FINAL ORDER EFFECTIVE 05-31-16

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
MANZUR AHMED MAZUMDER,	)	**Case No. 150721367C**
	)	
Renewal Applicant.	)	

ORDER REFUSING TO RENEW INSURANCE PRODUCER LICENSE

On November 24, 2015, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew the non-resident insurance producer license of Manzur Ahmed Mazumder. After reviewing the Petition, Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law, and Order:

FINDINGS OF FACT

1. Manzur Ahmed Mazumder ("Mazumder") is an individual with a residential address of 1800 Adair Bridge Cove, Germantown, Tennessee 38138 and a business/mailing address of 1355-B Lynnfield Road, Suite 259, Memphis, Tennessee 38119.

2. On June 16, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") issued to Mazumder a resident insurance producer license, number 8074013, which Mazumder renewed until it expired on June 17, 2015.

3. On or about June 22, 2015, the Department received Mazumder's completed Uniform Application for Individual Producer License Renewal/Continuation ("Application").

4. In 2011, Mazumder was appointed by Bankers Life and Casualty Company, an Illinois corporation ("Bankers"), to conduct insurance business on its behalf; he worked out of a Cape Girardeau, Missouri office until Bankers terminated the relationship on July 5, 2012.

5. On August 7, 2015, the Missouri Commissioner of Securities, Office of the Secretary of State ("Commissioner"), issued a Final Order to Cease and Desist and Order Awarding Restitution and Costs and Imposing Civil Penalties, determining that Mazumder had violated §§ 409.3-301, 409.4-402(a), and 409.5-501, RSMo (the "Securities Order"), a true and complete copy of which is attached hereto as Exhibit 1 and incorporated fully hereby. *In the Matter of MSM Capital Holdings, Inc. & Manzur Ahmed Mazumder*, Mo. Sec'y of State, Sec. Div., Case No. AP-13-18.

6. The Commissioner found, *inter alia*, that while Mazumder was working at Bankers, he induced an elderly[1] coworker to invest more than $310,000.00, between September 2011 and January 2012, with Mazumder in order to become "rich" and be able to "retire in two years" after "the biggest payday of [their] lifetime[.]" *Id.* at ¶¶ 27, 46, 75.

7. At Mazumder's urging, the coworker withdrew funds from a bank account, borrowed money from credit cards, and sought a home equity line-of-credit to finance the investment. *Id.* at ¶¶ 25, 26.

8. Mazumder used his coworker's investment money to pay credit card debt, travel expenses, and to finance Mazumder's personal T.D. Ameritrade, Inc. account. *Id.* at ¶ 44.

9. As a result, the Commissioner ordered Mazumder to pay $155,000.00 as restitution and $26,000.00 as a civil penalty for his violations of Missouri securities law. *Id.* at pp. 14, 15.

10. On February 10, 2009 in Queens, New York, the Internal Revenue Service filed notice of its statutory lien against Mazumder's property due to his federal income tax delinquency. New York City Dep't of Finance, Office of the City Register, File No. 2009000047025.

11. On November 18, 2010, Mazumder declared under penalty of perjury that he owed the Internal Revenue Service at least $54,626.72 of delinquent federal income taxes regarding 2003, 2005, and 2007. Petition, *In re Manzur Ahmed Mazumder, et al.*, U.S. Bankr. Ct., E.D. Mo., Case No. 10-11497.

12. On October 5, 2011, the Cape Girardeau County Circuit Court entered a judgment against Mazumder for $1,297.00 "of tax, interest, additions to tax, penalties, and fees" regarding Mazumder's delinquent 2006 Missouri income tax; the judgment remains unsatisfied. *Dep't of Revenue v. Manzur A. & Rebaka Mazumder*, Case No. 11CG-MC00866.

13. On August 28, 2015, the Louisiana Department of Insurance revoked Mazumder's Louisiana nonresident insurance producer license. Notice of Revocation, *In re Manzur A. Mazumder*, License No. 606347, Louisiana Department of Insurance.

CONCLUSIONS OF LAW

14. Section 375.141.1[2] provides, in relevant part:

> The director may suspend, revoke, refuse to issue or refuse to renew an insurance producer license for any one or more of the following causes:

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[1] *See* Exhibit 1, paragraph 77.

[2] All statutory references to Chapter 375 are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement, unless otherwise noted.

* * *

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory; [or]

* * *

(14) Failing to comply with any administrative or court order directing payment of state or federal income tax.

