

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

IN THE MATTER OF:

File No. 04-144-CZ

ESTATE MANAGEMENT SERVICES, LLC
and Jack W. Meyer, Individually,

Hon. Paula J.M. Manderfield

Respondents.

AG File No. 200309176

ASSURANCE OF DISCONTINUANCE

MICHAEL A. COX
Attorney General

Kathy Fitzgerald
Assistant Attorneys General
Consumer Protection Division
P.O. Box 30213
Lansing, MI 48909
517-335-0855

Dated Filed: April 21, 2004

STATE OF MICHIGAN
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COUNTY OF INGHAM

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The Complainant is Michael A. Cox, Attorney General of the State of Michigan, on behalf of the People of the State of Michigan. Respondents are Estate Management Services, LLC and Jack W. Meyer, (hereinafter, where not otherwise specified, collectively referred to as "Respondents.")

The entry of this Assurance by Respondents is neither an admission of liability with respect to any issue dealt with in this Assurance nor is it an admission of any factual allegations or legal conclusions, stated or implied.

I. Background

1. On June 19, 2003 the Michigan Department of Attorney General, Consumer Protection Division, (hereinafter "CPD"), issued a Notice of Intended Action pursuant to MCL 445.905(2) alleging violations of the Michigan Consumer Protection Act ("MCPA"), MCL 445.901 et seq.

II. Jurisdiction

2. The 30th Judicial Circuit Court for the State of Michigan has jurisdiction over the subject matter of this Assurance pursuant to the MCPA. Respondents waive all objections and defenses that they may have as to the jurisdiction of the 30th Judicial County Circuit Court over the matters covered by this Assurance.

III. Definitions

3.1 "Estate Management Services" means Estate Management Services, LLC, whether it is doing business as Estate Management Services, LLC, any assumed name, or through its principals, officers, directors, attorneys, employees, representatives, agents, successors, assigns, or through any other subsidiary, affiliate, corporation or business entity.

3.2 "Jack Meyer" means Jack W. Meyer, individually, and/or acting through Estate Management Services, LLC, or through employees, representatives, agents, successors or assigns, or through any assumed name, corporation or other business entity in which Jack Meyer has or acquires a controlling interest, or whose acts, practices or policies are directed, formulated or controlled by Jack Meyer.

3.3 "Respondents" means Estate Management Services, LLC, Inc. and Jack Meyer.

3.4 "Complainant" means Michael A. Cox, Attorney General of the State of Michigan, on behalf of the People of the State of Michigan.

3.5 "CPD" means the Michigan Department of Attorney General, Consumer Protection Division.

3.6 "Parties" means CPD and Respondents.

3.7 All other terms shall have the meaning specifically defined in the MCPA.

IV. Compliance Measures

4.1 Without an acknowledgement that Respondents have engaged in any unfair, deceptive or unconscionable business and sales practices in the State of Michigan, Respondents agree as follows:

a. Respondents will not represent to any Michigan consumer that a product or service marketed or sold by Respondents is recommended, preferred or endorsed by AARP (formerly American Association of Retired Persons), or that the consumer's name was in any way obtained from AARP.

b. Respondents marketing and business practices shall comply with the provisions of the Stipulated Order relating thereto, entered in the case entitled *The State Bar of Michigan v Estate Management Services, L.L.C., Jack Meyer, and Dan R. Hill*, Circuit Court of the County of Gladwin, case number 03-955-CZ, a copy of which is attached and incorporated herein by reference.

c. Respondents shall not make any factual representation regarding the advantages, risks or consequences of legal instruments, estate planning options and the probate process to Michigan consumers unless such representation is true and can be substantiated on a reliable and jurisdictionally-relevant factual basis, which will be provided to CPD upon request.

d. Respondents shall not make any statement or representation of material fact regarding wills, the relative merits of living trusts or probate court proceedings to Michigan consumers that is false or misleading.

e. Respondents shall not make any misrepresentations regarding its estate planning product or services offered, including but not limited to:

(1) That Respondents' trust product is unique or purports to be tailored to the particular needs, express wishes or personal situation of the purchaser, if it is instead a standardized form document that is pre-printed or generated by utilizing a word processing document or computer software program;

(2) That the trust product is prepared by an attorney, unless Respondents complete legal documents under the supervision of a licensed Michigan lawyer on the conditions imposed by the Stipulated Order entered in the case of the *State Bar of Michigan v Estate Management Services, L.L.C. et al, supra.*

f. Respondents shall fully comply with all oral and written representations relating to the fact and scope of attorney services included in contracts with Michigan consumers, including any representations that an attorney will consult with the purchaser to determine estate planning objectives and suitability of various estate planning options.

g. Any and all legal services provided pursuant to contracts with Michigan consumers shall be performed by an attorney who is licensed to practice law in the State of Michigan, whose name shall be included on documents prepared for Michigan consumers.

h. Respondents shall not utilize the name of a Michigan attorney for any purpose whatsoever without the prior written consent of the Michigan attorney.

V. Consumer Redress

5.1 Respondents shall provide full refund of amounts paid to Respondents by "Eligible Customers" who file a written complaint with CPD. For purposes of this section, an "Eligible Customer" is a consumer who meets all of the following criteria:

- a. Alleges conduct that is in violation with the compliance conduct measures set forth in Section IV of this Assurance in the complaint, and
- b. Relates to a sales transaction made in the State of Michigan after the effective date of this Assurance.

Upon written request by Respondents, refund may be conditioned on receipt of a letter from the customer revoking the estate plan and returning documents prepared for and provided to the customer.

5.2 The following dispute resolution procedure shall apply to consumers who file a written complaint with CPD relating to purchase transactions occurring before the effective date of this Assurance, alleging that the purchaser did not receive attorney consultation as provided in their contract prior to delivery of a trust product from an attorney duly licensed to practice law in the State of Michigan:

Within 30 days of receipt of complaint, Respondent shall either:

- a. Provide to the consumer a full refund of amounts paid to Respondents;
- b. As to consumers whom Respondents reasonably believe filed complaints as a result of improper influence or solicitation by a disgruntled former employee or agent of the Respondents, *only*:

- i. Provide the consumer the option to have Respondents refer their documents to a Michigan licensed attorney for review and consultation with the consumer, at Respondents' expense.

Respondents shall honor refund requests made after such review and consultation.

- ii. As to consumers who decline to have their documents referred for review and consultation pursuant to subsection 5.2.b.i. above,

resolve the complaint in a matter mutually agreeable to the consumer and Respondents or, if they cannot agree, as determined appropriate by CPD.

VI. Costs of Enforcement

6.1 Respondents shall pay to the State of Michigan enforcement costs in the amount of \$1,500.00, within 60 days of the date of execution of this Assurance.

VII. Civil Penalties

7.1 Respondents shall pay to the State of Michigan the sum of \$5,000.00 as a civil penalty, however, this amount is suspended, conditioned on full compliance with all provisions of this Assurance.

7.2 In the event of noncompliance with any provision of this Assurance, all civil penalties shall be unsuspended.

7.3 Unless a temporary restraining order is sought, CPD shall make reasonable efforts to provide notice in the event that Complainant believes that Respondents, or either of them, are not in compliance with this Assurance, by written notice to Respondents. The notice shall set forth the basis for the belief that Respondent(s) are not in compliance. Notwithstanding the foregoing, such notice shall not be deemed to be a jurisdictional prerequisite to institution of any enforcement action.

7.4 In the event of noncompliance with terms of this Assurance, Complainant retains the right to seek civil penalties in addition to those set forth in this Section, as well as such other and further remedies provided by law, including but not limited to enforcement costs, injunctive relief and additional or further consumer restitution.

