served three years supervised probation; or
  - b. that there was no registration, granted exemption or notice filing in the State of Missouri indicating status as a “federal covered security” for the March Promissory Notes.
104. Bank records from Skytec Account #9789 show separate deposits of \$30,000 and \$50,000 received on March 5, 2015, by wire transfers from MR5 and MR6’s individual retirement accounts at Fremont Bank which become commingled with other funds in the account.
105. A FIFO analysis of Skytec Account #9789 shows the following misappropriation of MR5’s \$30,000 investment:
  - a. An \$850.00 payment on March 16, 2015, to Myers’s Business MasterCard, which contained personal, non-business-related expenses;
  - b. A \$28.83 payment by Marg to Sushi Brokers restaurant in Scottsdale, Arizona on March 18, 2015; and
  - c. A \$7,000 finder’s fee payment by wire transfer on March 19, 2015, to MR5’s newly assigned agent at American Equity Investment Life Insurance Company as compensation for MR5 and MR6’s investments in Skytec.
106. Additionally, on March 19, 2015, Myers transferred \$1,000 of MR5’s funds from Skytec Account #9789 to Skytec Funding Account #0039, which becomes commingled in the account. A review of records from Skytec Funding Account #0039, shows, based on a FIFO analysis, the following transactions:
  - a. a cash withdrawal in the amount of \$3,600 by Myers on April 3, 2015, that included \$965.05 of MR5’s investment funds; and
  - b. a transfer of \$75.00, which included \$34.95 of MR5’s funds, on April 6, 2015, to Myers’s Personal Account #1477 that is ultimately paid to Myers’s wife via check #2043 on April 6, 2015.
107. To date, MR5 has not received all the interest payments or any return of the \$30,000 principal amount invested in Skytec.
108. With respect to MR6’s \$50,000 investment, a FIFO analysis of Skytec Account #9789 shows the following misappropriation of MR6’s funds:



- a. A payment of \$962.50 on March 20, 2015, to an investor in Skytec Operations;<sup>11</sup>
  - b. A \$53.59 payment by Myers to Walgreens in Scottsdale, Arizona on March 23, 2015;
  - c. A \$34.75 payment by Myers to Chevron in Phoenix, Arizona on March 23, 2015;
  - d. An \$885 payment on March 24, 2015, to Marg's Discover credit card, which consisted of personal expenses;
  - e. A \$40.32 payment by Myers to Picazzo's Organic Italian Kitchen in Scottsdale, Arizona on March 25, 2015;
  - f. A \$50.64 payment by Myers to Ling & Louie's Asian Bar and Grill in Scottsdale, Arizona on March 26, 2015;
  - g. A \$30.06 payment by Myers to Butters Pancakes & Cafe in Scottsdale, Arizona on March 27, 2015;
  - h. A \$39.00 payment by Marg to La Fonda Del Sol restaurant in Scottsdale, Arizona on March 30, 2015;
  - i. A \$24.50 payment by Myers to Shell Oil in Scottsdale, Arizona on March 30, 2015;
  - j. A \$23.22 payment by Myers to Butters Pancakes & Cafe in Scottsdale, Arizona on March 31, 2015;
  - k. A \$21.32 payment by Myers to Butters Pancakes & Cafe in Scottsdale, Arizona on April 2, 2015;
  - l. A \$1,000.00 payment by Myers to a law firm in Phoenix, Arizona that, based on information and belief, had been engaged to represent Myers on a personal matter;
  - m. A \$43.70 payment by Myers to Houston's Restaurant in Scottsdale, Arizona on April 6, 2015;
  - n. A \$37.50 payment by Myers to Butters Shell Oil in Scottsdale, Arizona on April 6, 2015;
  - o. A payment of \$1,250.00 to MR1 on April 6, 2015; and
  - p. A payment of \$1,666.66 to MR5 on April 6, 2015.
109. To date, MR6 has not received all the interest payments or any return of the \$50,000 principal amount invested in Skytec.
110. Completely unaware of how their investment funds had been misappropriated as described

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<sup>11</sup> See FN1.

above, MR5 and MR6, as a result of further advice and encouragement from Madasz, decided to invest another \$26,000 with Skytec in the fall of 2015. MR5 and MR6 made this new investment to Skytec in the form of two separate cashier's checks, each in the amount of \$13,000 and drawn from MR5 and MR6's joint bank account at Bank Midwest.

