

BEFORE THE SECURITIES COMMISSIONER  
OF THE STATE OF KANSAS



In the Matter of:

Michael J. Silva (CRD #2836063), and  
The General & Associates LLC (CRD #301358)

Docket No. 21E067  
KSC No. 2018-6516

Respondents.

\_\_\_\_\_  
Pursuant to K.S.A. 17-12a412

**CONSENT ORDER**

1. The Staff of the Office of the Kansas Securities Commissioner (“KSC Staff”) allege that Michael J. Silva (“Silva”) and The General & Associates LLC (“The General & Associates”) engaged in conduct constituting violations of the Kansas Uniform Securities Act, K.S.A. 17-12a101 *et seq.* (“the KUSA”), and that Silva and The General & Associates are subject to administrative sanctions and remedies under K.S.A. 17-12a412.
2. Silva, The General & Associates, and KSC Staff desire to settle the matters raised by KSC Staff relating to Silva’s and The General & Associates’ alleged violations.

**CONSENT TO JURISDICTION**

3. Silva, The General & Associates, and KSC Staff stipulate and agree that, under the KUSA, the Securities Commissioner of Kansas (“the Commissioner”) has jurisdiction over Silva, The General & Associates, and this matter.
4. Silva, The General & Associates, and KSC Staff stipulate and agree that the Commissioner has authority to enter this Order under K.S.A. 17-12a412.

### WAIVER AND EXCEPTION

5. Silva and The General & Associates waive their right to a hearing with respect to these matters.
6. Silva and The General & Associates waive any rights that they may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order.

### CONSENT TO THE COMMISSIONER'S ORDER

7. Silva, The General & Associates, and KSC Staff agree to the issuance of this Order without further proceedings in this matter, and agree to be fully bound by the terms and conditions specified herein.
8. Without admitting or denying the allegations made by the KSC Staff as reflected in the Findings of Fact and Conclusions of Law set forth below, Silva and The General & Associates agree to the issuance of this Order on the basis of such Findings of Fact and Conclusions of Law solely for the purposes of this proceeding and any proceeding that may be brought to enforce the terms of this Order.
9. Silva and The General & Associates agree to not take any action nor to make or permit to be made any public statement creating the impression that this Order is without a factual basis. Nothing in this Order affects Silva's and General & Associates' testimonial obligations or 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.

#### FINDINGS OF FACT

10. Silva, CRD # 2836063, is an individual residing in Kansas. From approximately January 2016 through March 11, 2019, Silva was registered under the KUSA as an investment adviser representative associated with Gradient Advisors, LLC (“Gradient”). On March 11, 2019, Silva resigned from Gradient. Gradient filed a Form U5 with the CRD on March 12, 2019, terminating Silva’s registration as an investment adviser representative associated with Gradient. Silva is a licensed resident insurance agent in the State of Kansas.
11. The General & Associates is a Kansas limited liability company owned by Silva. The General & Associates has been registered under the KUSA as an investment adviser since May 15, 2019. Silva has been registered under the KUSA as an investment adviser representative associated with The General & Associates since March 22, 2019.
12. From approximately April 2017 to October 2017, Silva and The General & Associates acted as agents of Woodbridge Mortgage Investment Fund 3A, LLC (“Woodbridge 3A”), and Woodbridge Mortgage Investment Fund 4, LLC (“Woodbridge 4”) in effecting the sale of promissory notes to two investors, for which The General & Associates and Silva received commissions.

13. At the time of the sales, the promissory notes were not registered as securities under the KUSA as required. Additionally, Silva and The General & Associates were not registered as agents under the KUSA as required.

Woodbridge Investments

14. Woodbridge 1, Woodbridge 2, Woodbridge 3, Woodbridge 3A, and Woodbridge 4 were part of a group of affiliated entities (collectively, the “Woodbridge Entities”) that were used by an individual named Robert Shapiro (“Shapiro”) to perpetrate a nationwide Ponzi scheme.
15. Specifically, between no later than July 2012 through December 2017, Shapiro used a web of more than 275 limited liability companies to perpetrate a Ponzi scheme in which he raised more than \$1.22 billion from over 10,000 investors nationwide.
16. The Woodbridge Entities were in the business of extending short-term loans to third-party borrowers. As part of each loan, the third-party borrower gave a First Position Commercial Mortgage (“FPCM”) in favor of the particular Woodbridge Entity that extended the loan.
17. To raise funds for the loans to the third-party borrowers, the Woodbridge Entities sold promissory notes to investors. Proceeds from the sale of each promissory note were then used by the Woodbridge Entity which sold the note to extend a loan to a particular third-party borrower. Once the Woodbridge Entity received