15. The Director may refuse to renew Mazumder's insurance producer license pursuant to § 375.141.1(8) because Mazumder used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business. *In the Matter of MSM Capital Holdings, Inc. & Manzur Ahmed Mazumder*, Mo. Sec'y of State, Sec. Div., Case No. AP-13-18. For example, Mazumder:

    a. used fraudulent and dishonest practices by promising fortunes to his coworker and, after failing to produce them, claiming to be able to "'fix' or 'resolve' the situation" to "avoid or delay detection" of his scheme. *Id.* at ¶¶ 40, 49, 51, 75;

    b. used coercive practices by encouraging his coworker to withdraw savings, obtain a home equity line-of-credit, take cash advances from credit cards, and borrow from other individuals in order to pay Mazumder. *Id.* at ¶¶ 24 – 26, 46, 75;

    c. demonstrated incompetence in the conduct of business by losing "over $190,000 from the trading activities" he conducted with his coworker's money. *Id.* at ¶ 33;

    d. demonstrated untrustworthiness in the conduct of business by misrepresenting or failing to disclose material facts. *Id. at* ¶¶ 52, 74 – 76; and

    e. demonstrated financial irresponsibility in the conduct of business by misappropriating his coworker's money for his personal use. *Id. at* ¶ 44.

16. The Director may refuse to renew Mazumder's insurance producer license pursuant to § 375.141.1(9) because Mazumder's Louisiana nonresident insurance producer license was revoked. *See* Notice of Revocation, *In re Manzur A. Mazumder*, Lic. No. 606347, Louisiana Department of Insurance.

17. The Director may refuse to renew Mazumder's insurance producer license pursuant to § 375.141.1(14) because Mazumder failed to comply with an administrative or court order directing payment of federal income tax. *See* New York City Dep't of Finance, Office of the City Register, File No. 2009000047025.

18. The Director may refuse to renew Mazumder's insurance producer license pursuant to § 375.141.1(14) because Mazumder failed to comply with an administrative or court order directing payment of state income tax. *Dep't of Revenue v. Manzur A. & Rebaka Mazumder*, Cape Girardeau Co. Cir. Ct., Case No. 11CG-MC00866.

19. Each of Mazumder's failures to comply with an administrative or court order directing payment of state or federal income tax constitutes a separate and sufficient cause to refuse licensure pursuant to § 375.141.1(14).

20. The Director has considered Mazumder's history and all of the circumstances surrounding Mazumder's Application, including the Securities Order. Renewing Mazumder's insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to renew Mazumder's insurance producer license.

21. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the non-resident insurance producer license renewal application of **Manzur Ahmed Mazumder** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 25th **DAY OF** NOVEMBER, **2015.**

JOHN M. HUFF, Director
Missouri Department of Insurance, Financial Institutions and Professional Registration

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

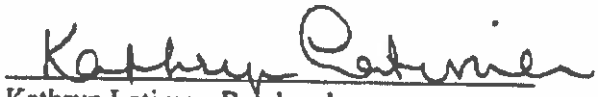
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of November, 2015, a copy of the foregoing Order and Notice was served upon the Renewal Applicant in this matter by UPS, signature required service, at the following address:

Manzur Ahmed Mazumder
1355-B Lynnfield Road, Suite 259
Memphis, Tennessee 38119

No. 1Z0R15W84299440844



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STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:	)	
	)	
MSM CAPITAL HOLDINGS, INC.;	)	Case No. AP-13-18
AND MANZUR AHMED MAZUMDER,	)	
	)	
Respondents.	)	

FINAL ORDER TO CEASE AND DESIST AND ORDER AWARDING RESTITUTION AND COSTS AND IMPOSING CIVIL PENALTIES

Now on this 7th day of August, 2015, the Commissioner, having reviewed this matter, issues the following findings and order ("Final Order"):

I. PROCEDURAL BACKGROUND

1. On October 31, 2013, the Enforcement Section of the Securities Division of the Office of Secretary of State (the "Enforcement Section"), through its Assistant Commissioner Mary S. Hosmer and its Enforcement Counsel Tyler McCormick and Jennifer J. Martin, submitted a Petition for Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed.

2. On November 18, 2013, the Commissioner issued an Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed (the "C&D Order").