111. For reasons not entirely clear, the parties, rather than execute a new promissory note for \$26,000, agreed to amend the amount of the original promissory note purchased by MR5 from \$120,000 to \$146,000.
112. The language of the revised \$146,000 note is identical in all respects to the \$120,000 promissory note, including reference to the original January 20, 2018, maturity date, except that it modifies the principal amount of the investment from \$120,000 to \$146,000, increases the stated dollar amount of monthly interest from \$1,000 to \$1,217, and adds the following section:
113. The Commissioner concludes that this transaction was presented to MR5 and MR6 by Madasz and also signed by MR5 and MR6 at their home in Independence, Missouri, based on Madasz's previous interactions with the couple.

**Amendment of Promissory Note Dated April 20, 2015** [sic]<sup>12</sup>

*Effective May 1<sup>st</sup> 2016, [MR5] transfer [sic] to his wife [MR6] all interests in this note. All other terms remain as agreed upon in original note.*

114. At all times relevant to this matter, there was no registration, granted exemption or notice filing in the State of Missouri indicating status as a "federal covered security" for the amended \$146,000 promissory note offered and sold to MR5 and MR6.
115. At no time prior to MR5 and MR6's additional \$26,000 investments had Madasz or anyone else from Skytec disclosed the following material information to MR5 or MR6:
  - a. that Myers pled guilty to felony wire fraud in 2005 for which he was sentenced to five months in prison sentence at Leavenworth Prison Camp, fined \$50,000 and served three years supervised probation; and
  - b. that there was no registration, granted exemption or notice filing in the State of Missouri indicating status as a "federal covered security" for the amended \$146,000 promissory note.
116. A review of bank records from Skytec Funding Account #0039 in which both MR5 and MR6's \$13,000 cashier's checks were deposited, shows a deposit of MR5's \$13,000 on September 25, 2015, and a deposit of MR6's \$13,000 on October 28, 2015.
117. A FIFO analysis of Skytec Funding Account #0039 shows, among other things, the following

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<sup>12</sup> Based on information and belief, the date as written is in error and should have reflected the date of the \$120,000 promissory note, which was "January 20, 2015."

uses of MR5's \$13,000 investment:

- a. A cash withdrawal in the amount of \$800, which included \$677.70 of MR5's funds, by Myers on October 2, 2015;
  - b. A transfer of \$11,500, to Myers's Personal Account #1477 on October 5, 2015; and
  - c. A second cash withdrawal in the amount of \$13,000, which included \$822.30 of MR5's funds, by Marg on October 5, 2015.
118. With respect to MR6's \$13,000 investment, a FIFO analysis of Skytec Funding Account #0039 shows, among other things, the following uses of MR6's funds:
- a. A cash withdrawal in the amount of \$700 by Myers on November 2, 2015.
119. To date, neither MR5 nor MR6 have received all the interest payments or any return of the additional \$13,000 principal amounts they invested in Skytec.

#### **Investment by Missouri Resident 7 ("MR7")**

120. MR7, a Lee's Summit, Missouri resident, was referred to Madasz by MR7's Sunday school teacher after commenting about the need to consult with someone on personal financial matters such as estate planning, life insurance, and retirement planning. MR7's Sunday school teacher was an acquaintance of Madasz's and was aware of Madasz's purported expertise in the subject matters on which MR7 was seeking consultation.
121. As a result of the introduction, MR7 ultimately executed a Madasz Consulting Agreement on November 12, 2014, and became a financial planning client of Madasz's.
122. Leveraging off his knowledge of MR7's financial portfolio in his capacity as MR7's financial planner, Madasz, on behalf and for the benefit of Skytec, solicited MR7 to invest in Skytec.
123. Madasz represented Skytec to MR7 as a company that sold and installed alarm and security systems.
124. To influence MR7's investment decision, Madasz falsely stated that "[Skytec is] an extremely safe company to invest in." To further entice MR7, Madasz specifically emphasized the high rate of interest – ten percent (10%) – being offered by Skytec on its promissory notes.
125. Other than Madasz, MR7 did not speak to any other member of Skytec management prior to investing and received no offering documents regarding Skytec.
126. On May 6, 2015, based solely on the recommendations made by Madasz, MR7 executed a \$400,000 three-year, ten percent (10%)<sup>13</sup> promissory note with Skytec. The promissory note

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<sup>13</sup> According to the terms of MR7's \$400,000 Note, interest would accrue and be paid to the noteholder on an annual basis.