VIII. Notices

8.1 All notices, deliveries or other communications required or permitted shall be in writing and shall be deemed given when addressed as follows:

A. If to CPD:

Consumer Protection Division
Department of Attorney General
Assistant Attorney General In Charge
G. Mennen Williams Bldg.
525 W. Ottawa, 6th Floor
P.O. Box 30213
Lansing, MI 48909
Fax: 517-335-1935

B. If to Respondents:

Jack Meyer
218 W. Washington Street, Suite 402
South Bend, IN 46601

8.2 Respondents shall promptly notify CPD, in writing, of any change of address or person to whom notice hereunder is to be sent.

IX. General Provisions

9.1 This Assurance shall apply to and be binding upon Respondents, whether acting with or through associates, principals, officers, attorneys, employees, representatives, successors, assigns or through any other subsidiary, corporation, assumed name or business entity.

9.2 This Assurance shall be binding upon, inure to the benefit of, and apply to the parties and their successors-in-interest only. This Assurance shall not limit, bind or affect the authority, rights or remedies of any Division of the Michigan Department of the Attorney General other than CPD, other agencies, boards, commissions or offices of the State of Michigan, the State Bar of Michigan, or any other state or governmental authority.

9.3 This Assurance shall not be construed to deprive or otherwise affect the rights of any consumer or other person or entity of any private right available under applicable law.

Further, this Assurance shall not create any private right or cause of action to any third party.

9.4 No change or modification of this Assurance shall be valid unless in writing and signed by all parties.

9.5 Any party to this Assurance may apply to the 30th Judicial Circuit Court, County of Ingham, State of Michigan, which shall retain jurisdiction, for such orders as may be necessary or appropriate for the construction or modification of any of the provisions hereof, or to enforce compliance herewith.

9.6 The signatories to this Assurance certify that they are authorized to execute for and legally bind the parties they represent.

X. Effective Date

10. The effective date of this Assurance is the date it is filed with the Ingham County Circuit Court.

Dated: 2.12.04

Dated: 2.12.04

ESTATE MANAGEMENT SERVICES, LLC,

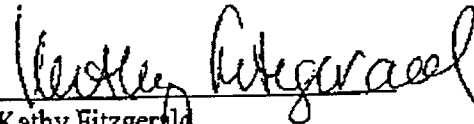
By:


Jack W. Meyer, President


Jack W. Meyer, Individually

MICHAEL A. COX, Attorney General,
on behalf of the People of the State of Michigan

Dated: 4/21/04 ;

By: 

Kathy Fitzgerald
Assistant Attorney General
Consumer Protection Division
P.O. Box 30213
Lansing, MI 48909
Telephone: 517-335-0855

Attachment A

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF GLADWIN

THE STATE BAR OF MICHIGAN,

Plaintiff,

CASE NO. 03-955-CZ

JUDGE KURT HANSEN

vs.

ESTATE MANAGEMENT SERVICES, L.L.C., an
Indiana Limited Liability Company, JACK MEYER, individually
And doing business as Estate Management Services and
DAN R. HILL, individually and doing business as
Estate Management Services.

Defendants.

Victoria V. Kremski (P-48664)
State Bar of Michigan
306 Townsend Street
Lansing, MI 48933
(517) 346-6310

Marcia L. Proctor (P-42000)
Butzel Long P.C.
150 W. Jefferson
Suite 900
Detroit, MI 48226

A TRUE COPY
APR 15 2004
LAURA E. FLACH
GLADWIN COUNTY CLERK

FILED

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STIPULATED ORDER FOR PERMANENT INJUNCTION

Plaintiff, State Bar of Michigan, and Defendants, Estate Management Services, L.L.C., Jack Meyer and Dan Hill, having agreed to entry of this Stipulated Order on the terms set forth, and the Court, being fully advised in the premises;

IT IS HEREBY ORDERED:

1. Defendants are permanently enjoined from drafting non-ordinary legal documents for third parties, including but not limited to wills, trusts and durable powers of attorney, except as provided below.

