

FILED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

2017 MAY 19 AM 11:30

PA DEPARTMENT OF
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF BANKING AND :
SECURITIES, COMPLIANCE OFFICE :

v. :

DOCKET NO. 17 0024 (BNK-C&D)

FUTURE INCOME PAYMENTS, LLC; :
f/k/a PENSIONS, ANNUITIES AND :
SETTLEMENTS, LLC; and :
SCOTT A. KOHN, an individual; :
and all other persons, corporations or :
companies under their control :
however named, :
jointly and severally :

NOTICE OF RIGHT TO APPEAL AND HEARING

You, Future Income Payments, LLC, formerly known as Pensions, Annuities and Settlements, LLC; all companies under the control of Scott A. Kohn; and Scott A. Kohn, an individual, have the right to challenge the attached *Order to Cease and Desist, Prohibit, and Pay a Fine*, ("Order") by filing an Answer and Petition for Hearing, in writing, with the Docket Clerk **within 30 days** of the date of this Order in accordance with 1 Pa. Code § 35.20 and 1 Pa. Code § 35.37. **If you do not file an Answer and Petition for Hearing within 30 days, then you will waive your right to a hearing and the Banking and Securities Commission ("Commission") may enter a final order against you.**

Your Answer and Petition for Hearing must be in writing. You must specifically admit or deny the allegations in the Order, set forth the facts you rely upon and state concisely the law you rely upon and the relief you seek as required by 1 Pa. Code §35.17. General denials of the allegations set forth in the Order are not sufficient; you must support your denials with specific facts. Failure to support your denials with specific facts may cause the Commission to deem the facts in the Order as admitted and to enter a final order against you, without hearing.

Your Answer and Petition for Hearing and all other documents relating to this matter must be filed with the Docket Clerk:

Linnea Freeberg
Docket Clerk
Pennsylvania Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, PA 17101

Further, you must serve a copy of the Answer and Petition for Hearing and any other documents on the person who signed the order by providing a copy to his or her counsel below:

Linda Carroll
Deputy Chief Counsel
Pennsylvania Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, PA 17101

Once you file your Answer and Petition for Hearing, you will be notified of pertinent information such as the name of the presiding officer designated by the Banking and Securities Commission to hear this matter and, if a hearing is scheduled, the date, time and location of the hearing. Individuals have the right to be represented by an attorney. Corporations are required to be represented by an attorney.

All procedural matters will be governed by the Pennsylvania Administrative Agency Law, 2 Pa.C.S. §§ 501-508, 701-704, and the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1 – 35.251.

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SETTLEMENTS, LLC; :
and SCOTT A. KOHN, an individual; :
and all other persons, corporations and :
companies under their control :
however named, :
jointly and severally :

ORDER

THIS 19th day of May, 2017, Future Income Payments, LLC, formerly known as
Pensions, Annuities and Settlements, LLC; Scott A. Kohn, individually, and all other persons,
corporations and companies under their control (collectively "Respondents") **ARE HEREBY**
ORDERED TO IMMEDIATELY CEASE AND DESIST FROM:

1. engaging with Pennsylvania consumers, either as principal, employee, agent or broker, in the business of providing a one-time cash advance in exchange for receiving monthly payments of cash by electronic funds transfer from the bank accounts of consumers who receive pension payments, IRA distributions, veteran benefits, social security or other income. That business is, in fact, the negotiation and making of unsecured loans, or advances of money on credit, or the use of money, or soliciting, advertising, or arranging for such loans, in amounts less than \$35,000 and at rates of interest far in excess of 6% in violation of the Act of 1937, P.L. 262, No. 66, as amended, known as the Consumer Discount Company Act (hereinafter "CDCA"), (7 P.S. §§ 6201-6221), and the Act of 1974 P.L. 13, No. 6, as amended, known as the Loan Interest Protection Law (hereinafter "LIPL"), (41 P.S. §§ 101-605).
2. collecting payments for loans of \$35,000 or less from consumers' bank accounts, by electronic transfer or otherwise, in excess of what would calculate to be principal plus interest at 6% per annum, inclusive of fees and other consideration.