also contained the following:

- a. a Securities Act Disclosure;
  - b. an erroneous reference to convertibility in Section 1; and
  - c. Limitation of Liability Language.
127. The promissory note was countersigned by Myers as chief executive officer of Skytec.
128. At all times relevant to this matter, there was no registration, granted exemption or notice filing in the State of Missouri indicating status as a “federal covered security” for the promissory note.
129. At no time prior to MR7’s investment in Skytec had Madasz or anyone else from Skytec disclosed the following additional material information to MR7:
- a. that Myers pled guilty to felony wire fraud in 2005 for which he was sentenced to five months in prison at Leavenworth Prison Camp, fined \$50,000 and served three years supervised probation; or
  - b. that there was no registration, granted exemption or notice filing in the State of Missouri indicating status as a “federal covered security” for the promissory note.
130. Bank records from Skytec Account #9789 show the deposit of \$400,000 received on May 8, 2015, by wire transfer from MR7’s IRA at Forge Trust, which became commingled with other funds in the account.
131. A FIFO analysis of Skytec Account #9789 shows the following misappropriation of MR7’s investment:
- a. A \$42.91 payment by Myers to Zipps Sports Grill in Scottsdale, Arizona on May 11, 2015;
  - b. A \$41.28 payment by Myers to Shell Oil in Scottsdale, Arizona on May 11, 2015;
  - c. A cash withdrawal in the amount of \$2,700 by Myers on May 12, 2015;
  - d. A \$2,213.40 on-line payment by Marg to pay Marg’s Citi AAdvantage MasterCard #2990 on May 12, 2015, which consisted of personal expenses;
  - e. A \$2,000 on-line payment on May 14, 2015, to pay Myers’s Business MasterCard, which consisted of personal expenses;
  - f. An interest payment of \$962.50 on May 15, 2015, to an investor in Skytec Operations;<sup>14</sup>

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<sup>14</sup> See FN1.

- g. A \$1,000 payment to MR5 by wire transfer on May 20, 2015;
  - h. A \$59.80 payment by Myers to Wally's American Pub & Grill in Phoenix, Arizona on May 21, 2015;
  - i. A \$39.81 payment by Myers to Shell Oil in Scottsdale, Arizona on May 21, 2015;
  - j. A \$14,000 commission check (signed by Marg) to MR7's Sunday school teacher in compensation for the sale of the promissory note to MR7;
  - k. Another on-line payment by Marg in the amount of \$318.99 to Marg's Citi AAdvantage MasterCard #2990 on June 2, 2015;
  - l. A \$39.82 payment by Myers to Arco gasoline station in Scottsdale, Arizona on June 3, 2015; and
  - m. A \$1,250.00 payment, which included \$1,027.64 of MR7's investment funds, to MR1 on June 5, 2015.
132. Additionally, on May 15, 2015, Myers transferred \$1,200 of MR7's funds to Myers's Personal Account #1477, which was consumed by an assortment of personal expenses between May 19, 2015, and May 26, 2015.
133. Lastly, on May 11, 2015, and May 12, 2015, a total of \$282,000 of MR7's funds were transferred out of Account #9789 to Skytec Funding Account #0039. Of such funds transferred to Skytec Funding Account #0039, a total of \$275,000 was transferred to Robins on May 11, 2015, and May 12, 2015. Myers made an unexplained cash withdrawal of \$9,500 on May 11, 2015, that included \$6,950.05 of MR7's investment funds.
134. At no time prior to MR7's investment in Skytec had Madasz or anyone else from Skytec disclosed to MR7 that his investment funds would be used for the purposes described above. In particular, Madasz had never mentioned the name "Robins" to MR7 or referenced the subject of foreign currency trading at any time in his conversations with MR7 about investing in Skytec.
135. To date, MR7 has not received all the interest payments or any return of the \$400,000 principal amount invested in Skytec.
136. In early November 2015, MR7 received a call at his home from Madasz. The reason for Madasz's call was to invite MR7 to meet with Madasz at Madasz's office at the Kansas City chapter of the American Club Association, a private club of which Madasz was a member, to discuss MR7's personal finances as part of the financial planning services Madasz was providing to MR7 as per the MadaszConsulting Agreement executed in 2014.
137. At the meeting, Madasz addressed the remaining balance in MR7's IRA of approximately \$66,500. Madasz, on behalf and for the benefit of Skytec, then recommended MR7 invest the remaining balance in another Skytec promissory note.