2. Defendants are enjoined from directly or indirectly answering questions or offering comments or opinions regarding the effect of terms, language or the effect of a particular document, or the legal claims, rights or responsibilities of any person, customer or party. Defendants may sell legal forms to Michigan residents on the following conditions:

a. Defendants may sell pre-printed, standardized, "fill in the blank" forms that are not generated by a computer software program to Michigan residents. However, Defendants may not add, change, or delete language on pre-printed forms through utilization of computer software programs or otherwise.

b. Defendants may sell legal forms that are generated by utilizing a word processing document or computer software program if Defendants provide the purchaser, prior to the signing of the purchase agreement a written notice in 14 point type that the document(s) the consumer is/are purchasing is/are a form(s) document that are not purported and do not purport to be tailored to the consumer's particular needs, express wishes or personal situation. This notice may be included in the purchase agreement provided it is in 14 point type immediately above the line provided for the purchaser's signature

c. Defendants are enjoined from making suggestions and offering opinions about the applicability of a form or language to a particular transaction or particular customer.

d. All materials provided to, and oral representations made to, Michigan residents must include a prominent and explicit statement that the documents the customer is purchasing are form documents that are not purported and do not purport to be tailored to a particular customer or particular use or particular situation and that Defendants are not authorized to give legal advice or provide legal services and that they are not lawyers licensed to practice in Michigan. Defendants may advertise their products and services consistent with Michigan law and this stipulated injunction. The disclaimer in written materials must be in 14 point type.

e. Defendants may provide secretarial services for typing customer-dictated responses on the forms.

3. Defendants may complete legal documents for Michigan residents under the supervision of a licensed Michigan lawyer on the following conditions:

a. Defendant must provide a copy of this order to any Michigan attorney that intends to or does supervise Defendants' completion of legal documents and solicitation of clients.

b. The Defendants, or other delivery agent must provide the purchaser, prior to the signing of the purchase agreement a written notice in 14 point type containing the following statements:

(1). You are advised that the legal document(s) you may be purchasing are form(s) document(s) that are not purported and do not purport to be tailored to your particular needs, express wishes or personal situation.

(2). The legal documents you are purchasing are tailored to your needs, express wishes or personal situation, only when a licensed Michigan attorney provides you with a written document or verbal statement indicating that the legal documents are tailored to your needs, express wishes and personal situation. The written documents should include the name, address, telephone and State Bar number of the licensed Michigan attorney. **

c. Defendants must provide a copy of all documents executed by the client to the lawyer within 15 days of the execution.

4. Defendants, their successors, assignees, employees and agents and those persons acting in concert with them are permanently enjoined from engaging in activities prohibited by this Order.

5. Defendants are permanently enjoined from utilizing the name of a Michigan attorney for any purpose whatsoever without the written consent of the Michigan attorney.

6. This injunction is entered into in settlement and compromise of disputed claims. No party is making an admission of fault, liability or wrongdoing of any nature.

7. The Court shall retain jurisdiction in this matter.

This order is a final order that disposes of the last pending claim and closes this case.

4-13, 2004


CIRCUIT COURT JUDGE KURT HANSEN


Jack Meyer, Individually.

Date:

3-31-04

JACK M. MEYER

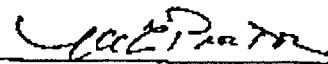
Estate Management Services, L.L.C.

By: 

Title: MANAGING MEMBER


Dan R. Hill

Date: 3/7/04


Marcia Proctor

Attorney for Defendants

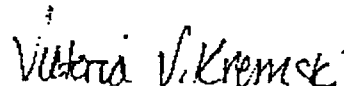
Date: 4/7/04

STATE BAR OF MICHIGAN

By: 

John Berry
Executive Director

Date: 4/8/04


Victoria V. Kremiski
Attorney for Plaintiff

Date: 4/8/04

** Notice to Michigan attorneys: Michigan law and State Bar of Michigan ethics opinions may impact attorneys involved with companies that market estate planning documents. It is strongly urged that attorneys review the law and State Bar Ethics Opinions relating to such transactions or seek ethical advice before entering into a relationship with any company that markets legal documents.