3. transferring, assigning or selling to any person, company or entity any loans of \$35,000 or less made to Pennsylvania residents where the interest, fees or other consideration on the loans exceeds 6%.
4. purchasing from other persons any loans of less than \$35,000 made to Pennsylvania residents where the interest, fees or other considerations on the loans exceed 6%.
5. filing or maintaining reports with any credit agency regarding any Pennsylvania resident regarding transactions involving a loan of \$35,000 or less.
6. withholding information from the Compliance Office of the Department about transactions involving Pennsylvania consumers as requested by letter dated May 2, 2017.

This Order applies to the named parties and any person, corporation and company under the control of any named party.

FACTS

In support of its Order, the Compliance Office states the following:

Parties

1. The Department of Banking and Securities (“Department”) is the Commonwealth of Pennsylvania’s administrative agency authorized and empowered to administer and enforce the CDCA and LIPL.
2. The Department’s Compliance Office has the primary responsibility to administer and enforce the CDCA and LIPL on behalf of the Department.
3. The Compliance Office operates from its offices at 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.
4. Respondent Scott A. Kohn is the owner and President of Future Income Payments, LLC (“FIP”), formerly known as Pensions, Annuities and Settlements, LLC (“PAS”).
5. Scott A. Kohn resides at 9 Via Palladio, Newport Coast, CA 92657-1404.

6. FIP has its mailing address at 2505 Anthem Village Drive, #E-578, Henderson, NV 89052, a UPS Store.

7. FIP operates a website at www.futureincomepayments.com.

8. FIP and PAS are or were affiliated with other corporate entities, including but not limited to Cash Flow Investment Partners, LLC, BuySell Annuity, Inc. and Pension Advance, LLC who are included in the caption of this matter within the phrase “as all other persons, corporations or companies under their control however named.”

9. Respondents are not registered with the Department of State, Bureau of Corporations, to engage in business in the Commonwealth of Pennsylvania.

10. Respondents are not and have never been licensed by the Department either as a consumer discount company or in any other manner.

Authority of the Department

11. The Department, in accordance with the CDCA and LIPL, requires persons that engage, either as principal, employee, agent or broker, in the business of negotiating or making loans or advances of money on credit in amounts of \$35,000 or less and charge, collect, contract for or receive interest which aggregate in excess of 6% per annum, to maintain a consumer discount company license. 7 P.S. § 6203.A; 41 P.S. § 201.

12. The Department, in accordance with the CDCA and LIPL, deems any person that “shall hold himself out as willing or able to arrange for or negotiate” loans in amounts of \$35,000 or less where the interest to be charged on the loans exceed 6% interest per annum or “who solicits prospective borrowers” of such loans to be engaged in the business of consumer lending; persons such engaged are required by law to maintain a consumer discount company license. 7 P.S. § 6203.B; 41 P.S. § 201.

13. The LIPL establishes that the maximum lawful rate of interest for an unsecured loan or use of money in an amount of \$35,000 or less, in all cases where no express contract shall have been made for a less rate, shall be six percent per annum. 41 P.S. § 201(a).

14. The Department may levy a fine against any person violating the LIPL up to \$10,000 for each offense. 41 P.S. §§ 505(b), 506(c)(5).

15. The Department may order any person in violation of the LIPL to cease and desist from any further violation and order that person to make restitution for actual damages to any aggrieved person. 41 P.S. § 506(c)(3).

16. The Department may prohibit or permanently remove an individual responsible for a violation of the LIPL from working in his or her present capacity or in any other capacity related to activities regulated by the Department. 41 P.S. § 506(c)(2).

17. The Department may require any person that violated the LIPL to pay costs associated with any Department enforcement action initiated under the provisions of the LIPL. 41 P.S. § 506(c)(4).

BACKGROUND

18. Respondents and their affiliated companies, successors and assigns, are not now and have never been licensed by the Department under any name to provide loans for less than \$35,000 in Pennsylvania, or authorized to charge fees, interest, or other considerations, exceeding 6% in Pennsylvania.

19. 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.

20. In reality, Respondents' product is a loan or advancement of money on credit because it offers a lump-sum of cash in exchange for repayment by the consumer on a monthly basis in a defined amount plus fees for a predetermined term of five or ten years, which repayment exceeds the lump-sum of cash provided and that excess in fees and other consideration is interest under the CDCA and LIPL.