- the FPCM from the borrower, the Woodbridge Entity then assigned a pro-rata portion of the FPCM to the investors whose funds were used to extend the loan.
18. As part of each short-term loan, the third-party borrower was to make regular monthly interest payments to the Woodbridge Entity which extended the loan, which would in turn generate the investment returns for the purchasers of the promissory notes.
  19. The promissory notes sold by the Woodbridge Entities generally promised to pay investors an annual interest rate of five to eight percent. Interest payments to investors were to be made monthly and the principal was to be paid at the end of each note's respective term.
  20. The Woodbridge Entities used independent sales agents to solicit purchases of the promissory notes, which agents were paid commissions for each sale.
  21. During the scheme, Shapiro used at least \$368 million of new investor funds to pay fictitious returns or profits to existing investors. Further, Shapiro used approximately \$64.5 million of investor funds to pay commissions to agents who sold the promissory notes to investors.
  22. On December 4, 2017, the Woodbridge Entities filed for chapter 11 bankruptcy in the United States Bankruptcy Court for the District of Delaware. On February 15, 2019, the bankruptcy court issued an order confirming the *First Amended Joint Chapter 11 Plan of Liquidation*, which established the Woodbridge Liquidation Trust to hold and administer trust assets and make distributions to beneficiaries,

including investors who purchased promissory notes from the Woodbridge Entities. The Woodbridge Liquidation Trust is currently asserting legal and equitable claims against agents to recover the commissions paid for the sale of Woodbridge promissory notes.

23. On March 28, 2019, the Woodbridge Liquidation Trust began making distributions to beneficiaries. The latest distribution occurred on November 6, 2020. As of the latest distribution, the Woodbridge Liquidation Trust had distributed \$180,742,688.65 to beneficiaries and anticipates making additional distributions in the future. As of December 31, 2019, the Woodbridge Liquidation Trust estimated investors who purchased promissory notes will recover approximately 43.74% of their investments.

*Silva and his clients' Promissory Notes*

24. Silva initially became aware of the Woodbridge promissory notes in approximately November or December of 2016 after receiving information about Woodbridge and speaking with his friend and business associate, Ricky D. Slifer ("Slifer").
25. Prior to recommending the Woodbridge promissory notes to clients, Silva contacted several Woodbridge representatives, including a member of the Woodbridge legal department, and received assurances that the promissory notes were considered loans and not securities. Silva also found various legal opinions that the promissory notes sold by Woodbridge were not securities. Silva received

a letter authored by an attorney stating that the Securities Division of the Missouri Secretary of State's Office had an investigation into Woodbridge, but that the investigation had been closed. Silva also claims that he contacted KSC Staff to inquire about Woodbridge.

26. Despite Silva's inquiries related to the Woodbridge Entities, as described in Paragraph 24, Silva and The General & Associates were unaware of the fraudulent activities of the Woodbridge Entities and Shapiro. In addition, Silva and The General & Associates were unaware that the promissory notes were securities.
27. Acting as agents of The General & Associates, Silva and Slifer effected sales of Woodbridge promissory notes to their clients. Woodbridge paid The General & Associates commissions for each promissory note sold by Silva and Slifer, and The General & Associates paid such commissions in turn to Silva and Slifer.
28. From approximately April 2017 through approximately October 2017, two of Silva's clients entered into promissory notes ("Promissory Notes") and loan agreements with the Woodbridge Entities. Under the loan agreements, Silva's clients loaned a total of \$140,000 to the Woodbridge Entities. Under the Promissory Notes, the Woodbridge Entities promised to pay each of the clients their principal amounts, plus make monthly payments of interest of approximately 5% per annum.
29. Between the clients' purchase of the Promissory Notes and the commencement of the Woodbridge Entities' bankruptcy, Silva's clients received a total of \$1,730.57

in interest payments from Woodbridge. None of Silva's clients received any payments from the Woodbridge Entities for the principal amounts owed under their Promissory Notes. As described in paragraph 23, the Woodbridge Liquidation Trust began making distributions to beneficiaries on March 28, 2019.