3. In a pleading received December 16, 2013, Respondents filed Respondents' Request for Hearing and Respondents' Answer to Petition for Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties and Costs Should Not Be Imposed on behalf of Respondents MSM Capital Holdings, Inc. and Manzur Mazumder.

4. On December 20, 2013, Respondent Mazumder filed separate Respondent's Answer to Petition for Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties and Costs Should Not Be Imposed on behalf of Respondent Mazumder and Respondent MSM Capital Holdings, Inc.

EXHIBIT 1

5. Between January 2014 and April 23, 2015, the Commissioner continued several prehearing conferences and hearing dates to allow Respondents and Enforcement staff to conduct discovery in this matter and negotiate a settlement.

6. On April 23, 2015, Respondents filed an answer to the Petition.

7. On April 29. 2015, Respondents. along with the Enforcement Section. jointly filed a motion for a final order awarding restitution and costs.

8. In that motion, Respondents waived their right to a hearing in this matter.

II. FINDINGS OF FACT

Respondents and Related Parties

9. MSM Capital Holdings, Inc. ("MSM Capital") is a Missouri corporation organized on October 12, 2010. The registered agent for MSM Capital is Manzur Mazumder with an address of 63 Sena Fawn Drive, Suite A2, Cape Girardeau, Missouri 63701. A check of the Central Registration Depository ("CRD") indicates that at all times relevant to this matter, MSM Capital was not registered as a broker-dealer or investment adviser in the State of Missouri.

10. Manzur Ahmed Mazumder ("Mazumder") is a forty-four (44) year-old Missouri resident with a mailing address of 63 Sena Fawn Drive, Suite A2, Cape Girardeau, Missouri 63701. Mazumder is the president and chief operating officer of MSM Capital. A check of the CRD indicates that at all times relevant to this matter, Mazumder was not registered as a broker-dealer agent or investment adviser representative in the State of Missouri. Mazumder is listed on the CRD as a non-registered person and has a CRD number of 2780858.

11. Mazumder is licensed with the Missouri Department of Insurance, Financial Institutions & Professional Registration as an insurance producer with a license number of 8074013.

12. At all times relevant to this matter, records maintained by the Commissioner contained no registration, granted exemption, or notice filing indicating status as a "federal covered security" for any securities issued by MSM Capital.

13. T.D. Ameritrade, Inc. ("TDA") is a Missouri registered broker-dealer with a home office address of 200 South 108th Avenue, Omaha, Nebraska 68154. TDA is a discount broker and is registered in Missouri through the CRD with a number of 7870.

14. Forex Capital Markets, LLC ("FXCM") is a National Futures Association ("NFA") registered futures commission merchant and retail foreign exchange dealer with the United States Commodity Futures Trading Commission, and has an NFA number of 0308179. FXCM has a principal office address of 55 Water Street, 50th Floor, New York, New York 10041.

15. As used herein, the term "Respondents" refers to MSM Capital and Mazumder.

B. Enforcement Section Investigation

Missouri Resident ("MR")

16. In June 2011, MR was a 59-year-old resident of Jackson, Missouri,[1] and an agent at an insurance company in Cape Girardeau, Missouri. Mazumder was also an insurance agent at this company.

17. Between September and December 2011, Mazumder stated to MR, among other things, that:

    a. Mazumder had a company called MSM Capital;

    b. Mazumder, through MSM Capital, would establish trading accounts with FXCM and TDA for MR;

    c. Mazumder, through MSM Capital, would be an authorized trader on MR's accounts at FXCM and TDA; and

    d. MR could make money as a result of Mazumder's trading in these accounts and using a trading strategy developed by Mazumder.

MR's Trading Accounts

18. On or about September 1, 2011, Mazumder helped MR establish three trading accounts for MR at TDA and one trading account for MR at FXCM (collectively "MR's Trading Accounts"). Mazumder was listed as an authorized trader on MR's Trading Accounts.

19. Mazumder advised MR to invest funds from MR's individual retirement accounts ("IRAs") in MR's Trading Accounts.

20. On September 2, 2011, MR deposited $1,000 in the FXCM account.

21. MR gave Mazumder account log-on information and passwords for MR's Trading Accounts so that Mazumder could trade in those accounts.[2]

22. On or about September 22, 2011, Mazumder, MSM Capital, and MR entered into a confidentiality agreement ("Confidentiality Agreement"). Pursuant to the Confidentiality Agreement, MR was precluded from disclosing, among other things, financial statements, products, or services in connection with MSM Capital's business.

