

**BEFORE THE SECURITIES COMMISSIONER
OF THE STATE OF KANSAS**

In the Matter of:

JAMES E. OTTO, and
JOTTO, INC.,

Docket No. 11 E 012
KSC No. 2010-5671

Respondents.

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

STIPULATION FOR CONSENT ORDER

This proceeding follows an investigation conducted by the staff of the Office of the Securities Commissioner of Kansas, pursuant to K.S.A. 17-12a602. As a result of the investigation, staff for the Office of the Securities Commissioner alleges that:

Allegation of Fact

1. Respondent James E. Otto (“Otto”) is Vice President and a Director of JOTTO and has an address of [REDACTED]. Respondent Otto was a registered representative, CRD # 1566081, beginning in 1989. After 2002, Respondent Otto did not renew his representative license and has not registered since 2002. On May 26, 2010, the SEC barred Respondent Otto from associating with a broker-dealer or investment adviser.
2. Respondent JOTTO, INC, (“JOTTO”) is a Kansas corporation with an address of 13425 W. 128th Street, Overland Park, KS 66213. Respondent JOTTO was formed on May 10, 2005, and is registered and in good standing with the Kansas Secretary of State. Filings with the Kansas Secretary of State office indicate Respondent JOTTO was formed primarily as a real estate company.

3. In 2005, Respondent Otto became employed with Bankers Life and Casualty Company (“Bankers Life”), as an insurance agent. He was assigned to the Leawood Kansas office (Leawood office) of Bankers Life. His branch manager was [REDACTED] [REDACTED] Otto’s employment at Bankers Life ended in August 2006.
4. In 2005, Otto developed a way for the Leawood Office agents to transfer their client’s brokerage account proceeds into Bankers Life insurance products. Prior to Otto’s plan, agents utilized Bankers Life’s a brokerage firm to facilitate the transfer.
5. Respondent Otto found that he could set up a client account at Ameritrade and become the authorized agent on the account. He then had the authorization to have funds transferred from a client’s previous custodian to Ameritrade and could effect a liquidation of the client’s account. Respondent Otto would then direct Ameritrade to send a check to Bankers Life for the benefit of (FBO) the client so that an insurance product could be purchased. [REDACTED] agreed to allow Otto to facilitate the Ameritrade transfers for Bankers Life agents assigned to the Lenexa office.
6. Respondent Otto was invited by Hutchinson Branch manager, [REDACTED] [REDACTED] to expand the program in the fall of 2005.
7. In both branches, Respondent Otto provided the Bankers Life agents with a packet of forms to capture the information necessary to accomplish securities product transfers to Ameritrade. The forms included an Ameritrade account application, Ameritrade limited trading authorization, and Ameritrade account transfer. The agents were instructed by Respondent Otto to obtain the information contained in, or copies of, the client’s quarterly statements from their brokerage accounts. The agents obtained client signatures for the various forms authorizing the conversion of the funds.

8. The forms were then sent to Respondent Otto to begin the conversion process with Ameritrade.
9. On occasion, Respondent Otto would contact the insurance agent's client, by telephone, to discuss the process and to obtain a signature to close the Ameritrade account. In January, 2006, [REDACTED] [REDACTED] a Bankers Life agent assigned to the Hutchinson, Kansas, office, met on several occasions with a client, [REDACTED], and sold [REDACTED] an equity based annuity.
10. During the presentation, [REDACTED] secured from [REDACTED] a copy of her Vanguard policy, and had her sign several blank documents relating to the Ameritrade application and transfer to Ameritrade. The documents included an Ameritrade application, an authorized agent form, a transfer of funds form.
11. [REDACTED] forwarded [REDACTED] signed transfer documents, which contained only the client signature, and a copy of [REDACTED] quarterly Vanguard statement to Respondent Otto. The documents were dated January 31, 2006.
12. Respondent Otto initiated the process of opening an Ameritrade account for [REDACTED] and transferring [REDACTED] funds from her Vanguard account into the Ameritrade account. Otto then helped facilitate the transfer of [REDACTED] funds from Ameritrade to Banker's Life.
13. On or about February 9, 2006, after [REDACTED] funds were transferred to Banker's Life, [REDACTED] drafted a check, in the amount of \$155.00, issued to "Jim Otto", as payment of the fee for the transfer of [REDACTED] funds to Bankers Life. The [REDACTED] check was endorsed by "Jim Otto" and deposited in the business bank account of Respondent JOTTO, Inc, at Blue Valley Bank in Overland Park, Kansas.