21. Respondents' product is a loan or advancement of money on credit because Respondents require consumers to provide information that reflects directly upon the consumer's ability to repay the money consistent with lending practices such as credit checks, health questions, other sources of income, and solvency evaluations.

22. Respondents' product is a loan or advancement of money on credit because Respondents are not responsible for payment of the income taxes on the income stream allegedly purchased, but the contractual language is clear that the consumer continues to be responsible for the payment of income taxes on the money that has been purportedly sold to Respondents, hence the asset was never sold.

23. Respondents' product is a loan or advancement of money on credit because Respondents do not become assignees of the pension or other income stream and never take title in those benefits or income streams, in whole or in part, and the benefits and income stream remain fully titled in the name of the consumer pursuant to a contract between the consumer and their employer or the government.

24. Respondents' product is a loan or advancement of money on credit because Respondents turn over accounts for non-payment to debt collectors who provide notice that their activity is an attempt to collect a debt.

25. Respondents solicit and execute the loan or advancement of money on credit to residents in Pennsylvania and engage in the business in the Commonwealth by using the internet and electronic transmission of the lump-sum payment into the Pennsylvania consumer's bank account and by using the ACH system to electronically debit repayment of the lump-sum and interest from a consumer's bank account.

26. To date, Respondents did not provide information to the Compliance Office requested by letter dated May 2, 2017 about transactions with consumers in Pennsylvania.

Count I

25. Paragraphs 1- 26 are incorporated herein by reference.

26. On or about May 20, 2014, the Department received a complaint from J.H. regarding Respondents.

27. J.H. obtained a loan or advancement of money on credit from Respondents in the amount of \$3,700 (less \$300 fee) on or about October, 2013 for a term of five years.

28. J.H. was required to pay back a total of \$18,600 inclusive of a one-time \$300 set up fee, and monthly maintenance fees of \$10 and other unidentified interest.

29. J.H. was charged interest of \$15,200 (inclusive of fees), an amount far in excess of 6%.

30. J.H. is a resident of Douglassville, Pennsylvania.

31. Respondents collected payments on the loan inclusive of interest.

32. By making loans or advancements of money to J.H., a Pennsylvania resident, in an amount less than \$35,000 at interest in excess of 6% and without a license, and collecting on that loan in excess of 6% interest, Respondents violated Pennsylvania law.

Count II

33. Paragraphs 1- 26 are incorporated herein by reference.

34. In January, 2017, the Department received a complaint from B.F. regarding Respondents.

35. B.F. obtained a loan or advancement of money on credit from Respondents in the amount of \$3,500 (less \$300 fee) in December, 2013 for a term of ten years.

36. B.F. was required to pay back a total of \$27,900 inclusive of a one-time \$300 set up fee, and monthly maintenance fees of \$10 and other unidentified interest.

37. B.F. was charged interest of \$24,700 by Respondents, an amount far in excess of 6%.

38. B.F. is a resident of Perryopolis, Pennsylvania.

39. Respondents collected payments on the loan inclusive of interest.

40. By making loans or advancements of money to B.F., a Pennsylvania resident, in an amount less than \$35,000 at interest in excess of 6% and without a license, and collecting on that loan in excess of 6% interest, Respondents violated Pennsylvania law.

Count III

41. Paragraphs 1- 26 are incorporated herein by reference.

42. On or about April 19, 2017, the Pennsylvania Office of Attorney General received a complaint from J.G. regarding Respondents which was subsequently forwarded to the Department.

43. J.G. obtained a loan or advancement of money on credit from Respondents of \$12,000 (less \$300 fee) on or about January 2, 2014, for a term of ten years.

44. J.G. was required to pay back a total of \$116,400 inclusive of the one-time \$300 set up fee, and monthly maintenance fees of \$10 and other unidentified interest.

45. J.G. is a resident of Mount Joy, Pennsylvania.

46. J.G. stopped making payments to Respondents after she repaid \$9,025 upon realizing the amount of money she was paying in interest.

47. On or about April 29, 2015, in response to collection efforts, J.G. entered into a settlement agreement with Respondents to resume making payments on the debt without substantially changing the total amount owed by her to Respondents under the unlawful contract.