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[1] MR turned 60 years old in December 2011.

[2] It is unclear why Mazumder, who was an authorized trader for MR's Trading Accounts, traded in these accounts using MR's log-on and password.

23. After September 2011, Mazumder, on behalf of MSM Capital, suggested that MR provide additional funds for trading in MR's Trading Accounts.

24. Mazumder sent MR a letter advising MR to invest additional funds. Mazumder suggested MR could:

    a. "write down all the cash you have...minus one month of your living cost";

    b. list all MR's credit cards and the limits on any cash advance;

    c. list any lines of credit from which MR could withdraw money; and

    d. consider borrowing money from MR's parents.[3]

25. Mazumder told MR, among other things, that MR could:

    a. obtain a home equity line-of-credit;

    b. obtain funds from MR's credit cards; or

    c. withdraw funds from MR's bank account;

26. After these discussions, MR obtained a home equity line-of-credit, borrowed money from MR's credit cards, and withdrew funds from MR's bank account in order to provide funds for Mazumder or MSM Capital to trade in MR's Trading Accounts.

27. Between September 2011 and January 2012, MR invested in excess of $310,000 in MR's Trading Accounts.

MR's TDA Accounts

28. Between October 2011 and March 2012, MR's TDA accounts and TDA accounts in the name of Mazumder or MSM Capital were repeatedly accessed by the same Internet Protocol ("IP") address.[4]

29. On some dates when the access occurred, trades were made in MR's TDA accounts.

30. Between October 2011 and March 2012, at least 530 stock transactions took place in MR's TDA accounts including, but not limited to, transactions involving the purchase of equity stocks and exchange-traded funds.

31. MR never personally purchased or sold any stock in these TDA accounts; however,

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[3] Each of MR's parents were at least 80 years old at that time.

[4] An IP address is a numerical label assigned to a computer device when that device connects to the Internet.

between December 2011 and March 2012, MR did withdraw approximately $50,000 from cash in MR's TDA accounts.

32. On March 30, 2012, MR's three TDA accounts had a total balance of approximately $60.[5]

33. MR's TDA accounts lost over $190,000 from the trading activities by Mazumder or MSM Capital in this account.

MR's FXCM Account

34. Between September 2011 and April 2012, both MR's FXCM account and an MSM Capital FXCM account were repeatedly accessed by the same IP address.

35. On some dates when the access occurred, trades were made in MR's FXCM account.

36. MR never personally traded in MR's FXCM account; however, between December 2011 and April 2012, MR did withdraw approximately $19,000 from cash in MR's FXCM account.

37. Between September 2011 and April 2012, at least 7,800 foreign exchange trades took place in MR's FXCM account.[6]

38. On or about April 12, 2012, MR's FXCM account had a balance of approximately $740.

39. MR's FXCM account lost over $51,000 from the foreign exchange trading activities by Mazumder or MSM Capital in this account.

MR's MSM Capital Investment

40. From September 2011 to January 2012, Mazumder told MR that MR could invest through MSM Capital ("MSM Investment"). Mazumder told MR, among other things, that the MSM Investment:

    a. could be characterized as a "consultant fee";

    b. could be written off MR's taxes;

    c. would be used by Mazumder to invest in initial public offerings; and

    d. Could generate a profit in excess of $220,000 based on the initial investment of $80,000.

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[5] There were significant trading costs charged to MR's TDA accounts because of the number of trades made by Mazumder.

[6] There were costs in the form of markups charged to MR's FXCM account on each trade made by Mazumder.

41. Between September 2011 and January 2012, MR transferred $80,000 for the MSM Investment to a bank account in the name of MSM Capital at Bank of America in Cape Girardeau, Missouri ("MSM Bank Account").

42. MR received invoices from Mazumder, on behalf of MSM Capital, for at least $78,000.[7] The invoices that Mazumder provided to MR listed MR's MSM Investment as a consultant fee.