14. According to Ameritrade data records, Respondents Otto and JOTTO performed similar securities transfers, between October 2005 and June 2006, for thirty Kansas residents who purchased Bankers Life & Casualty products.
15. Respondent Otto received compensation from the Bankers Life agents for facilitating the securities transfers. The compensation was a direct personal payment by the agent to Respondent Otto usually in the amount of ten percent of the insurance agent's commission. No compensation was made to Respondent Otto by Bankers Life or Ameritrade for the transfers.
16. In the nine months the program operated, Respondent Otto received an estimated \$12,900 in compensation from the Bankers Life agents for clients in Missouri and Kansas.
17. Respondent Otto acknowledged in interviews, he maintained a client relationship with [REDACTED] and provided investment advice. Although the arrangement was a friendship arrangement, Respondent Otto acknowledged [REDACTED] paid him a management fee of approximately one percent of the portfolio account's value.
18. A subpoena for the banking records of Respondent JOTTO disclosed, in addition to the Bankers Life agent commission fee checks, two Ameritrade clearing checks issued to JOTTO, Inc. The checks were FBO [REDACTED] [REDACTED] and [REDACTED]. The [REDACTED] check, dated February 21, 2006, was in the amount of \$614.74, and the [REDACTED] check, dated February 10, 2006, was in the amount of \$348.43. The checks were deposited in the business account of Respondent JOTTO, at Blue Valley Bank in Overland Park, Kansas.
19. Neither [REDACTED] nor [REDACTED] received proceeds from the Ameritrade clearing checks. [REDACTED] states the funds were to pay Respondent Otto for his services. [REDACTED] could not recall the reason for the Ameritrade check FBO [REDACTED]. Respondent Otto cannot remember the

reason the checks were deposited into Respondent JOTTO's bank account. Mr. [REDACTED] and Mr. [REDACTED] provided signed affidavits stating the Mr. Otto was authorized to provide investment advice in their accounts.

Allegations of Law

20. The transactions involving the transfer of portfolio funds into and out of the Ameritrade brokerage accounts involve the sale of securities as defined by K.S.A. 17-12a102(28).
21. On at least two occasions, Respondents James Otto and JOTTO, Inc., transacted business as a broker-dealer while not registered with the Office of the Kansas Securities Commissioner, in violation of K.S.A. 17-12a401.
22. Respondent James Otto provided investment advice for compensation and was not registered with the Office of the Kansas Securities Commissioner, in violation of K.S.A. 17-12a403.

Respondent Otto, wishing to obtain disposition of this matter without invoking any right to a hearing before the Securities Commissioner, or her designee, has determined not to contest the issuance of an order by the Commissioner on the basis of the above allegations.

IT IS THEREFORE STIPULATED AND AGREED by and between Respondents Otto and JOTTO and staff for the Securities Commissioner of Kansas that:

1. The Consent Order may be issued by the Kansas Securities Commissioner without further proceedings in this matter.
2. Respondents Otto and JOTTO neither admit nor deny the allegations of the Commissioner's staff.
3. Respondents Otto and JOTTO agree to Permanently Cease & Desist from (1) transacting business in the State of Kansas as a broker-dealer, investment adviser or investment

adviser representative; (2) associating with any broker-dealer or investment adviser transacting business in the State of Kansas unless registered under the Kansas Uniform Securities Act; and (5) engaging in other acts or practices which constitute violation of the Kansas Uniform Securities Act.

4. Respondents Otto and JOTTO, Inc., hereby waive their rights to a hearing before the Commissioner with respect to this matter, the issuance of the Consent Order and the above allegations.
5. Respondent Otto agrees that he will pay \$1,000 as the cost of investigation, in the form of a cashier's check or money order made payable to the Office of the Kansas Securities Commissioner, and delivered to the Office of the Kansas Securities Commissioner with the signed Stipulation for Consent Order.

APPROVED BY:

/s/ James Otto
James Otto, Individually
Respondent

August 16, 2011
Date

/s/ James Otto
James Otto, Vice President
JOTTO, Inc.

August 16, 2011
Date

/s/ Erin Hoestje
Erin M. Hoestje, #22042
Staff Attorney
Office of the Kansas Securities Commissioner
109 SW 9th St., Suite 600
Topeka, Kansas 66612

August 17, 2011
Date