

BEFORE THE SECURITIES COMMISSIONER
OF THE STATE OF KANSAS



In the Matter of:

Randy L. Kufahl,

Docket No. 24E013
KSC No. 2021-6706

Respondent.

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

CONSENT ORDER

1. The Staff of the Office of the Kansas Securities Commissioner (“KSC Staff”) alleges that Randy L. Kufahl (“Kufahl”) engaged in conduct constituting violations of the Kansas Uniform Securities Act, K.S.A. 17-12a101 *et seq.* (“the KUSA”), and that Kufahl is subject to administrative sanctions and remedies under K.S.A. 17-12a604.

2. Kufahl and KSC Staff desire to settle the matters raised by KSC Staff relating to Kufahl’s alleged violations.

3. This Consent Order is issued contemporaneously and in conjunction with consent orders to be issued against Kufahl in the following other matters: Docket No. 24E015 (regarding *Premier Global Corp., et al.*) and Docket No. 24E014 (regarding *AllTrades Industrial Development, LLC*).

CONSENTS AND WAIVERS

4. Kufahl and KSC Staff stipulate and agree that, under the KUSA, the Securities Commissioner of Kansas (“the Commissioner”) has jurisdiction over Kufahl and this matter.

5. Kufahl and KSC Staff stipulate and agree that the Commissioner has authority to enter this Order under K.S.A. 17-12a604.

6. Kufahl waives his right to a hearing with respect to these matters.

7. Kufahl waives any rights that he may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order.

8. Kufahl 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.

9. Kufahl acknowledges and understands that he may consult with an attorney of his own choosing regarding this Order and its contents and acknowledges that his decision to agree to the issuance of this Order is knowing and voluntary.

10. 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, Kufahl agrees to the issuance of this Order on the basis of such Findings of Fact and Conclusions of Law solely and only for the purposes of this proceeding and any proceeding that may be brought to enforce the terms of this specific Order.

FINDINGS OF FACT

11. Kufahl is an individual with a last-known address of Wheaton, KS . Kufahl has never been registered under the KUSA in any capacity.

12. In December 2018, Kufahl acted as an agent of Shah-H1, LLC (“Shah-H1”) in effecting the sale of Shah-H1 *Investor Membership Units* to one Kansas resident, for which Kufahl received transaction-based compensation.

13. The *Investor Membership Units* sold by Kufahl were not registered as securities under the KUSA as required. Additionally, Kufahl was not registered as an agent under the KUSA as required.

Shah-H1 Investor Membership Units

14. Shah-H1 is a Missouri limited liability company which was incorporated on December 14, 2018. During all times relevant hereto, Shah-H1 has its principal place of business in Lee’s Summit, Missouri.

15. Shah-H1 is one of several limited liability companies (hereinafter “Viatical Investment Issuers”) managed and controlled by AAA Management and Benefit, LLC (“AAA Management”). AAA Management is a Missouri limited liability company, which is owned and operated by Richard Dale Dean (“Dean”), a resident of Plano, Texas.

16. The Viatical Investment Issuers are in the business of purchasing contractual rights (in whole or in part) to the death benefits of life insurance policies owned by separate business entities (hereinafter “Viatical Settlement Providers”). Generally, the Viatical Settlement Providers are also managed and controlled by AAA Management or another business entity owned and operated by Dean.

17. Generally, the ownership interest in a particular life insurance policy is purchased by a Viatical Settlement Provider, whereupon the Viatical Settlement Provider

designates itself as the policy beneficiary and, as the new policy owner, is responsible for keeping the policy in force by paying the policy premiums. In turn, the Viatical Settlement Provider sells contractual rights (in whole or in part) to the policy death benefit to (one or several) Viatical Investment Issuers, whereupon the Viatical Investment Issuer is contractually obligated to pay a proportionate share of the policy premiums and other expenses of the Viatical Settlement Provider.

18. To raise capital for the purchase of contractual rights to a particular death benefit, the Viatical Investment Issuers sold securities in the form of limited liability company *Investor Membership Units* sold through *Subscription Agreements*. Under these *Subscription Agreements*, investors delivered funds to the Viatical Investment Issuers in exchange for *Investor Membership Units* in the Viatical Investment Issuers. Upon purchasing *Investor Membership Units*, the investors become “Investor Members” of the Viatical Investment Issuers under those companies *Operating Agreements*.

19. Under the Viatical Investment Issuers’ *Operating Agreements*, the companies have two classes of members: a “Manager Member” and “Investor Members.” The Manager Member has authority to manage the business and internal affairs of each particular company. The Investor Members are deemed “non-voting Members on all matters concerning the [company], except as otherwise specified” in the *Operating Agreements*. The *Operating Agreements* vest practically exclusive control of the Viatical Investment Issuers in the Manager Member, while granting Investor Members effectively no voting rights or control over the management of the companies.

