

STATE OF ALABAMA
ALABAMA SECURITIES COMMISSION

IN THE MATTER OF:)	
)	
FUTURE INCOME PAYMENTS LLC)	
SCOTT KOHN)	ADMINISTRATIVE ORDER
)	NO. CD-2018-0011
<u>RESPONDENTS</u>)	

CEASE AND DESIST ORDER

The Alabama Securities Commission ("Commission"), having the authority to administer and provide for the enforcement of all provisions of Title 8, Chapter 6, Code of Alabama 1975, the Alabama Securities Act ("Act"), upon due consideration of the subject matter hereof, has determined as follows:

RESPONDENTS

1. **FUTURE INCOME PAYMENTS, LLC ("FIP")** is a Nevada limited liability company with a business address of 2505 Anthem Village Drive, #E-578, Henderson, Nevada 89052, which is a UPS store. **FIP** operates a website at www.futureincomepayments.com.
2. **SCOTT KOHN ("KOHN")** is the owner and President of FIP with a residential address of 8628 Titleist Circle, Las Vegas, Nevada 89117-5843.

STATEMENT OF FACTS

3. **RESPONDENTS** market their product over the internet as the purchase of an asset, namely the purchase of all or a portion of a consumer's income from a pension, social security, veteran benefit or other income stream for a defined term in exchange for an up-front lump sum payment in cash.
4. **RESPONDENTS** market the purchase of assets to consumers as "structured cash flows." **FIP's** marketing materials state, "A structured cash flow represents a fixed income stream such as a qualified retirement benefit or pension income sold at a discount in exchange for a lump sum payment. These future income streams can provide for higher rates of return than are available through traditional fixed or income products... Structured cash flows are purchased at a discounted value from the seller... As with any instrument, any time a supply and demand market is created, there can be good opportunities for both a buyer and seller."

5. FIP's marketing materials also state, "FIP, LLC is America's largest pension cash flow originator with over \$400 million in completed transactions. FIP, LLC specializes in evaluating the credit worthiness of each offering to determine value and risk. FIP, LLC has been sourcing pension cash flows since 2010 and offers a model that has a perfect payment history."

6. FIP's marketing materials also state, "Pension sellers are identified through the internet or other marketing campaigns by a factoring company such as FIP, LLC. Each pensioner must complete a financial underwriting process to be approved to sell a portion of their pension income for a set period of time. A potential buyer will then submit an FIP, LLC Purchase Agreement and will send funds via a check or wire to our bonded escrow company with funds held at TD Bank. Assuming the requested inventory is available, within a target of 5-20 days from the time the funds are received, FIP will identify a specific cash flow(s) from one or more sellers to meet the buyers requested parameters. They will then deliver to the buyer, through their referring agent, a set of closing documents for the buyer's review. Once the closing documents are approved, signed and returned, the transaction will close. Payments are made monthly and deposited electronically to a buyer's checking or savings account or to a named IRA custodian."

7. FIP entered into a "Producer Marketing Agreement" ("PMA") with individuals designated as "Producers." According to the PMA, "FIP will pay to the Producer, either directly or indirectly through their exclusive distributor on behalf of the Producer's client, a one-time fee for each Income Stream purchased by Producer's clients during the term of this agreement. The Producer represents and warrants to FIP the fact that the Producer is receiving a fee will be disclosed to their client. FIP will pay the fee either directly or indirectly within fourteen (14) business days after the Producer's client returns All closing paperwork to FIP in good order."

8. On August 4, 2016, FIP sold "Pooled Income Streams," through a Producer, to an Alabama resident ("Investor"). FIP and the Investor entered into an FIP Purchase Agreement for the Pooled Income Streams of various borrowers. The Investor purchased eleven (11) "Pooled Income Streams" for a cost of \$230,000.00. The Pooled Income Streams were portions of pension plans that were purportedly sold to FIP by eleven (11) different sellers and pooled together for a lump sum investment for the Alabama investor. According to the Purchase Agreement, the Investor was supposed to receive monthly payments of \$4,505.50 for sixty (60) months for a total return of \$270,330.00.

9. On May 24, 2018, a review of the registration files of the Alabama Securities

Commission revealed no registration, nor any perfected exemption from registration, for the securities offered and sold by **FIP**. In addition, the **RESPONDENTS** were neither registered to offer and sell securities in Alabama, nor exempt from registration.

10. A corporation search of the Alabama Secretary of State's online website revealed no registration for **FIP** as a business entity or foreign corporation authorized to do business in the State of Alabama.

CONCLUSIONS OF LAW

11. Pursuant to § 8-6-2(10), Code of Alabama 1975, the definition of "security" includes investment contracts and profit sharing agreements. **FIP**'s Pooled Investment Streams require the investor to invest money into a common enterprise with the expectation of profits derived from the significant managerial efforts of **FIP**. Therefore, **FIP**'s Pooled Investment Streams constitute investment contracts and profit sharing agreements and are "securities" as defined by the Act.

12. Pursuant to § 8-6-4, Code of Alabama 1975, it is unlawful for any person to offer or sell any security in this state unless it is registered or exempt from registration under § 8-6-10; or the transaction is exempt under § 8-6-11. The securities, i.e. the Purchase Agreement offered and sold by **FIP**, were neither registered nor subject to a perfected exemption from registration in Alabama at the time of solicitation or sale and were offered and sold in violation of the Act.

13. Pursuant to § 8-6-2(5), Code of Alabama 1975, the definition of an "issuer" includes every person who proposes to issue, or has issued, any security. **RESPONDENTS**, by issuing securities, to wit: Purchase Agreements, is an "issuer" as defined by the Act.

14. Pursuant to § 8-6-17(a)(2), Code of Alabama 1975, it is unlawful for a person, in connection with the offer, sale or purchase of a security, to make or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading. **RESPONDENTS** failed to disclose that the investments offered and sold by **FIP** were securities which required registration in the State of Alabama, a material omission, in violation of the Act.

This Order does not prevent the Commission from seeking such other civil or criminal remedies that are available to it under the Act.

This Order is appropriate to protect the public interest and the protection of investors and is consistent with the purposes of the Alabama Securities Act.

Additionally, if the allegations set forth herein are found to be true, through either

administrative adjudication, failure of the **RESPONDENTS** to make a timely request for hearing, or default of the **RESPONDENTS**, it is the intention of the Commission to impose sanctions upon the **RESPONDENTS**. Such sanctions may include, inter alia, an administrative assessment imposed on **RESPONDENTS**, an additional administrative assessment for investigative cost arising from the investigation of the violation(s) described herein against **RESPONDENTS**, and a permanent order to bar **RESPONDENTS** from participation in any securities related industry in the State of Alabama.

ACCORDINGLY, IT IS HEREBY ORDERED that **RESPONDENTS** immediately **CEASE AND DESIST** from further offers or sales of any security into, within or from the state of Alabama.

Entered at Montgomery, Alabama, this 25th day of May 2018.



ALABAMA SECURITIES COMMISSION
P.O. Box 304700
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(334) 242-2984

BY:

A handwritten signature in black ink, appearing to read "Joseph P. Borg", is written over a horizontal line. The signature is stylized and extends above and below the line.

Joseph P. Borg
Director