138. On November 9, 2015, based solely on the recommendations made by Madasz, MR7 executed an additional \$66,500 three-year, ten percent (10%) promissory note with Skytec. The terms of the \$66,500 promissory note were identical to MR7's \$400,000 promissory note, and like the \$400,000 promissory note, contained the following:
- a. a Securities Act Disclosure;
  - b. an erroneous reference to convertibility in Section 1; and
  - c. Limitation of Liability Language.
139. The promissory note was countersigned by Myers as chief executive officer of Skytec.
140. 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 in the State of Missouri indicating status as a "federal covered security" for the promissory note.
141. At no time prior to the execution of the promissory note had Madasz or anyone else from Skytec disclosed the following additional material information to MR7:
- a. that Myers pled guilty to felony wire fraud in 2005 for which he was sentenced to five months in prison at Leavenworth Prison Camp, fined \$50,000 and served three years supervised probation; and
  - b. that there was no registration, granted exemption or notice filing in the State of Missouri indicating status as a "federal covered security" for the promissory note.
142. A review of bank records from Skytec Account #9789 shows the deposit of \$66,500 received on November 10, 2015, by wire transfer from MR7's IRA at Forge Trust, which became commingled with other funds in the account.
143. A FIFO analysis of Skytec Account #9789 shows the following misappropriation of MR7's \$66,500 investment:
- a. A \$294.00 on-line payment on November 10, 2015, to pay Myers's Business MasterCard, which consisted of personal expenses;
  - b. A cash withdrawal in the amount of \$500.00 by Myers on November 12, 2015;
  - c. A \$15.06 payment by Marg to Starbucks Coffee on November 16, 2015;
  - d. A \$36.31 payment by Marg to Twisted Root Parlor & Bar restaurant in Scottsdale, Arizona on November 18, 2015; and
  - e. A \$20.54 payment by Marg to Red House Chinese Restaurant in Scottsdale, Arizona on November 18, 2015.

144. Additionally, between November 10, 2015, and November 18, 2015, Myers transferred a total of \$1,675.33 of MR7's funds to Myers's Personal Account #1477. Once deposited in Myers's Personal Account #1477, the funds were consumed, in part, by an assortment of personal expenses incurred between November 3, 2015,<sup>15</sup> and November 19, 2015, and, in part, through the issuance of check #2001 that had been paid to Myers's wife.
145. Between November 10, 2015, and November 17, 2015, a total of \$27,764.60 of MR7's funds were transferred out of Account #9789 to the Wells Fargo bank account of National Marketing Company, LLC, dba Skytec Roofing LLC, ending in #8090 ("Skytec Roofing Account #8090") and used to operate a roofing business.
146. To date, MR7 has not received all the interest payments or any return of the \$66,500 principal amount invested in Skytec.

#### **Investment by Missouri Resident 8 ("MR8")**

147. On or around June 1, 2016, Madasz, on behalf and for the benefit of Skytec, drove to the Kansas-based place of employment of Belton, Missouri resident, MR8, and presented the then sixty-eight-year-old MR8 with a two-year \$20,000 unsecured promissory note, in Skytec Service KC (the "Skytec KC Note")<sup>16</sup> to sign.
148. The Skytec KC Note, dated June 1, 2016, was signed by MR8 and countersigned by Myers.
149. According to the terms of the Skytec KC Note;
  - a. the noteholder would earn twelve percent (12%) annual interest, payable monthly in the amount of \$200; and
  - b. the note would mature on June 1, 2018.
150. By Respondents' Madasz, Myers, and Skytec Service KC's own admission, the Skytec KC Note was – and was represented by such Respondents to MR8 as – a security, in that, included at the top of the first page of the note, in all capital letters, was a Securities Act Disclosure.
151. At all times relevant to this matter, there was no registration, granted exemption or notice filing in the State of Missouri indicating status as a "federal covered security" for the Skytec KC Note.
152. MR8 tendered a personal check, which MR8 erroneously wrote out to "Sky Tec Services KC, LLC", dated June 1, 2016, in the amount of \$20,000 ("Check #1534").

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<sup>15</sup> The discrepancy between the deposit date of November 11, 2015, and usage date of funds beginning on November 2, 2015, is due to the negative balance in Myers's Personal Account #1477 caused by overdrafts dating back to November 2, 2015, that were cured upon receipt of MR7's \$66,500 deposit.