20. Under the Viatical Investment Issuers' *Operating Agreements*, the Investor Members are entitled to a pro-rata share of the policy death benefit upon the death of the insured. While the insured remains living, the *Operating Agreements* require the Investor Members to fulfill periodic (usually annual) capital calls made by the Viatical Investment Issuer, which funds would be used to meet the Viatical Investment Issuer's contractual obligations to pay a proportionate share of policy premiums and other expenses of the respective Viatical Settlement Provider.

21. Most *Investor Membership Unit* purchasers learned about the Viatical Investment Issuers through unregistered agents ("Agents," referred to in the Viatical Investment Issuers' corporate documents as "Originators") from several states. These Agents (including Kufahl) were retained by Dean in his role as manager of the Viatical Investment Issuers. Dean provided the Agents with verbal and written information (the later referred to as "Offering Documents") regarding the Viatical Investment Issuer to be provided to prospective investors. The Offering Documents indicated that the *Investor Membership Units* issued by the Viatical Investment Issuers are securities.

22. The Agents identified and communicated with potential investors and solicited their purchase of *Investor Membership Units* issued by the Viatical Investment Issuers. For each investor who purchased an *Investor Membership Unit*, the Viatical Investment Issuers would pay the Agents (including Kufahl) transaction-based compensation referred to as an "Origination Fee." The Origination Fee was a flat fee paid to the Agents for each *Investor Membership Unit* the Agent sold.

Kufahl's sale of Investor Membership Units

23. Kufahl initially learned of Shah-H1 from Dean in approximately 2018. However, Kufahl was familiar with the concept of Viatical Investment Issuers before learning of Shah-H1. According to Kufahl, he trusted Dean because he believed that Dean was experienced in life settlement or viatical investment ventures and had been involved with several such investment ventures before Shah-H1.

24. Even though Shah-H1's Offering Documents identify the *Investor Membership Units* as securities, Kufahl did not seek an opinion from any securities regulators or attorneys regarding whether the *Investor Membership Units* needed to be registered or whether Kufahl needed to be registered to sell them.

25. In December 2018, Kufahl sold two *Investor Membership Units* issued by Shah-H1 to one Kansas resident, S.B., for a \$60,000.00.

26. For his role in effecting the sale of *Investor Membership Units* to S.B., Kufahl received Origination Fees from Shah-H1 totaling \$6,000.

27. At no time were the Shah-H1 *Investor Membership Units* registered under the KUSA.

28. At no time was Kufahl registered under the KUSA as an agent of Shah-H1.

29. In approximately August 2021, S.B. informed Kufahl that she wished to withdraw from her investment in Shah-H1. Subsequently, S.B. sold her two *Investor Membership Units* in Shah-H1: one unit was purchased by Kufahl while the other was purchased by a different Kansas resident, W.M.

CONCLUSIONS OF LAW

30. The Commissioner has jurisdiction over Kufahl and this matter.

31. The *Investor Membership Units* described herein are securities as that term is defined in K.S.A. 17-12a102(28).

32. The *Investor Membership Units* 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.

33. Kufahl violated K.S.A. 17-12a301 by offering and selling the *Investor Membership Units*.

34. In effecting the sale of *Investor Membership Units*, Kufahl was an agent, as that term is defined in K.S.A. 17-12a102(2), of Shah-H1, and was not exempt from registration under K.S.A. 17-12a402(b).

35. Kufahl violated K.S.A. 17-12a402 by transacting business in this state as an agent when Kufahl was neither registered under the KUSA nor exempt from registration.


ORDERS

IT IS THEREFORE ORDERED that Kufahl shall pay a civil penalty in the amount of \$1,500. Payment shall be made payable to the “Office of the Kansas Securities Commissioner,” and delivered to Jack Clayton Johnson, Assistant General Counsel, at 1300 SW Arrowhead Road, Topeka, KS 66604. Such payment shall be made within 30 days of the issuance of this Order.

IT IS SO ORDERED BY THE COMMISSIONER.

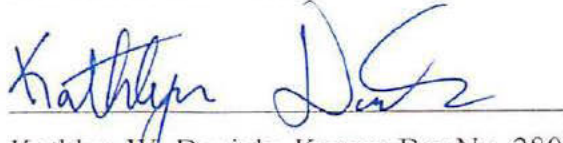
Entered at Topeka, Kansas, this 22nd day of September, 2023.





Daniel J. Klucas
Kansas Securities Commissioner

CONSENTED TO BY:



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



Anthony L. Gosserand, Kansas Bar No. 15676
VAN OSDOL PC
Attorney for Respondent



Randy L. Kufahl
Respondent

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