



STATE OF MISSOURI  
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:

|                                 |   |                         |
|---------------------------------|---|-------------------------|
| LELONG INVESTMENT GROUP, L.L.C. | ) | ORDER TO CEASE & DESIST |
| 6345 Balboa Blvd.               | ) | Order No. CD-99-45      |
| Suite 200                       | ) |                         |
| Encino, California 91316;       | ) |                         |
|                                 | ) |                         |
| JAMES A. MARINO                 | ) |                         |
| 6345 Balboa Blvd.               | ) |                         |
| Encino, California 91316; and   | ) |                         |
|                                 | ) |                         |
| DAN KELLY                       | ) |                         |
| 6345 Balboa Blvd.               | ) |                         |
| Encino, California 91316,       | ) |                         |
|                                 | ) |                         |
| Respondents.                    | ) |                         |

Dan Kelly, a representative of LeLong Investment Group, L.L.C., offered to sell units in the LeLong Fund #1 to a Missouri resident. Kelly told the Missouri resident that the investment was risk-free and that Lloyd's of London guaranteed the investment. The investment units offered by Kelly were not registered as securities in the State of Missouri. Kelly was not registered to sell securities in the State of Missouri. These facts were not disclosed to the Missouri resident.

The Missouri Commissioner of Securities is empowered to issue such orders as are necessary to protect the public interest. Section 409.408, RSMo 1994.

The Commissioner has received a Petition for a Cease and Desist Order and issues the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

1. LeLong Investment Group, L.L.C. is a Nevada limited liability company with an address of 6345 Balboa Blvd., Suite 200, Encino, California 91316.

2. James A. Marino is the president of LeLong and has a business address of 6345 Balboa Blvd., Suite 200, Encino, California 91316.
3. Dan Kelly is a sales agent for LeLong and has a business address of 6345 Balboa Blvd., Suite 200, Encino, California 91316.
4. As used in this Cease and Desist Order, the term "Respondents" refers to LeLong, Marino and Kelly.
5. On July 31, 1998, Kelly telephoned a Missouri resident ("MR") and offered to sell MR a "no risk" investment in LeLong. During this telephone conversation, Kelly told MR, among other things:
  - a. LeLong produced "bread and butter" film projects outside the United States.
  - b. The minimum investment was \$10,000.
  - c. Investors would get their money back within 12 to 18 months at the most.
  - d. "Put 50, 60 things on your desk and look this over, all of them thoroughly, I think you'll probably take this and take the rest and sweep them off. I'll tell you why. When people invest in what we have, they don't send their money to my company. They send it directly to a U.S. bank where it goes into a trust account and cannot be used. It's an insured account. It's insured against investment loss by Lloyd's of London. . . . Any money that comes out of that bank, any expenses that come out of that account, have to first be approved by a designee of the insurance company. . . . Any money that comes out of that bank account can only be spent on film projects that are already sold."
6. During this July 31, 1998 telephone conversation, MR asked Kelly what risks were involved with the LeLong investment. Kelly told MR, "There isn't any. If there is any, Lloyd's of London has picked up the risk. They're insuring the fund against loss."
7. During this July 31, 1998 telephone conversation, Kelly further told MR, "It's a win-win situation for everybody. . . . When this fund has closed, he's [Marino] going to do a second fund. . . . I expect this fund to close out rather quickly."
8. On or about August 4, 1998, MR received a packet of information from LeLong containing, among other things:
  - a. A booklet entitled, "Break Free From Investment Risk;"

- b. A "Confidential Private Placement Offering Memorandum;" and
  - c. A "Subscription Agreement and Purchaser Questionnaire" for the LeLong Fund #1.
9. Also included with the packet of information was a document indicating that Marino was the "Founder and Chief Executive Officer of The LeLong Group, which wholly owns LeLong Investment Group, LeLong Film Company. . . ."
10. On August 10, 1998, Kelly telephoned MR. During this telephone conversation, Kelly told MR, among other things, the following:
  - a. "It's insured against investment risk by Lloyd's of London."
  - b. "The investment capital is not sent to any entrepreneur. It's sent directly to a bank where it goes into a trust account in a U.S. bank, and no withdrawals can be made from that account with [sic] prior approval of a designee of the insurance company."
  - c. "The only money that can come out of that account can come out of it to [sic] for the production of pre-sold film projects."
  - d. "Once the money is invested into a film project it, it is 100% insured against loss."
11. On July 31, 1998, the Missouri Securities Division received information that indicated that Respondents had offered to sell securities in the State of Missouri.
12. A check of the records maintained by the Missouri Commissioner of Securities confirmed no registration or granted exemption for the securities offered by Respondents in the State of Missouri.
13. A check of the records maintained by the Commissioner confirmed no registration for Kelly to sell securities in the State of Missouri.
14. On September 16, 1998, the Securities Division sent letters of inquiry to Respondents. These letters requested information about the above-addressed offer of securities. These letters also requested that Respondents file a claim of exemption from registration or exception from the definition of a security for the LeLong units offered in the State of Missouri.
15. On September 22, 1998, the Division received a letter from LeLong stating that LeLong did not need to make a Regulation D, Rule 506 exemption filing with the Securities Division at the present time because LeLong had made no sales in the State of Missouri.