43. Mazumder paid back some funds to MR; however, Mazumder did not pay back MR funds relating to the MSM Investment.

Investigative Findings with regard to the MSM Bank Account

44. A review of the MSM Bank Account records revealed, among other things, that:

a. Mazumder was the sole signatory on the MSM Bank Account;

b. MR's MSM Investment funds were deposited into the MSM Bank Account;

c. MR's MSM Investment funds were, among other things:

i. wired to MSM Capital's FXCM account and MSM Capital's TDA account, where Mazumder made trades;

ii. transferred to Mazumder's personal TDA account;

iii. transferred to Mazumder's personal bank account;

iv. used to pay credit card debt;

v. used to pay travel expenses;

vi. used to pay Mazumder's personal debt/loan payments; or

vii. taken as cash withdrawals; and

d. in February and May 2012, checks from two other Missouri residents totaling $10,000 payable to MSM Capital were deposited in the MSM Bank Account. The memo line on these checks indicated the payments were for "consulting fees." This $10,000 was, among other things:

i. transferred to Mazumder's personal bank account;

[7] It is unclear why Mazumder did not send an invoice for the remaining $2,000.

ii. used to pay credit card debt;

iii. taken as cash withdrawals; or

iv. used to pay Walmart expenses.

Mazumder OTR

45. On December 13, 2012, the Enforcement Section conducted an on-the-record interview of Mazumder ("Mazumder OTR"). During the Mazumder OTR, Mazumder stated, among other things, that:

a. Mazumder helped set up MR's Trading Accounts on MR's computer;

b. Mazumder helped transfer money from MR's brokerage accounts to MR's Trading Accounts;

c. Mazumder had trading authority on MR's Trading Accounts;

d. Mazumder accessed MR's Trading Accounts and performed trades;

e. Mazumder had MR sign a confidentiality agreement regarding Mazumder's trading activity;

f. Mazumder told MR that MR could access additional funds from credit cards to put more money in MR's Trading Accounts;

g. MR paid Mazumder $80,000 for the MSM Investment;

h. the MSM Investment was listed as a "consulting fee" but was an investment;

i. Mazumder deposited the MSM Investment funds into the MSM Bank Account;

j. the MSM Investment was to be repaid;

k. if the MSM Investment was profitable, "I would be given a profit";

l. Mazumder repaid MR a total of $14,000 from MR's investments with Mazumder and MSM Capital;[8]

m. Mazumder had not repaid the remaining funds to MR from MR's investments with or through Mazumder and MSM Capital;

[8] A review of the MSM Bank Account revealed that several checks to MR were returned for insufficient funds. The MSM Bank Account indicated a wire transfer was sent to MR in the amount of $7,000.

n. Mazumder had trading authority and accessed the trading account of another Missouri resident ("MR2");

o. Mazumder executed at least 20 trades in MR2's trading account; and

p. Mazumder never received "consulting fees" from other Missouri residents for Mazumder's trading activities.

Payments for Services and Lulling Activity

46. Mazumder sent a letter to MR dated January 31, 2012, stating, among other things:

> "I can assure you I will make things whole for you...[I] [j]ust want you to be patient and let me finish ... Bottom Line is I am anticipating the biggest payday of our lifetime within this next two months...I am so confident about my research and know...that ...[this] deal will pay us off tremendously...if I have to beg you [to] do **this I will and even I am willing to give up my fee every month for [the] rest of the year**...you can borrow up to $ 75k from your parents...**I can guarantee** that once you get the money from your parents and I start trading from ...Feb 6th, 2012, I will [be] able to give you back $ 170k by [the] end of [February]..." [9]

(Emphasis in original.)

47. On or about April 3, 2012, Mazumder sent MR an e-mail that stated, among other things:

> "I want to remind you that we have signed a "Confidentiality Agreement"...which requires you to be careful [when discussing] my strategy...If your accountant is accusing me of something (you mentioned ponzi scheme, please ask him to teach me because before I file a lawsuit I want to know how you or him figure that out). Last time I checked I didn't hire him to prepare all the statement, all came from reputable company which you have access to as well. But the strategy I am using is patented so I donot [*sic*] want to take someone to court because they can copy that, I am doing it for you because you became my client and I had you sign the legal document so it stays with you."

48. On or after April 2012, Mazumder sent an e-mail to MR that stated, among other things, "I am charging you for service[s] that I am providing to you in return I am claiming those to IRS as my company income or revenue so I can take various deduction[s]."

[9] All errors in letters and e-mails are in the originals sent by Mazumder.

49. On or about April 20, 2012, Mazumder sent MR a letter that stated, among other things, "[b]ecause of several circumstances things didn't work out the way I planned but I certainly know how to fix it and get it resolved if I get any co-operation from you..."