<sup>16</sup> Although the weight of the evidence suggests that the actual issuer of the Skytec KC Note was, in fact, Skytec Service KC, the entity "Skytec Security Kansas City, LLC" is erroneously referenced as the counterparty to MR8 in the opening paragraph of the document and the signature block for Myers erroneously identifies Myers as the managing member of an unknown entity "SkyTec Services KC, LLC" (emphasis added). Both errors appear to be the result of failed editing of the template from which the Skytec KC Note was drafted.

153. Bank records from Skytec Service KC's bank account at Enterprise Bank ending in #8825 ("Skytec Service KC Account #8825") show the deposit of Check #1534 on July 5, 2016, which became commingled with other funds in the account.
154. Based on a FIFO analysis of Skytec Service KC Account #8825, \$19,927.95 of MR8's invested funds were transferred on July 11, 2016, to the Wells Fargo bank account of Skytec Roofing LLC ending in #1805 ("Skytec Roofing Account #1805"), which became commingled with other funds in the account.
155. A FIFO analysis of Skytec Roofing Account #1805 shows that of the \$19,927.95 transferred into that account, a total of \$7,025 was used to make two on-line payments to two of Marg's personal Citibank credit cards: \$4,125 was paid to card ending in #0787 on July 11, 2015, and \$2,900, which included \$2,679.99 of MR8's funds, was paid to card ending in #8244 on July 12, 2015.
156. With respect to the \$72.05 of MR8's funds remaining in Skytec Service KC Account #8825, a FIFO analysis shows that the funds were misappropriated, based on information and belief, by Madasz, as follows:
  - a. a payment of \$50.58 on July 14, 2016, to Buffalo Wild Wings in Overland Park, Kansas; and
  - b. a transfer of \$21.74 (as part of a total transfer of \$5,625) on July 21, 2016 to Skytec Roofing Account #1805.
157. Skytec and Skytec Service KC bank accounts show that MR8 has not received any return of the \$20,000 principal amount she invested in Skytec Service KC.

### **III. CONCLUSIONS OF LAW**

#### **Twelve Violations of Offering and Selling Unregistered, Non-Exempt Securities**

158. **THE COMMISSIONER DETERMINES** that, in twelve (12) instances, Respondents Myers, Skytec, and Skytec Service KC, acting in concert with other individuals and entities, offered and sold unregistered, non-exempt securities in the form of promissory notes in the State of Missouri, in violation of Section 409.3-301.<sup>17</sup>
  - a. The instruments Respondents offered and sold are securities under the Missouri Securities Act ("Act"). "Security" is defined in Section 409.1-102(28). Specifically, Section 409.1-102(28) defines a "Security" to mean, among other things, "a note." Each of the instruments offered and sold by Respondents in this matter on their face are titled either "PROMISSORY NOTE" or "CONVERTIBLE PROMISSORY NOTE" and are explicitly identified as "securities" in the Securities Act Disclosure that appears at the top of each transactional document. Further, following the guidance of Missouri courts<sup>18</sup>

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<sup>17</sup> Unless otherwise noted, all statutory references are to the 2020 Supp. Revised Statutes of Missouri.

<sup>18</sup> See, e.g., *State v. Kramer*, 804 S.W.2d 845, 849 (Mo. App. E.D. 1991).



and focusing on substance rather than form, the substance—or economic realities—of the notes in the current matter also comport with the definition of “investment contract” found in Section 409.1-102(28)(D). According to Section 409.1-102(28)(D), an investment contract is “an investment in a common enterprise with the expectation of profits to be derived primarily from the efforts of a person other than the investor.” Here, the eight MRs advanced money that was received by Respondents into the bank accounts of Skytec and Skytec Service KC, believing the money would be used by Respondents to establish and grow the businesses of these two entities; as a result of their investments in the businesses of Skytec and Skytec Service KC, each of the MRs’ fortunes became interwoven with those of not only the other Missouri investors in this matter, but several other investors outside of Missouri that are not part of this case, creating a common enterprise; there was an expectation of profits by virtue of Respondents’ promise to pay each of the noteholders a fixed rate of interest, either periodic or on an accrual basis; and, the generation of the profits from the businesses of Skytec and Skytec Service KC that would afford Respondents the ability to pay the promised rate of interest to the noteholders was to come from the efforts of Myers managing the business affairs of Skytec and Skytec Service KC, not from the efforts of any of the MRs who had purchased the notes as passive investors;

