



STATE OF MISSOURI  
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF: )  
 )  
PROEQUITIES, INC., ) Case No. AP-15-21  
 )  
Respondent. )

**CONSENT ORDER**

**SUMMARY OF ENFORCEMENT SECTION'S ALLEGATIONS**

1. The Enforcement Section of the Missouri Securities Division of the Office of Secretary of State ("Enforcement Section"), through Assistant Commissioner Mary S. Hosmer, has alleged that ProEquities, Inc. ("ProEquities" or "Respondent"), failed to reasonably supervise Harry Allen Ward ("Ward"), who made unsuitable securities recommendations to a Missouri couple during the approximate period of August 2011 to July 2012, and that this constitutes grounds to issue an order against ProEquities pursuant to Sections 409.4-412(d)(9) and 409.6-604, RSMo. (Cum. Supp. 2013).
2. Respondent and the Enforcement Section desire to settle the allegations and the matters raised by the Enforcement Section relating to the Respondent's alleged violations.

**CONSENT TO JURISDICTION**

3. Respondent and the Enforcement Section stipulate and agree that the Missouri Commissioner of Securities ("Commissioner") has jurisdiction over the Respondent and these matters pursuant to the Missouri Securities Act of 2003, Chapter 409, *et seq.*
4. Respondent and the Enforcement Section stipulate and agree that the Commissioner has authority to enter this Order pursuant to Section 409.6-604(h), RSMo. (Cum. Supp. 2013), 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 Respondent's right to a hearing with respect to this matter.
6. Respondent waives any right that Respondent may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order. Respondent specifically forever releases and holds harmless the Missouri Office of Secretary of State, Secretary of State, Commissioner, and their respective representatives and agents from any and all liability and claims arising out of, pertaining to, or relating to this matter.
7. Respondent stipulates and agrees with the Enforcement Section that, should the facts contained herein prove to be false or incomplete, the Enforcement Section reserves the right to pursue any and all legal or administrative remedies at its disposal.

CONSENT TO COMMISSIONER'S ORDER

8. Respondent and the Enforcement Section stipulate and agree to the issuance of this Consent Order without further proceedings in this matter, agreeing to be fully bound by the terms and conditions specified herein.
9. Respondent agrees not to take any action or to make or permit to be made any public statement creating the impression that this Order is without factual basis. Nothing in this paragraph affects Respondent's (a) testimonial obligations; (b) right to take legal or factual positions in defense of litigation or in defense of other legal proceedings in which the Commissioner is not a party; or (c) right to make public statements that are factual.
10. Respondent agrees that Respondent is not the prevailing party in this action since the parties have reached a good faith settlement.
11. Respondent neither admits nor denies the allegations made by the Enforcement Section, but consents to the Commissioner's Findings of Fact, Conclusions of Law, and Order as set forth below solely for the purposes of resolving this proceeding and any proceeding that may be brought to enforce the terms of this Consent Order.

COMMISSIONER'S FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND ORDER

I. FINDINGS OF FACT

A. Respondent and Related Parties

12. ProEquities is a Missouri-registered broker-dealer with Central Registration Depository ("CRD") number 15708. ProEquities' main address is 2801 Highway 280 South, Birmingham, Alabama, 35223.
13. Bankers Life and Casualty Company ("Bankers") is a Missouri-licensed insurance

company with National Association of Insurance Commissioners (“NAIC”) number 61263. Bankers has a main address of 111 East Wacker Drive, Suite 2100, Chicago, Illinois 60601. Bankers is not affiliated with ProEquities.

14. Ward was a Missouri-registered ProEquities agent between April 2011 and August 2012, and has CRD number 5614564. In addition, Ward was a Missouri-licensed insurance agent and was contractually appointed with Bankers for the purpose of selling insurance products from January 2011 to July 2012.