50. On or about April 25, 2012, Mazumder provided MR with a document that stated, among other things:

    a. Option One - "I will pay [$80,000] back to you in next few months preferably by July and in return, you put that money back to your TD account and I will start transferring IPO shares to your account... process may take up to December..."; and

    b. Option Two - "**Guaranteed return of your portfolio as well as your loan, With Personal Guarantee as well as Check of $ 250k will be given to you without my signature if you don't get everything back...I will sign the check on July 31st 2012.**" (Emphasis in original.)

51. On or about August 15, 2012, Mazumder, through MSM Capital, sent a letter to MR that stated, among other things, "I will try my best to get you the $ 66k by September 12th, 2012 then after we can proceed with the strategy to get your investment back."

Omissions

52. Prior to trading for MR or receiving MR's MSM Investment, Mazumder omitted to tell MR, among other things, the following:

    a. that MSM Capital was required to be registered or exempt from registration to transact business as a broker-dealer in Missouri;

    b. that the MSM Investment was not registered in Missouri;

    c. that Mazumder was required to be registered or exempt from registration as an agent or as an investment adviser representative in Missouri to either sell securities or to offer investment advice;

    d. the actual risks of the investment through MSM Capital;

    e. the actual risks of Mazumder's trading activities in MR's accounts;

    f. the risks from using credit cards or a home equity loans to obtain investment funds from;

    g. the past trading history or the profitability of other accounts managed or traded by Mazumder or MSM Capital;

h. the financial condition of MSM Capital;

i. the financial condition of Mazumder; or

j. that MR's MSM Investment funds would be commingled with Mazumder's personal and business funds and would be used to pay personal expenses, including, but not limited to, credit card debt, travel expenses, and debt or loan payments.

III. CONCLUSIONS OF LAW

53. After waiving their rights to a hearing, the Commissioner is now authorized to enter this final order without a hearing. *See* Coleman v. Missouri Sec'y of State, 313 S.W.3d 148, 156 (Mo. App. W.D. 2010) (noting that the appellant's "withdrawal of his request for a hearing [before the Commissioner] was qualitatively identical to never having requested a hearing in the first place. Thus, pursuant to section 409.6–604(b), the Commissioner was free to take action to enter the Final Order without conducting a hearing or otherwise complying with the requirements of section 409.6–604(c)")

Violation of Offering and Selling an Unregistered, Non-Exempt Security

54. Respondents MSM Capital and Mazumder offered and sold a security as those terms are defined in Sections 409.1-102(26) and (28), RSMo. (Cum. Supp. 2013),[10] when they offered and sold the MSM Investment to MR.

55. At all times relevant, records maintained by the Commissioner contained no registration, granted exemption or notice filing indicating status as a "federal covered security" for the investments offered and sold by Respondents MSM Capital and Mazumder.

56. Respondents MSM Capital and Mazumder violated Section 409.3-301 when they offered and sold a security—specifically, the MSM Investment—in Missouri to MR without that security being (1) a federal covered security, (2) exempt from registration under Sections 409.2-201 or 409.2-202, or (3) registered under the Missouri Securities Act of 2003.

57. Respondents' offer and sale of an unregistered security constitute an illegal act, practice, or course of business and such action is therefore subject to the Commissioner's authority under Section 409.6-604(a), RSMo.

[10] Unless otherwise specified, all statutory references are to the 2014 cumulative supplement of the Revised Statutes of Missouri.

Multiple Violations of Transacting Business as an Unregistered Broker-Dealer

58. When it traded securities in MR's TDA accounts and for other Missouri residents through Mazumder, Respondent MSM acted as a broker-dealer as that term is defined in Section 409.1-102(4).

59. For purposes of Section 409.4-402(a), Respondent MSM Capital transacted business as a broker-dealer when it established securities trading accounts for MR; identified itself as an authorized trader on, and traded in, MR's TDA accounts; encouraged MR to put more money into MR's TDA accounts through lines of credit and credit cards; and traded in the account of other Missouri investors.

60. At all times relevant, records maintained by the Commissioner contained no registration or granted exemption for Respondent MSM Capital to transact business as a broker-dealer in the State of Missouri.

61. Respondent MSM Capital violated Section 409.4-401(a) when it transacted business as an unregistered broker-dealer to more than one Missouri resident in the State of Missouri without being registered or exempt from registration as a broker-dealer.

62. The actions of Respondent MSM Capital in transacting business as an unregistered broker-dealer constitute an illegal act, practice, or course of business and such actions are therefore subject to the commissioner's authority under Section 409.6-604(a).

