

BEFORE THE SECURITIES COMMISSIONER  
OF THE STATE OF KANSAS



In the Matter of:

Scott D. Schulte (CRD No. 3169095),

Docket No. 21E022

KSC No. 2016-6368

Respondent.

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Pursuant to K.S.A. 17-12a604

**DEFAULT FINAL ORDER**

This matter comes for consideration by the Securities Commissioner of Kansas (“Commissioner”) upon the *Application for Order* (“*Application*”), filed herein by the Staff of the Office of the Kansas Securities Commissioner (“KSC Staff”) on September 4, 2020.

**Summary of Proceedings**

In the *Application*, KSC Staff requested the Commissioner to issue an order under K.S.A. 17-12a604 imposing a civil penalty of \$6,700 against Respondent for violations of the Kansas Uniform Securities Act (“KUSA”).

Based on the *Application*, the Commissioner issued a *Notice of Intent to Issue Order* (“*NOI*”) on September 10, 2020. The *NOI* notified Respondent that if the allegations set forth in the *Application* are found to be true, through either administrative adjudication, failure of Respondent to make a timely request for hearing, or default by Respondent, the Commissioner intended to enter an order against the Respondent, which

may include one or more of the sanctions or remedies enumerated under K.S.A 17-12a604(b).

The *NOI* further notified Respondent that if Respondent wished to contest the allegations in the *Application* or offer evidence and argument to mitigate them or the sanctions or remedies to be imposed, then Respondent must file a request for hearing, in the manner and form prescribed by K.A.R. 81-11-3 and K.A.R 81-11-5, within thirty-three (33) days of the date of mailing on the *Certificate of Service* accompanying the *NOI*. The *NOI* also notified Respondent that, if a request for hearing is not timely filed, the Commissioner may issue a final order, including the sanctions and remedies described above, without further proceedings.

A *Certificate of Service* filed with the Administrative Clerk on September 14, 2020, indicates that a copy of the *Application* and *NOI* were sent to Respondent on September 10, 2020, by certified mail, return receipt requested, by first-class mail, postage prepaid, and by electronic mail. The copies sent by certified mail and first-class mail were sent to Respondent at 17 Country Club Drive in Garnett, Kansas, but were returned undelivered.

A *Certificate of Service* filed with the Administrative Clerk on September 30, 2020 indicates that a copy of the *Application* and *NOI* were sent to Respondent on September 25, 2020, by certified mail, return receipt requested, by first-class mail, postage prepaid, and electronic mail. The copies sent by certified mail and first-class mail were sent to Respondent at 505 S. Oak Street #306 in Garnett, Kansas, and have not been returned.

To date, Respondent has not filed a request for hearing.

Having reviewed the *Application* and the file, the Commissioner finds and orders as follows:

**Findings of Fact**

1. Respondent Scott D. Schulte (“Respondent” or “Schulte”), CRD #3169095, is an individual with a last-known address of [REDACTED]. [REDACTED]. Schulte is a licensed resident insurance agent in the State of Kansas. Prior to the events described herein, Schulte was registered under the KUSA as an agent of a broker-dealer. Schulte’s registration as an agent of a broker-dealer was terminated on July 5, 1999. At the times relevant hereto, Schulte was not registered under the KUSA in any capacity.
2. From approximately June 2016 through December 2017, Schulte acted as an agent of Future Income Payments, LLC, (“FIP”) in effecting the sale of Purchase Agreements for a product commonly referred to as “Structured Cash Flows” to seven clients, for which Schulte received commissions.
3. At the time of the sales, the Purchase Agreements were not registered as a security under the KUSA as required. Additionally, Schulte was not registered as an agent for FIP, as required by the KUSA.

**FIP Investments**

4. FIP is a Nevada limited liability company. Since at least 2011 through April 2018, FIP was used by its owner and president Scott A. Kohn (“Kohn”) to perpetrate a

nationwide Ponzi scheme. When FIP ceased doing business in April 2018, FIP owed approximately \$300 million to over 2,600 investors nationwide.

5. FIP was in the business of making lump sum payments or loans to individuals entitled to monetary disbursements from pensions, lotteries, annuities, and other future income streams. In exchange for receiving these lump sum payments or loans, the recipients assigned all or a portion of their monetary disbursements from their future income streams to FIP.
6. To raise funds for the lump sum payments or loans, FIP sold its interests in the future income streams to investors as what was commonly referred to as “Structured Cash Flows.” FIP generally promised investors a return of 6.5 to 8 percent under the Structured Cash Flows with monthly payments to be paid to investors over a term of five to ten years.
7. FIP used independent sales agents to solicit purchases of the Structured Cash Flows, which agents were paid commissions for each sale.
8. During the scheme, Kohn used new investor funds to pay fictitious returns or profits to previous investors. Further, Kohn used investor funds to pay commissions to agents who sold the Structured Cash Flows to investors.
9. On March 12, 2019, FIP and Kohn were indicted by a federal grand jury in the District of South Carolina. On April 19, 2019, the United States District Court for the District of South Carolina appointed a receiver to manage the assets and liabilities of FIP and Kohn. The FIP receivership is currently asserting legal and

equitable claims against agents to recover commissions paid for the sale of the Structured Cash Flows.

*Schulte and his Clients' Structured Cash Flows*

10. Schulte initially became aware of FIP based on conversations with Melanie Schulze-Miller (“Schulze-Miller”), of Shurwest, L.L.C. Schulze-Miller assured Schulte that the FIP Purchase Agreements were not securities or insurance products.
11. From approximately June 2016 through December 2017, seven of Schulte’s clients purchased Purchase Agreements from FIP based upon Schulte’s recommendation. Schulte’s clients invested a cumulative total of \$670,729.60 in Purchase Agreement with FIP.
12. Schulte received commissions from FIP of approximately 5 percent, totaling \$26,950.59, for his role in effecting the sale of the FIP Purchase Agreements to his clients.
13. At no time was Schulte registered as an agent of FIP under the KUSA.

**Conclusions of Law**

14. The Commissioner has jurisdiction over Schulte and this matter.
15. The Purchase Agreements described herein are securities as that term is defined in K.S.A. 17-12a102(28).

16. The Purchase Agreements are not federal covered securities, as that term is defined in K.S.A. 17-12a102(7), and are not exempt from registration under K.S.A. 17-12a201 through 17-12a203.
17. Schulte violated K.S.A. 17-12a301 by offering and selling the Purchase Agreements.
18. In effecting the sale of the Purchase Agreements, Schulte was an agent, as that term is defined in K.S.A. 17-12a102(2), of FIP, and was not exempt from registration under K.S.A. 17-12a402(b).
19. Schulte violated K.S.A. 17-12a402 by transacting business in this state as an agent when Schulte was neither registered under the KUSA nor exempt from registration.

IT IS THEREFORE ORDERED by the Commissioner that Respondent is assessed a civil penalty of \$6,700.00.

**ISSUED BY THE COMMISSIONER.**

Entered at Topeka, Kansas, this 25 day of November, 2020.



Jeffrey S. Wagaman  
Kansas Securities Commissioner



## NOTICES

- (1) A party to this action may petition the Commissioner for reconsideration within 15 days after service of a final order, following the procedures in K.S.A. 77-529. Under K.S.A. 77-528, a party may petition for a stay of effectiveness of this order until the time at which a petition for judicial review would no longer be timely.
- (2) This order may be subject to judicial review. The agency officer to receive service of a petition for judicial review on behalf of the Office of the Kansas Securities Commissioner is Jack Clayton Johnson, Assistant General Counsel, at 1300 SW Arrowhead Road, Topeka, Kansas 66604.