- b. Respondents are the issuers of the notes. “Issuer” is defined in Section 409.1-102(17). Respondents’ capacity as the issuer of the notes is supported by the following facts: nine of the ten note documents entered into evidence expressly identify Skytec as the transactional counterparty obligated with the “promise[s] to pay” principal and interest to the noteholder;<sup>19</sup> of the eight fully executed notes, six are countersigned by Myers as CEO of Skytec or managing member of Skytec Service KC,<sup>20</sup> while two of the notes are countersigned by Marg, who, as president of Skytec, reported to Myers; in each of the twelve total transactions in this matter, the funds invested by MR1–MR8 were received and accepted into bank accounts titled in the names of Skytec or Skytec Service KC; at all times relevant, Myers was an owner of Skytec and Skytec Service KC and was a signatory on the bank accounts of Skytec and Skytec Service KC that received and accepted MR1–MR8’s investment funds; at all times relevant, Myers, as owner and CEO of Skytec and owner and managing member of Skytec Service KC, possessed the power, authority and means to engage in management and policy-making functions of these two entities;
- c. “Sale” and “Offer to sell” is defined in Section 409.1-102(26). Myers, in his capacity as CEO of Skytec, authorized the hiring of Madasz to raise capital for Skytec. Madasz, as an employee of Skytec reporting to Myers, contacted and solicited seven MRs to purchase all eleven of the Skytec notes in this matter. In each instance, Madasz used telephone and/or email to schedule appointments with the MRs to either visit their

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<sup>19</sup> The named counterparty on one of the notes is “Skytec Security Kansas City, LLC,” which is not a named respondent in this matter. Skytec Service KC, LLC, which bears a strikingly similar sounding name and based on information and belief is a separate and distinct entity from Skytec Security Kansas City, LLC, is a respondent in this matter given that the investor’s funds were received into that entity’s bank account and Respondent Myers signed the note as a managing member of that entity.

<sup>20</sup> The entity Skytec Service KC, LLC, is mistakenly written out on the signature line of the note document as “Skytec Services KC, LLC,” which the Commissioner concludes was an unintended typographical error.

homes in Missouri, meet them at a restaurant located in Missouri or have them stop by one of his office locations in Kansas, to pitch them a note and/or have them execute a note. As an employee of Skytec reporting to Myers, Madasz facilitated the execution of the Skytec notes directly with each MR and forwarded the notes to Myers and/or Marg in Arizona for countersignature. With respect to the sale of the Skytec Service KC note to MR8, Madasz, as an owner (with Myers) of Skytec Service KC, applied the same techniques, as noted above, to offer and sell this note to MR8. These activities constitute offers and sales of securities made in Missouri; and

d. 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 of the twelve promissory note securities offered and sold by Respondents to the eight Missouri residents in this matter.

159. At the time Respondents engaged in the conduct set forth above, all eight of the MRs were more than sixty-years-old and were elderly persons as that term is defined under Section 409.6-604(d)(3)(B).
160. Respondents' violations of Section 409.3-301, which constitute the offer and sale of an unregistered, non-exempt security in the State of Missouri, subject Respondents to the Commissioner's authority under Section 409.6-604.

#### **Twelve Violations of Section 409.5-501(3)**

161. **THE COMMISSIONER FURTHER DETERMINES** that Respondents Myers, Skytec and Skytec Service KC, in connection with the offer and sale of a security to each of the eight MRs engaged in an act, practice or course of business that operated or would operate as a fraud or deceit upon another person, in violation of Section 409.5-501(3).
162. Respondents' violations of Section 409.5-501(3) are supported by the following facts:
- a. Myers misappropriated investor funds by using such funds to cure overdrafts in his personal bank account, make payments to the personal bank account of his spouse who had no discernable affiliation with Skytec or any of its affiliates, pay a fine related to a personal traffic violation, pay personal credit card debts, pay for personal food and drink purchases, purchase personal home furnishings, purchase concert and movie theatre tickets, purchase gasoline for his car, purchase spa services and pay for personal legal services, as well as other uses that ran counter to the representations Respondents made to the MRs at the time of their investment; and
- b. Respondents engaged in a Ponzi scheme by paying interest to certain promissory note holders, including MR1 and MR5, from the proceeds collected from the sale of promissory notes to other investors, including other Missouri investors.
163. At the time Respondents engaged in the conduct set forth above, all eight of the MRs were more than sixty-years-old and were elderly persons, as that term is defined under Section 409.6-604(d)(3)(B).