Multiple Violations of Transacting Business as an Unregistered Agent

63. When he traded securities through MSM Capital in MR's TDA accounts and for other Missouri residents, Respondent Mazumder acted as an agent as that term is defined in Section 409.1-102(1).

64. When he offered or sold the MSM Investment to MR on behalf of MSM Capital, Respondent Mazumder acted as an agent as that term is defined in Section 409.1-102(1).

65. For purposes of Section 409.4-402(a), Respondent Mazumder transacted business as an agent when he set up MR's TDA account; was listed as an authorized trader on MR's TDA accounts; repeatedly accessed and traded in MR's TDA accounts; acted on MSM Capital's behalf in soliciting the MSM Capital Investment from MR; and traded in other Missouri residents' securities accounts.

66. At all times relevant, records maintained by the Commissioner contained no registration or granted exemption for Respondent Mazumder to transact business as an agent in the State of Missouri.

67. Respondent Mazumder violated Section 409.4-402(a) when he transacted business in this state as an unregistered agent when offering and selling MSM Capital's securities and in trading in MR's and other Missouri residents' trading accounts.

68. Respondent Mazumder's action in transacting business as an unregistered agent constitutes an illegal act, practice, or course of business and such action is therefore subject to the commissioner's authority under Section 409.6-604(a).

Violation of Employing or Associating with an Unregistered Agent

69. As noted above, Respondent Mazumder unlawfully transacted business in Missouri as an unregistered agent on behalf of MSM Capital when he offered or sold MSM Capital's securities and, also on behalf of MSM Capital, traded in Missouri residents' securities trading accounts.

70. Respondent MSM Capital has not registered any agents in the State of Missouri.

71. Respondent MSM Capital employed or associated with Respondent Mazumder, who effected transactions in the accounts of Missouri residents. These activities constitute transacting business in the State of Missouri.

72. Respondent MSM Capital violated Section 409.4-402(d) when it employed an unregistered agent who transacted business in the State of Missouri.

73. Employing an unregistered agent who transacted business in this state constitutes an illegal act, practice, or course of business and such action is therefore subject to the commissioners authority under Section 409.6-604(a).

Multiple Violations of Making an Untrue Statement and Omitting to State Material Facts in Connection with the Offer or Sale of a Security

74. Respondents MSM Capital and Mazumder violated Section 409.5-501 when, in connection with the offer, sale or purchase of a security as described above, they omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, among other things;

    a. that MSM Capital was required to be registered or exempt from registration to transact business as a broker-dealer in Missouri;

    b. that the MSM Investment was not registered in Missouri;

    c. that Mazumder was required to be registered or exempt from registration as an agent in Missiouri to buy or sell securities;

    d. that actual risks of the investment through MSM Capital;

    e. the actual risks of Mazumder's trading activities in MR's accounts;

f. the risks associated with obtaining investment funds from credit cards or a home equity loan;

g. the past trading history or the profitability of other accounts managed or traded by Mazumder or MSM Capital;

h. the financial condition of MSM Capital;

i. the financial condition of Mazumder; or

j. that MR's MSM Investment funds would be commingled with Mazumder's personal and business funds and would be used to pay personal expenses, including, but not limited to, credit card debt, travel expenses, and debt/loan payments.

75. Respondents MSM Capital or Mazumder, in connection with the offer, sale, or purchase of a security, engaged in an act, practice, or course of business that would operate as a fraud or deceit upon another person by, among other things:

a. claiming that MSM Capital or Mazumder's trading activities on MR's behalf would make MR "rich";

b. claiming that MSM Capital or Mazumder's trading activities on MR's behalf would allow MR to "retire in two years";

c. claiming that MR could write off MR's MSM Investment by characterizing it as a "consultant fee"; or

d. lulling MR in order to obtain additional investment funds or avoid or delay detection by:

i. claiming that Mazumder could "make things whole for MR";

ii. claiming that Mazumder would pay MR $170,000 in one month if MR would borrow additional funds from MR's parents for Mazumder to trade;

iii. claiming that MR was precluded from discussing Mazumder's or MSM Capital's trading activities because of the "Confidentiality Agreement";

iv. claiming that Mazumder could "fix" or "resolve" the situation if MR cooperated with Mazumder;

v. providing MR with a document that illustrated two options where Mazumder guaranteed to return either $80,000 or $250,000 to MR; or

vi. sending a letter to MR that indicated, among other things, that Mazumder would return $66,000 to MR and thereafter "get MR's investment back."