48. Respondents collected payments on the loan inclusive of interest.

49. By making loans or advancements of money to J.G., a Pennsylvania resident, in an amount less than \$35,000 at interest in excess of 6% and without a license, and collecting on that loan in excess of 6% interest, Respondents violated Pennsylvania law.

Count IV

50. Paragraphs 1- 26 are incorporated herein by reference.

51. On or about September 16, 2014, the Office of Attorney General received a complaint from C.L. regarding Respondents which was subsequently forwarded to the Department.

52. C.L. obtained a loan or advancement of money on credit from Respondents of \$10,000 (less \$300 fee) on or about September 12, 2012 for a term of ten years.

53. C.L. was required to pay back a total of \$25,980, inclusive of the one-time \$300 set up fee, and monthly maintenance fees of \$10 and other interest.

54. In May of 2014, C.L. was solicited by Respondents for a second loan of \$3,500 (less \$300 fee) which he accepted.

55. C.L. was required to pay back a total of \$35,100, inclusive of the one-time \$300 set up fee, and monthly maintenance fees of \$10 and other interest.

56. C.L. was charged interest of \$15,980 for his first loan, an amount far in excess of 6% interest.

57. C.L. was charged interest of \$31,600 for his second loan, and amount far in excess of the legal rate of 6%.

58. C.L. is a resident of Allentown, Pennsylvania.

59. Respondents collected payments on the loans inclusive of interest.

60. By making loans or advancements of money to C.L., in an amount less than \$35,000 at interest in excess of 6% and without a license, and collecting on that loan in excess of 6% interest, Respondents violated Pennsylvania law.

Count V

61. Paragraphs 1- 26 are incorporated herein by reference.

62. On or about September 6, 2014, the Office of Attorney General received a complaint from A.J. regarding Respondents which was subsequently forwarded to the Department.

63. A.J. obtained a loan or advancement of money on credit from Respondents of \$3,000 (less \$300 fee) on or about July 12, 2014 for a term of five years.

64. A.J. was required to pay back a total of \$18,900, inclusive of the one-time \$300 set up fee, and monthly maintenance fees of \$10 and other unidentified interest.

65. A.J. was charged interest of \$16,900 for his first loan, an amount far in excess of 6% interest.

66. A.J. is a resident of Philadelphia, Pennsylvania.

67. Respondents collected payments on the loans inclusive of interest.

68. By making a loan or advancement of money to A.J., a Pennsylvania resident, in an amount less than \$35,000, with an interest rate in excess of 6% without a license, and collecting on that loan in excess of 6% interest, Respondents violated Pennsylvania law.

Count VI

69. Paragraphs 1- 26 are incorporated herein by reference.

70. On or about April 19, 2017, the Office of Attorney General received a complaint from J.B. regarding Respondents which was subsequently forwarded to the Department.

71. J.B. obtained a loan or advancement of money on credit from Respondents of \$10,000 (less \$300 fee) on or about September 14, 2014 for an unknown term of years.

72. J.B. is a resident of Wyncote, Pennsylvania.

73. Respondents made a loan or advancement of money to J.B., a Pennsylvania resident, in an amount less than \$35,000, with an interest rate that exceeded 6% in violation of Pennsylvania law.

Count VII

74. Paragraphs 1- 26 are incorporated herein by reference.

75. On or about August 12, 2016, G.H. of Pittsburgh filed a complaint with the Department regarding a loan that he received from Future Income Payments.

76. Numerous other Pennsylvania consumers, yet unidentified, have obtained loans or advancement of money on credit from Respondents at interest rates far in excess of the legal rate of 6% from Respondents.

77. Respondents continue to collect principal and interest far in excess of the lawful rate from those numerous unidentified consumers as well as those consumers specifically named herein.

VIOLATIONS

78. By engaging in the business of making loans to Pennsylvania residents of less than \$35,000 and charging fees, interest, or other considerations in excess of 6%, without being licensed by the Department, Respondents has violated and continues to violate Section 3.A of the CDCA, 7 P.S. § 6203.A, and Section 201(a) of the LIPL, 41 P.S. § 201(a).