16. On January 26, 1999, a second letter of inquiry was sent to LeLong. This second letter was identical to the Division's September 22, 1998 letter, but also informed LeLong that the Regulation D, Rule 506 exemption from registration was not available to LeLong because of LeLong's use of general solicitation in the offer of the LeLong units.
17. On February 5, 1999, the Division received a letter dated February 1, 1999, from LeLong, signed by Marino as President of LeLong. In this letter Marino stated, among other things, that LeLong was exempt from registration under Regulation D, Rule 506 and that no sales had been made in Missouri.
18. On September 15, 1999, the United States Securities and Exchange Commission filed a complaint in the United States District Court for the Central District of California against LeLong and Marino. This complaint alleged, among other things, that LeLong and Marino had no insurance coverage through Lloyd's of London and no agreements with film companies to produce films. This complaint also alleged that Marino used some investor funds to pay Marino's personal expenses.
19. In connection with the offer of the above-mentioned securities to a Missouri resident, Kelly omitted to state the following material facts:
  - a. That Kelly was not registered to sell securities in the State of Missouri.
  - b. That the LeLong units were not registered as securities in the State of Missouri.
20. In connection with the offer of the above-mentioned securities to a Missouri resident, Kelly misrepresented the following material facts:
  - a. That there were no risks involved with an investment in the LeLong units.
  - b. That investors' funds were "100% insured against loss" once the funds were invested into a LeLong film project.
  - c. That investors' funds were "insured against investment risk" by Lloyd's of London.
21. This Order is in the public interest.

### **CONCLUSIONS OF LAW**

1. The units in LeLong Fund #1 as offered by Respondents constitute investment contracts.

2. A security is defined as “. . . any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; **investment contract**; limited partnership interest; voting-trust certificate; certificate of deposit for a security; [or] certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease[.]” (Emphasis added). Section 409.401, RSMo Cumulative Supp. 1998.

The units in LeLong Fund #1 as offered by Respondents constitute securities.

3. It is unlawful for any person to transact business in this state as an agent unless he is registered as an agent under Sections 409.101 to 409.419. Section 409.201(a), RSMo Cumulative Supp. 1998.

Kelly's conduct described in the Section entitled "Findings of Fact" constitutes a violation of Section 409.201(a), RSMo Cumulative Supp. 1998.

4. "It is unlawful for any person to offer or sell any security in this state unless (1) it is registered under this act; (2) the security or transaction is exempted under section 409.402; or (3) it is a federal covered security." Section 409.301, RSMo Cumulative Supp. 1998.

Respondents' offer of unregistered securities, as described in the above "Findings of Fact," constitutes a violation of Section 409.301, RSMo Cumulative Supp. 1998.

5. "It is unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly

- (1) to employ any devise, scheme, or artifice to defraud,
- (2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or
- (3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person." Section 409.101, RSMo 1994.

Kelly's omissions of material facts in connection with the offer, sale or purchase of securities, as described in the above "Findings of Fact," constitute violations of Section 409.101, RSMo 1994.

Kelly's misrepresentations of material facts in connection with the offer, sale or purchase of securities, as described in the above "Findings of Fact," constitute violations of Section 409.101, RSMo 1994.

6. The Commissioner may, if he believes from the evidence satisfactory to him that a person is engaged or about to engage in any fraudulent or illegal practice or transaction, issue an order prohibiting such person from engaging in or continuing such fraudulent or illegal practice. Section 409.408(b), RSMo 1994.

Transacting business as an unregistered agent constitutes an illegal practice under the statute.

Offering unregistered securities constitutes an illegal practice under the statute.

Omitting to state a material fact in connection with the offer of securities constitutes an illegal practice under the statute.

Misrepresenting a material fact in connection with the offer of securities constitutes an illegal practice under the statute.

7. "[T]he burden of proving an exemption or an exception from a definition is upon the person claiming it." Section 409.402(f), RSMo 1994.

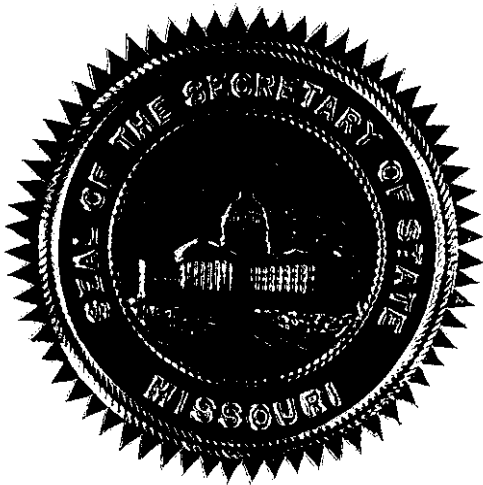
Respondents have failed to sufficiently prove an exemption from registration or an exception from the definition of a security.

8. Sufficient evidence exists to conclude that Respondents have engaged in willful violations of Sections 409.101, RSMo 1994, and 409.201 and 409.301, RSMo Cumulative Supp. 1998.
9. Sufficient evidence exists to conclude that Respondents will continue such fraudulent and illegal practices.


**NOW, THEREFORE**, the Commissioner of Securities Orders that LeLong Investment Group, L.L.C., James A. Marino and Dan Kelly, their agents, employees and servants CEASE AND DESIST the offer and sale of securities in violation of Sections 409.101, RSMo 1994, and 409.201 and 409.301, RSMo Cumulative Supp. 1998.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 29<sup>th</sup> DAY OF November, 1999.



REBECCA MCDOWELL COOK  
SECRETARY OF STATE

  
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DOUGLAS F. WILBURN  
COMMISSIONER OF SECURITIES

**NOTICE:**

Respondents and any unnamed representatives aggrieved by this Order may request a hearing in this matter. Any request for a hearing should be sent, in writing to Douglas F. Wilburn, Commissioner of Securities, Office of the Secretary of State, Missouri State Information Center, Room 229, 600 West Main Street, Jefferson City, Missouri, 65102, within thirty (30) days of the receipt of this Order. Section 409.412(a), RSMo 1994 and MO 15 CSR 30-55.020.