

Scott Kohn

FINAL ORDER TO CEASE AND DESIST

Based on the *ex parte* motion of the Securities Division of the Vermont Department of Financial Regulation (the Department), pursuant to 9 V.S.A. § 5604 and § 13 of Department Regulation 82-1 (Rev), the Commissioner entered on April 2, 2019 an Ex Parte Cease and Desist Order (“the Ex Parte Order”). Respondents were provided notice and a copy of the Ex Parte Order and separate notices describing their opportunity for hearing. Respondents have not requested a hearing or otherwise contested the Commissioner’s findings or conclusions. As a result, based on the evidence described below, the Commissioner makes the following findings of fact and conclusions of law and enters the following Order:

Introduction and Parties

1. The Department, through its Securities division, is charged with administering and enforcing the securities laws of the State of Vermont.
2. Future Income Payments L.L.C. (F.I.P.) is a Nevada limited liability company with a business address of 2505 Anthem Village Drive, #E-578, Henderson, Nevada 89052.
3. Scott Kohn is the owner and President of F.I.P. with a residential address of 8628 Titleist Circle, Las Vegas, Nevada 89107-5843.

Findings of Fact

4. On or about March 26, 2019, the Department received a complaint from a Vermont resident regarding a 2018 investment in F.I.P. The Complainant is aged 79 and retired.
5. The Complainant alleged the following facts:
 - A. In the spring of 2018, Complainant, through a financial planner, learned of an opportunity to invest a lump sum into an F.I.P. product in return for a stream of payments over 60 months that would pay higher interest than traditional savings vehicles and would provide the cash flow needed to fund certain of the Complainant’s monthly expenses. Respondents represented to Complainant that the

- product would provide a fixed income stream paying higher interest than was available through traditional products.
- B. In April 2018, Complainant invest a lump sum of \$50,000 into F.I.P. That sum was supposed to purchase a certain F.I.P. Purchase Agreement instrument, a structured note product that would guarantee certain fixed, predetermined monthly payments of \$1,000 per month.
 - C. The funds invested by Complainant represented a substantial portion of her savings, and Complainant was dependent on the monthly income described in the Purchase Agreement.
 - D. Complainant received only five payments of \$1,000 each. Payments stopped in or about September 2018.
6. After receiving the Complaint, the Department began an investigation into the business activities of Respondents.
 7. Based on the Department's preliminary investigation, at least four other Vermont residents, each over the age of 60, invested in the same or a substantially similar F.I.P. product as Complainant, and F.I.P has stopped making payments to three of them.
 8. On information and belief, Respondents offered, marketed, offered and sold structured note products to Vermont residents as part of a fraudulent scheme.
 9. On information and belief, the funds invested by the Complainant and other Vermont investors were loaned out to other senior citizens at extremely high interest rates.
 10. The structured note products offered and sold by Respondents as "Purchase Agreements" are securities within the meaning of 9 V.S.A. § 5102(28).
 11. F.I.P. was recently placed into involuntary Chapter 7 bankruptcy in California by investors, who, on information and belief, are similarly situated to Complainant and the other Vermont investors.
 12. Neither F.I.P. nor Kohn is registered as a broker-dealer or in any other capacity with the Department.
 13. The securities offered and sold by Respondents are not registered in Vermont, nor are they exempt from registration.
 14. Respondents have not requested a hearing or otherwise contested the findings of fact or conclusions of law in the Ex Parte Order.
 15. On April 19, 2019, after the entry of the Ex Parte Order, the United States District Court for the District of South Carolina appointed a receiver to manage Respondents' assets and liabilities in light of certain criminal charges pending against them. Those criminal charges are directly related to the subject of the Ex Parte Order. Regulatory proceedings are exempt from the stay of litigation contained in the order appointing the Receiver.
 16. In light of the appointment of the Receiver in South Carolina, the California bankruptcy case was dismissed on May 16, 2019.

Conclusions of Law

17. Pursuant to 9 V.S.A. § 5301, it is unlawful for a person to offer or sell a security in Vermont unless that security is either registered with the Department or exempt from registration.
18. Because the securities offered and sold by Respondents were neither registered nor exempt, Respondents violated 9 V.S.A. § 5301.
19. Pursuant to 9 V.S.A. §§ 5401 through 5404, it is unlawful for a person to transact business in Vermont as a broker-dealer, agent, investment adviser or investment adviser representative without first being registered to do so by the Department.
20. Respondents violated 9 V.S.A. §§ 5401 and 5402 by holding themselves out as broker-dealers or agents and acting as such without first being registered with the Department.
21. Pursuant to 9 V.S.A. § 5501, it is unlawful for a person, in connection with the offer to sell or the sale of a security to employ a device, scheme, or artifice to defraud or to engage in an act, practice, or course of business that operates as a fraud upon another person.
22. By promising a predetermined, fixed stream of payments at high interest rates and then failing to make the promised payments, Respondents defrauded Complainant and the other Vermont investors and violated 9 V.S.A. § 5501.

Commissioner's Authority

23. Pursuant to 9 V.S.A. § 5604(a)(1), the Commissioner may issue orders or directives to any person to cease and desist from specific conduct if the Commissioner finds that the person has engaged, is engaging or is about to engage in an act, practice, or course of business which constitutes a violation of 9 V.S.A. Chapter 150, the Vermont Uniform Securities Act.
24. Pursuant to 9 V.S.A. § 5604(b) and Section 13 of Department Regulation 82-1 (Revised), the Commissioner may issue such orders without prior notice or an opportunity to be heard.
25. In light of Respondents' failure to contest the findings of fact and rulings of law in the Ex Parte Order, and Respondents' failure to provide proof that they have remedied the violations described therein or assurance that those violations are not ongoing, a final order is appropriate and necessary to protect the public.
26. In light of the known violations of 9 V.S.A. §§ 5301, 5401, and 5501 and the risk that the financial health and welfare of additional Vermont residents may be or may have been affected by Respondents' conduct, financial penalties are appropriate in this case and are necessary to deter such conduct by Respondents and by others.

ORDER

PURSUANT TO 9 V.S.A. § 5604 AND SECTION 13 OF DEPARTMENT REGULATION 82-1 (Revised), IT IS HEREBY ORDERED:

- A. Respondents F.I.P. and Scott Kohn are ordered to CEASE AND DESIST from offering or selling securities in Vermont.
- B. Respondents shall not withhold, destroy, mutilate, or by any means falsify any documentary material in their possession that is relevant to their business activities in Vermont.
- C. Respondents are ordered to pay a financial penalty of \$ 225,000 to the Department on or before July 1, 2019.
- D. Respondents shall pay restitution to Vermont investors in the total amount of their losses.

Dated at Montpelier, Vermont this 31st day of May 2019.



Michael S. Pieciak, Commissioner