30. The General & Associates received commissions totaling \$30,870 from the Woodbridge Entities for Silva's and Slifer's role in effecting the sale of the Promissory Notes. The General & Associates paid Slifer commissions totaling \$17,493 for his role in effecting the sale of the Promissory Notes to his clients. The General & Associates and Silva kept the remaining \$13,377 as commissions for Silva's role in effecting the sale of the Promissory Notes to his clients listed above and for Slifer's clients.
31. At no time has Silva or The General & Associates been registered under the KUSA as an agent of the Woodbridge Entities. Silva asserts that he was unaware that either he or The General & Associates needed to be registered as an agent of the Woodbridge Entities under the KUSA.
32. On November 27, 2018, the bankruptcy court issued an *Order, Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, Authorizing and Approving Entry into a Settlement with The General Associates Consulting, LLC and Michael J. Silva* ("Silva Settlement Order"). The Silva Settlement Order approved the settlement agreement between Silva, The General Associates Consulting, LLC, and the Woodbridge Group with its affiliated debtors and



debtors in possession. The settlement agreement resolved Silva's and The General Associates Consulting, LLC's claims for commissions and required Silva and The General Associates Consulting, LLC to pay \$1,500 into the bankruptcy estate.

### CONCLUSIONS OF LAW

33. The Commissioner has jurisdiction over Silva, The General & Associates, and this matter.
34. The Promissory Notes are securities as that term is defined in K.S.A. 17-12a102(28).
35. The Promissory Notes 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.
36. Silva and The General & Associates violated K.S.A. 17-12a301 by offering and selling the Promissory Notes to their clients.
37. In effecting the sale of the Promissory Notes, Silva and The General & Associates were agents, as that term is defined in K.S.A. 17-12a102(2), of the Woodbridge Entities, and were not exempt from registration under K.S.A. 17-12a402(b).
38. Silva and The General & Associates violated K.S.A. 17-12a402 by transacting business in this state as an agent when Silva and The General & Associates were neither registered under the KUSA nor exempt from registration.
39. Silva's and The General & Associates' violations of K.S.A. 17-12a301 and K.S.A. 17-12a402 constitute grounds for discipline under K.S.A. 17-12a412(d)(2).

40. An order under K.S.A. 17-12a412 against Silva and The General & Associates is in the public interest

ORDER

**IT IS THEREFORE ORDERED** that Silva shall pay a civil penalty in the amount of \$3,300.00. Payment shall be in the form of a cashier's check made payable to the "Office of the Kansas Securities Commissioner," and delivered to 1300 SW Arrowhead Road, Topeka, KS 66604. Such payment shall be made within 30 days of the issuance of this Order. Upon receipt, such payment shall be deposited in the Investor Education and Protection Fund.

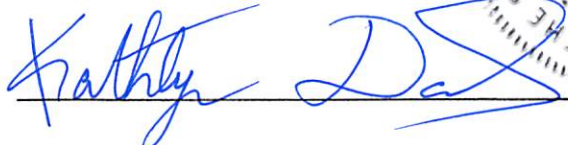
**IT IS SO ORDERED BY THE COMMISSIONER.**

Entered at Topeka, Kansas, this 26<sup>TH</sup> day of FEBRUARY, 2021,

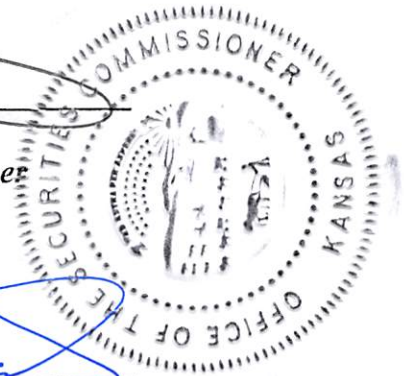


Daniel J. Klucas  
*Kansas Securities Commissioner*

CONSENTED TO BY:



Kathlyn W. Daniels, Kansas Bar No. 28090  
Staff Attorney  
OFFICE OF THE KANSAS  
SECURITIES COMMISSIONER  
*Attorney for KSC Staff*



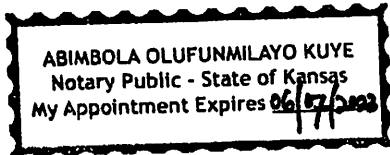
Michael J. Silva

Michael J. Silva, CCO  
The General & Associates LLC  
*Respondents*

STATE OF KANSAS )  
 ) SS:  
COUNTY OF Jottabson )

This instrument was signed before me on this 18th day of FEBRUARY, 2021,  
by Michael J. Silva.

(seal)



Abimbola Kuye  
Notary Public

My appointment expires: 06/07/2023

## **NOTICE**

(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 decision 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 Securities Commissioner is Jack Clayton Johnson, Assistant General Counsel, at 1300 SW Arrowhead Road, Topeka, KS 66604.