164. Respondents' violations of Section 409.5-501(3), which constitute an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person, subject Respondents to the Commissioner's authority under Section 409.6-604.

#### IV. ORDER

**NOW THEREFORE**, it is hereby ordered that Respondents Myers, Skytec, and Skytec Service KC, their respective agents, employees and servants, and all other persons participating in or about to participate in the above-described violations with knowledge of this Order are prohibited from violating or materially aiding in any violation of:

- A. Section 409.3-301, by offering or selling any securities as defined by Section 409.1-102(28) in the State of Missouri unless those securities are registered with the Securities Division of the Office of the Secretary of State in accordance with the provisions of Section 409.3-301; and
- B. Section 409.5-501(3), by, in connection with the offer or sale of securities, engaging in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

**IT IS FURTHER ORDERED** that, pursuant to Section 409.6-604(d), Respondents Myers, Skytec, and Skytec Service KC shall pay, joint and several, a civil penalty in the amount of \$240,000 for twelve violations of Section 409.3-301, where all twelve of those violations involved an elderly person. These amounts shall be made payable to the State of Missouri and paid within thirty (30) days of the date of this Final 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. This amount shall be sent to the Missouri Securities Division at 600 West Main Street, P.O. Box 1276, Jefferson City, Missouri 65102.

**IT IS FURTHER ORDERED** that, pursuant to Section 409.6-604(d), Respondents Myers, Skytec and Skytec Service KC shall pay, joint and several, a civil penalty in the amount of \$360,000 for twelve violations of Section 409.5-501(3), where all twelve of those violations involved an elderly person. These amounts shall be made payable to the State of Missouri and paid within thirty (30) days of the date of this Final 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. This amount shall be sent to the Missouri Securities Division at 600 West Main Street, P.O. Box 1276, Jefferson City, Missouri 65102.

**IT IS FURTHER ORDERED** that, pursuant to Section 409.6-604(d)(2), Respondents Myers, Skytec and Skytec Service KC shall pay, joint and several, restitution in the amount of \$1,024,167 plus eight percent statutory interest from the dates of maturity on the promissory notes, as shown on Exhibit 1,<sup>21</sup> for violations of Sections 409.3-301 and 409.5-501(3). This amount shall be made payable to the Missouri Secretary of State's Investor Restitution Fund, and the Commissioner will take reasonable and necessary actions to distribute such funds to the investors listed in Post-Hearing Exhibit. 1. This amount shall be sent to the Missouri Securities Division at 600 West Main Street, P.O. Box 1276,

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<sup>21</sup> Reference is to Exhibit 1, which was attached to Pet'r Hr'g Br., filed on July 22, 2021, and is also attached herein. Note, the amounts calculated in Exhibit 1 discount the total amount of restitution due by the settlement amount paid by Marg, as referenced in paragraph 16 above, and distributed to the MRs prior to this Order.

Jefferson City, Missouri 65102, within thirty (30) days of this Final Order.

**IT IS FURTHER ORDERED** that, pursuant to Section 409.6-604(e), Respondents shall pay, joint and several, \$15,948.54 in actual costs for investigation into, and the proceedings associated with, this matter as requested by the Enforcement Section in Post-Hearing Exhibit 2. This amount shall be made payable to the Investor Education and Protection Fund. This amount shall be sent to the Missouri Securities Division at 600 West Main Street, P.O. Box 1276, Jefferson City, Missouri 65102, within thirty (30) days of the date of this Final Order.

**IT IS FURTHER ORDERED** that each Respondent shall pay their own costs and attorney's fees in this matter.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI  
THIS 30th DAY OF SEPTEMBER, 2021.



JOHN R. ASHCROFT  
SECRETARY OF STATE

  
\_\_\_\_\_  
DAVID M. MINNICK  
COMMISSIONER OF SECURITIES



STATE OF MISSOURI  
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF: )  
 )  
JOHN D. MYERS; KENNETH D. MARG; )  
DANIEL S. MADASZ, SR.; )  
SKYTEC SECURITY SERVICES, LLC; and )  
SKYTEC SERVICE KC, LLC, )  
 )  
Respondents. )

Case No.: AP-21-02


**POST-HEARING EXHIBIT 2 - STATEMENT OF PENALTIES, COSTS, and  
RESTITUTION**

Petitioner seeks the following in the above styled action against Respondents John D. Myers, Skytec Security Services, LLC and Skytec Service KC, LLC as follows:

<b>1</b>	<b>PENALTIES (Jointly and Severally)</b>	<b>AMOUNT</b>
<input type="checkbox"/> a.	Unregistered, Non-Exempt Securities – 409.3-301, Involving Elderly Persons – 409.6-604(d)(3)(B)	\$240,000.00
<input type="checkbox"/> b.	General Fraud - 409.5-501(3) – Involving Elderly Persons – 409.6-604(d)(3)(B)	\$360,000.00
	<b>TOTAL PENALTIES</b>	<b>\$600,000.00</b>
<b>2</b>	<b>COSTS (Jointly and Severally)</b>	
<input type="checkbox"/> a.	Attorney’s Time \$135/hour x 90 hours	\$12,150.00
<input type="checkbox"/> b.	Investigator’s Time \$65/hour x 50 hours	\$3,250.00
<input type="checkbox"/> c.	Other (specify) – Mail fees	\$31.57
<input type="checkbox"/> d.	Hearing Transcript	\$516.97
	<b>TOTAL COSTS</b>	<b>\$15,948.54</b>
<b>3</b>	<b>RESTITUTION (Jointly and Severally)</b>	
<input type="checkbox"/> a.	Restitution including annual interest of 8% from dates of violations (See Exhibit 1)	\$1,535,181.80
	<b>TOTAL RESTITUTION</b>	<b>\$1,535,181.80</b>
	<b>GRAND TOTAL PENALTIES, COSTS, &amp; RESTITUTION</b>	<b>\$2,151,130.34</b>

Respectfully submitted, this 2<sup>nd</sup> day of September, 2021.

**THE ENFORCEMENT SECTION OF THE  
MISSOURI SECURITIES DIVISION**



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Douglas M. Jacoby, #72400  
Director of Enforcement  
Counsel for Petitioner  
600 West Main Street  
Jefferson City, Missouri 65101  
Telephone: (573) 751-4136  
Facsimile: (573) 526-3124

Post-Hearing Exhibit 1  
 AP-21-02 - John D. Myers; Kenneth D. Marg; Daniel S. Madasz, Sr.; Skytec Security Services, LLC; and Skytec Service KC, LLC

	Principal Investment	Unpaid Principal	Date of Investment	8% Pre-Judgment Interest*	Total Restitution
MIR1	Skytec Security Services, LLC	\$125,000.00	June 4, 2014	\$73,278.00	\$198,278.00
MIR2	Skytec Security Services, LLC	\$116,667.00	June 17, 2014	\$68,056.06	\$184,723.06
MIR3	Skytec Security Services, LLC	\$31,100.00	September 19, 2014	\$17,508.30	\$48,608.30
MIR4	Skytec Security Services, LLC	\$38,900.00	September 19, 2014	\$21,899.46	\$60,799.46
MIR5	Skytec Security Services, LLC	\$120,000.00	January 20, 2015	\$64,320.00	\$184,320.00
MIR5	Skytec Security Services, LLC	\$30,000.00	March 5, 2015	\$15,780.00	\$45,780.00
MIR6	Skytec Security Services, LLC	\$50,000.00	March 5, 2015	\$26,300.00	\$76,300.00
MIR7	Skytec Security Services, LLC	\$400,000.00	May 6, 2015	\$204,979.20	\$604,979.20
MIR5	Skytec Security Services, LLC	\$13,000.00	September 8, 2015	\$6,309.37	\$19,309.37
MIR6	Skytec Security Services, LLC	\$13,000.00	October 25, 2015	\$6,173.54	\$19,173.54
MIR7	Skytec Security Services, LLC	\$66,500.00	November 9, 2015	\$31,373.10	\$97,873.10
MIR8	Skytec Security Kansas City, LLC	\$20,000.00	June 1, 2016	\$8,537.76	\$28,537.76
		\$1,024,167.00		\$287,141.82	\$1,568,681.80
					\$33,500.00
					Marg Consent Order Settlement

\* 8% annual simple interest calculated from date of investment to, and including, October 1, 2021.

Amount of years from date of the transaction to October 1, 2021

MIR1	7.3278
MIR2	7.2917
MIR3	7.0371
MIR4	7.0371
MIR5	6.7
MIR5	6.575
MIR6	6.575
MIR7	6.4056
MIR5	6.0667
MIR6	5.9361
MIR7	5.8972
MIR8	5.3361

**\$1,535,181.80 Net Restitution Owed**