### **B. Enforcement Section Investigation**

15. While contracted with Bankers and ProEquities, Ward, acting as an agent of Bankers, sold universal life policies issued by Bankers (the “UL Policies”) to an elderly couple residing in Cape Girardeau, Missouri (“MR1” and “MR2”).
16. MR1 and MR2 told Ward that they could not afford the premium payments on these UL Policies.
17. Ward convinced MR1 and MR2 to set up a brokerage account at ProEquities (“ProEquities Brokerage Account”).
18. Ward told MR1 and/or MR2 that, by using a “covered call strategy”<sup>1</sup> in the ProEquities Brokerage Account, Ward could generate enough income to cover the premium payments on the UL Policies.
19. In August 2011, MR1 and/or MR2 signed a ProEquities Options Approval Form.
20. Between approximately August 2011 and approximately July 2012, Ward, utilizing the covered call strategy, effected trades in MR1 and MR2’s ProEquities Brokerage Account.
21. The trades resulted in losses for MR1 and MR2 of approximately \$66,488. In addition, the covered call strategy failed to achieve its objective and did not generate the income necessary to pay the premiums on the UL Policies of MR1 and MR2.
22. The trades utilizing the covered call strategy placed in MR1 and MR2’s ProEquities Brokerage Account were unsuitable for MR1 and MR2 given their age, financial situation, time horizon, investment objectives, risk tolerance and financial needs.
23. As Ward’s supervisor, ProEquities had an obligation to reasonably supervise Ward’s securities-related activities and the sales of securities to Ward’s customers.
24. As part of this supervisory responsibility, ProEquities was required to review the transactions in the ProEquities Brokerage Account to determine if the trading was suitable for MR. In addition, ProEquities was required to review and approve any investment strategy used by Ward.

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<sup>1</sup> A covered call is an income-producing strategy to sell, or “write”, call options against shares of stock already owned.

25. ProEquities failed to reasonably supervise Ward by:
  - a. permitting Ward to effect unsuitable covered call transactions as described above in the account of MR1 and MR2; and
  - b. providing inadequate training to Ward with regard to covered calls.

#### Additional Facts

26. ProEquities reviewed its relevant policies, procedures, and controls, and has provided information not unacceptable to the Enforcement Section that it has, among other things:
  - a. provided additional, supplemental training to ProEquities' agents on options trading;
  - b. reviewed and enhanced the manner in which it monitors the sale of covered calls to its customers;
  - c. implemented additional procedures to supervise investment strategies; and
  - d. added components to its annual compliance training with regard to protecting elderly clients.

### II. CONCLUSIONS OF LAW

27. The Commissioner finds that Respondent failed to reasonably supervise Ward and that this conduct constitutes grounds to issue an order against the Respondent pursuant to Section 409.4-412(d)(9), RSMo. (Cum. Supp. 2013).
28. The Commissioner, after consideration of the stipulations set forth above and on the consent of Respondent and the Enforcement Section, finds and concludes that the Commissioner has jurisdiction over Respondent and this matter and that the following Order is in the public interest, necessary for the protection of public investors and consistent with the purposes intended by Chapter 409, RSMo. (Cum. Supp. 2013).

### III. ORDER

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

1. Respondent is ordered to pay restitution to the investors as identified by the Enforcement Section in the amount of \$66,488. This payment shall be sent within 20 days of the effective date of this Consent Order to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101, and shall be payable to the Missouri Secretary of State's Investor Restitution Fund. This payment will be distributed by that fund to the investors identified in Exhibit A by the Enforcement Section.

2. Respondent is ordered to pay interest at the rate of 8% per annum from the date of the transactions in the amount of \$17,040. This payment shall be sent within 20 days of the effective date of this Consent Order to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101, and shall be payable to the Missouri Secretary of State's Investor Restitution Fund. This payment will be distributed by that fund to the investors identified in Exhibit A by the Enforcement Section.
3. Respondent shall pay to the Missouri Secretary of State's Investor Education and Protection \$40,000. This payment shall be sent within twenty (20) days of the effective date of this Consent Order to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101, and shall be payable to the Missouri Secretary of State's Investor Education and Protection Fund. The Division will send the money to the Missouri Secretary of State's Investor Education and Protection Fund.
4. Respondent shall pay five \$5,000 as the cost of this investigation. This amount shall be sent within twenty (20) days of the effective date of this Consent Order to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101, and shall be payable to the Missouri Secretary of State's Investor Education and Protection Fund. The Division will send the money to the Missouri Secretary of State's Investor Education and Protection Fund.
5. Respondent shall pay its 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 9TH DAY OF JUNE, 2015.



JASON KANDER  
SECRETARY OF STATE

*Andrew M. Hartnett*

ANDREW M. HARTNETT  
COMMISSIONER OF SECURITIES

Consented to by:

THE ENFORCEMENT SECTION OF THE  
MISSOURI SECURITIES DIVISION

*Mary S. Hosmer*

Mary S. Hosmer  
Assistant Commissioner of Securities

ProEquities, Inc.

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

Approved as to Form:

Eric Seltzer

Attorney for Respondent