

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2018-AH-00060



DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

vs.

AGREED ORDER

SECURE SOLUTIONS LLC; and
DAVID FERGUSON

RESPONDENTS

BACKGROUND

1. The Kentucky Department of Financial Institutions (“DFI”) is responsible for administering the provisions of Kentucky Revised Statutes (“KRS”) Chapter 292, the Securities Act of Kentucky (the “Act”), as well as the rules and regulations enacted thereunder.

2. Respondent Secure Solutions LLC (“Secure Solutions”) maintains an office location of 903 Winchester Road, Mount Sterling, KY 40353.

3. Respondent David Ferguson (“Ferguson”) is the owner and managing member of Secure Solutions. His address is 903 Winchester Road, Mount Sterling, KY 40353.

4. On August 19, 2016, the Securities and Exchange Commission forwarded two complaint forms from investors M.O. and T.C. to DFI regarding Secure Solutions. M.O. and T.C. alleged that Ferguson offered and sold them promissory notes issued by Secure Solutions in September of 2013. M.O. and T.C. each invested \$20,000 (twenty thousand dollars), but T.C. invested an additional \$6,000 (six thousand dollars) in May of 2014. The terms of these promissory notes included monthly interest payments and a return of the unpaid principal balance at maturity.

Both M.O and T.C. alleged that they did not receive the monthly interest payments according to the terms in the promissory note.

5. On September 7, 2016, the Securities and Exchange Commission forwarded a complaint form from investor D.M. D.M. also alleged that Ferguson offered and sold him a promissory note issued by Secure Solutions in January of 2013. D.M. invested \$130,000 (one hundred and thirty thousand dollars), and he alleged that he did not receive the monthly interest payments according to the terms in the promissory note.

6. Through the course of the investigation, DFI identified a fourth investor, M.G., to whom Ferguson offered and sold a promissory note issued by Secure Solutions. M.G. invested \$50,000 (fifty thousand dollars) in October of 2012, \$10,000 (ten thousand dollars) in May of 2014, and \$10,000 (ten thousand dollars) in July of 2015.

7. During a DFI investigative interview, Ferguson stated that he was the only individual that offered promissory notes to investors and that no written disclosures regarding the risk of the investment or advertising materials were provided to investors.

8. According to DFI records, Ferguson and Secure Solutions did not register the promissory notes or file an exemption from registration.

STATUTORY AUTHORITY

9. KRS 292.310(19), in pertinent part, states that “[s]ecurity” means “any note, stock, treasury stock, bond, debenture, evidence of indebtedness...”

10. Under KRS 292.340, “[i]t is unlawful for any person to offer or sell any security in this state, unless the security is registered under this chapter, or the security or transaction is exempt under this chapter, or the security is a covered security.”

11. Under KRS 292.320(1), “[i]t is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly: (a) To employ any device, scheme, or artifice to defraud; (b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or (c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.”

12. The Commissioner possesses a range of administrative authority in addressing violations of the Act, including the imposition of civil fines up to twenty thousand dollars (\$20,000.00) for each violation of the Act. *See* KRS 292.337 and KRS 292.500(14).

CONCLUSIONS OF LAW

13. The Respondents violated KRS 292.340 by failing to register the promissory notes with DFI.

14. The Respondents violated KRS 292.320 by failing to provide adequate written disclosures to investors regarding the risk of the investment.

AGREEMENT AND ORDER

15. To resolve this matter without litigation or other adversary proceedings, DFI and Respondents agree to compromise and settle all claims arising from the above referenced factual background in accordance with the terms set forth herein.

16. In the interest of economically and efficiently resolving the violations described herein, DFI and Respondents hereby agree as follows:

- a. Respondents agree to pay a civil fine in the amount of \$4,500 (four thousand five hundred dollars) for the violations described herein, which shall be due and payable upon the entry of this Agreed Order;

- b. All payments under this Order shall be in the form of a certified check or money order made payable to “Kentucky State Treasurer” and mailed to the Department of Financial Institutions, Securities Division, 2018-AH-00060, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601;
- c. Respondents agree to pay restitution to the affected investors. The amounts owed are as follows, and reflect the investors’ principal investment balances minus payments made by Respondents as of August 2018:
 - i. M.O. - \$258.56
 - ii. T.C. - \$5,886.08
 - iii. D.M. - \$76,900.00
 - iv. M.G. - \$6,781.48

The Respondents agree to pay restitution to the affected investors in the above-stated amounts, less any additional payments the Respondents can prove they have made to investors since August 2018.

- d. Respondents shall cease and desist from any further violations of the Act.

17. Respondents waive their right to demand a hearing at which they would be entitled to legal representation, to confront and cross-examine witnesses, and to present evidence on their own behalf, or to otherwise appeal or set aside this Agreed Order.

18. Respondents consent to and acknowledge the jurisdiction of DFI over this matter and that this Agreed Order is a matter of public record and may be disseminated as such.

19. In consideration of execution of this Agreed Order, Respondents for themselves, and for their successors and assigns, hereby releases and forever discharges the Commonwealth of Kentucky, DFI, Office of Legal Services, and each of their members, agents, and employees in

their individual capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondents ever had, now have, may have or claim to have against any or all of the persons or entities named in this paragraph arising out of or by reason of this investigation, this disciplinary action, this settlement or its administration.

20. By signing below, the parties acknowledge they have read the foregoing Agreed Order, know and fully understand its contents, and that they are authorized to enter into and execute this Agreed Order and legally bind their respective parties.

21. This Agreed Order shall constitute the Final Order in this matter.

IT IS SO ORDERED on this the 27 day of Feb, 2019.



CHARLES A. VICE
COMMISSIONER

Consented to:

On behalf of the Department of Financial Institutions,

This 19th day of February, 2019.

Marni Gibson

Marni Gibson, Director
Division of Securities
Department of Financial Institutions

AND

On behalf of himself and Secure Solutions,

This 15th day of February, 2019. (By KAC as authorized by David Ferguson)

David Ferguson

David Ferguson, Managing Member
Secure Solutions LLC

ACKNOWLEDGEMENT

STATE OF Kentucky)
COUNTY OF Montgomery)

On this the 15 day of February, ~~2018~~ ²⁰¹⁹, before me David Ferguson,

David Ferguson personally appeared and acknowledged himself to be the Respondent named herein and the managing member of Secure Solutions, LLC and acknowledged that he entered into and executed the foregoing instrument for the purposes therein contained.

My Commission Expires: 2-28-2022



Betty Maubee 595856
Notary Public

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Agreed Order** was sent on this the 27 day of February, 2019, by certified mail, return receipt requested, to:

Secure Solutions, LLC
Attn: David Ferguson
903 Winchester Road
Mount Sterling, KY 40353
Respondent

Hon. David Knights
O’Koon Hintermiester, PLLC
PNC Plaza, 500 W Jefferson St #2210
Louisville, KY 40202
Counsel for Respondent

And by Hand-Delivery to:

Kathryn Adams-Cornett
1025 Capital Center Drive, Suite 200
Frankfort, KY 40601
Counsel for Department of Financial Institutions



Kentucky Department of Financial Institutions