76. Respondents made untrue statements of material facts, or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading in violation of Section 409.5-501.

77. At the time Respondents MSM Capital or Mazumder engaged in at least some of this conduct, MR was a person 60 years of age or older and was an elderly person as that term in defined under Section 409.6-604(d)(3)(B).

78. Respondents' conduct in violation of Section 409.5-501 constitutes engaging in an illegal act, practice, or course of business, and such conduct is, therefore, subject to the Commissioner's authority under Section 409.6-604.

79. This order is in the public interest and is consistent with the purposes of the Missouri Securities Act of 2003. *See* Section 409.6-605(b).

IV. ORDER

NOW THEREFORE, it is hereby ordered that Respondents MSM Capital and Mazumder, their 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:

A. offering or selling the MSM Investment in the State of Missouri unless it is registered under the Missouri Securities Act of 2003;

B. transacting business as a broker-dealer in the State of Missouri without being registered under the Missouri Securities Act of 2003; and

C. transacting business as an agent in the State of Missouri without being registered under the Missouri Securities Act of 2003.

IT IS FURTHER ORDERED that pursuant to Section 409.6-604(d), Respondents shall pay restitution in the amount of $155,000 for multiple violations of Sections 409.3-301 and 409.5-501. This amount shall be payable in monthly installments of at least $1,000 starting on August 15, 2015, with the full amount due and payable on or before February 1, 2016. These payments will be sent or delivered to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101 and shall be made payable to the Missouri Secretary of State's Investor Restitution Fund. The Commissioner will take reasonable and necessary actions to distribute all such funds to the investor detailed in Exhibit 1.

IT IS FURTHER ORDERED that pursuant to Section 409.6-604(d), Respondents shall pay, jointly and severally, the costs of investigation in this matter in the amount of $20,000. Respondents' payment of these costs is hereby suspended but shall become due immediately

upon the sooner of (1) noncompliance with the terms of this Order or (2) a finding, after notice and opportunity for a hearing, by the Commissioner or a court of competent jurisdiction that Respondents have violated the Missouri Securities Act. If, after five years from the date of this Final Order, neither of those two conditions has occurred, the Commissioner waives Respondents' payment of the penalty.

IT IS FURTHER ORDERED that pursuant to Section 409.6-604(d), Respondent Mazumder shall pay a civil penalty of $26,000 for multiple violations of Sections 409.3-301, 409.4-402(a), and 409.5-501. Respondent's payment of this civil penalty is hereby suspended but shall become due immediately upon the sooner of (1) noncompliance with the terms of this Order or (2) a finding, after notice and opportunity for a hearing, by the Commissioner or a court of competent jurisdiction that Respondent has violated the Missouri Securities Act. If, after five years from the date of this Final Order, neither of those two conditions has occurred, the Commissioner waives Respondent's payment of the penalty.

IT IS FURTHER ORDERED that pursuant to Section 409.6-604(d), Respondent MSM Capital shall pay a civil penalty of $36,000 for multiple violations of Sections 409.3-301, 409.4-402(d), and 409.5-501. Respondent's payment of this civil penalty is hereby suspended but shall become due immediately upon the sooner of (1) noncompliance with the terms of this Order or (2) a finding, after notice and opportunity for a hearing, by the Commissioner or a court of competent jurisdiction that Respondent has violated the Missouri Securities Act. If, after five years from the date of this Final Order, neither of those two conditions has occurred, the Commissioner waives Respondent's payment of the penalty.

IT IS FURTHER ORDERED that, upon Respondents' noncompliance with the terms of this Final Order, the Commissioner will refer this matter for enforcement as provided in Sections 409.6-603 and 409.6-604.

IT IS FURTHER ORDERED that Respondents 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 7TH DAY OF AUGUST, 2015.

JASON KANDER
SECRETARY OF STATE

Andrew M. Hartnett

ANDREW M. HARTNETT
COMMISSIONER OF SECURITIES

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of August, 2015, a copy of the foregoing **Order** in the above styled case was **emailed and mailed by regular U.S. mail to:**

John F. Scott
The Scott Law Group, LLC
357 North Main St.
P.O. Box 1288
Popular Bluff, MO 63902-1288

and by hand delivery to:

Mary S. Hosmer
Assistant Commissioner
Missouri Securities Division

Marsha Presley, Securities Office Manager