79. By soliciting and holding themselves out as willing or able to arrange for or negotiate loans through its website to Pennsylvania residents in amounts of less than \$35,000 where the interest, fees, charges, or other considerations exceed 6%, without being licensed by the Department, Respondents have violated and continue to violate Section 3.B of the CDCA, 7 P.S. § 6203.B, and Section 201(a) of the LIPL, 41 P.S. § 201(a).

DEPARTMENT'S AUTHORITY

80. Because Respondents engage in unlicensed activity in violation of the CDCA and LIPL, the Department has the authority to, *inter alia*, order it to cease and desist the activity until licensed, require it to pay the costs of the Department's enforcement action, prohibit or permanently remove it from continuing the activity, and to impose such other conditions as the Department deems appropriate. 41 P.S. §§ 506(c)(2)-(5).

81. This Order shall not preclude the Department from commencing additional enforcement action against Respondents and any additional entities, companies, or persons associated with Respondents as it deems necessary based on information unknown as of this date.

AND NOW THEREFORE, because Respondents engage in the business of lending money in an amount less than \$35,000 to Pennsylvania residents and charges in excess of 6% interest for the loan, without a license, and solicits such loans to Pennsylvania residents through its website, and collects on such loans, the Department, under the authority cited above, hereby

seeks the following remedies in addition to the immediately effective cease and desist provisions of this Order. These remedies will be effective upon issuance of an order of the Commission subsequent to a due process hearing, or earlier by operation of law if no petition for hearing is filed:

1. Respondents shall refund to Pennsylvania residents the amount of monies that the residents paid on loans that exceed 6% interest, inclusive of fees.

2. Within 10 days of the effective date of this Order, Respondents shall provide to the Department a list of loans and cash advances made to Pennsylvania residents. The list shall include:

- a. The name, address and phone number of each consumer; and
- b. The date of the loan; and
- c. The terms of the loan including the amount financed, any and all charges, interest, fees or other considerations including, but not limited to interest charges, finance charges, renewal fees, and the total amount of payments to be paid by the resident; and
- d. The status of the loans including total amount still owed by the resident to Respondents, or if the loans have been transferred to a third party such as another lender or collection agency, when such transfer occurred and the contact information for the third party; and
- e. Any other additional information that the Department shall request related to these loans as the Department deems necessary.

3. Respondents shall pay a fine to the Department in an amount of \$10,000 per loan made to Pennsylvania residents in violation of the CDCA and LIPL. *See* 41 P.S. § 505(b).

4. Respondents shall pay the reasonable costs and expenses incurred by the Department to commence and prosecute this enforcement action should Respondents challenge this Order without success. To this end, the Department expressly requests a separate hearing to ascertain recovery of the amount of monies expended by the Department if needed.

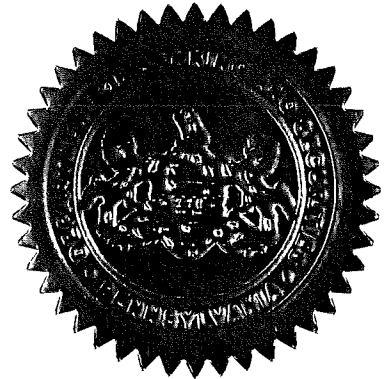
IT IS SO ORDERED.

FOR THE COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF BANKING AND SECURITIES,
COMPLIANCE OFFICE

Dated: May 19, 2017

Redacted

James Keiser, Chief of Compliance
Compliance Office
Commonwealth of Pennsylvania
Department of Banking and Securities
17 N. Second Street, Suite 1300
Harrisburg, PA 17101



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SCOTT A. KOHN, an individual; :
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **Order to Cease and Desist, Prohibit, and Pay a Fine** upon the parties below, who constitute the only parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code §§ 33.35 and 33.36:

BY FIRST CLASS MAIL

Betsy Cook Lanzen, Esq.
Womble Carlyle
555 Fayetteville Street, Suite 1100
Raleigh, NC 27601
(also served electronically)

Scott A. Kohn
9 Via Palladio
Newport Coast, CA 92657-1404

Future Income Payments, LLC
2505 Anthem Village Dr.
#E-578
Henderson, NV 89052

Redacted

Linda Carroll
Deputy Chief Counsel
Attorney I.D. # 35868
FOR: Commonwealth of Pennsylvania
Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-147

Dated this 19th day of May, 2017.