

BEFORE THE SECURITIES COMMISSIONER
OF THE STATE OF KANSAS



In the Matter of:

IVAN GARRETT,

Respondent.

Docket No. 16 E 006

KSC No. 2016-6391

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

ORDER TO CEASE AND DESIST

Staff for the Office of the Kansas Securities Commissioner allege that sufficient evidence exists to provide cause under K.S.A. 17-12a604 to invoke administrative sanctions against the Respondent under the Kansas Uniform Securities Act. If the allegations set forth below are found to be true, through either administrative adjudication, failure of the Respondent to make a timely request for hearing, or default of the Respondent, it is the intention of staff to seek an order from the Commissioner to impose sanctions upon the Respondent. Such sanctions may include, *inter alia*, an order directing the Respondent to cease and desist from engaging in soliciting indications of interest in the State of Kansas for an unregistered security.

If the Respondent wishes to contest the facts alleged below or offer evidence and argument to mitigate those facts, then the Respondent must file a request for hearing within thirty-three (33) days after the date of mailing on the Certificate of Service attached to this Notice. The request for hearing must be in the manner and form prescribed by K.A.R. 81-11-3 and K.A.R. 81-11-5, and it must be filed with the Office of the Kansas Securities Commissioner, 109 SW 9th St., Suite 600 Topeka, Kansas, 66612. The request for hearing must be verified under oath by the Respondent, and if the Respondent disputes any of the allegations set forth below, Respondent shall specifically deny such allegations or such allegations will be deemed

admitted by the Respondent. If a request for hearing is not timely filed, the Commissioner may issue a final order without further proceedings.

I. FINDINGS OF FACT

1. Respondent Ivan Garrett (“Garrett” or “Respondent”) lives at [REDACTED]
[REDACTED]
2. Garrett is not registered with the Securities and Exchange Commission or with the State of Kansas as an investment adviser representative or broker-dealer agent.
3. Garrett contacted the Office of the Kansas Securities Commissioner (“KSC”) on multiple occasions and discussed how he could start a meat packing plant business in the State of Kansas and solicit Kansas investors in order to open said plant in this state. The following was discussed, *inter alia*, during these communications:
 - a. On September 24, 2013, KSC Director of Finance and Administration, Lynn Hammes (“Hammes”), met with Garrett at the KSC Office located at 109 SW 9th St., Suite 600, Topeka, Kansas, 66612. During the meeting, Hammes and Garrett discussed the securities registration exemption that applies to cooperatives pursuant to K.S.A. 17-12a201(8) and K.A.R. 81-5-18.
 - b. On September 26, 2013, Hammes mailed a letter to Garrett that included details of how a business may qualify for the cooperative registration exemption listed above. He stated at the end of the letter that Garrett should feel free to contact him with any questions and provided his phone number.
 - c. On April 2, 2014, Garrett called Hammes and spoke with him further about his plans. During the conversation, Garrett stated that he would be seeking a minimum of \$4,000,000 (four million) and a maximum of \$10,000,000 (ten million) from

investors in order to open the meat packing plant in Kansas. Hammes told Garrett that if he was seeking Kansas residents to be investors, he had to follow rules, regulations, and statutes set forth in the Kansas Uniform Securities Act.

- d. On April 11, 2014, Hammes mailed a letter to Garrett that included a list of attorneys that have been associated with securities registrations filed with KSC. He stated at the end of the letter that Garrett should feel free to contact him with any questions and provided his phone number.
 - e. On May 13, 2014, Hammes met with Garrett and his prospective attorney at the time, Roger Walter, at Mr. Walter's office located at 800 SW Jackson, Suite. 1310, Topeka, Kansas, 66612. Two other KSC Staff Attorneys were present for this meeting: Kate Pederson and Heather Gallagher. The purpose of the meeting was to offer clarity to Garrett regarding his responsibility of selling and/or soliciting securities in the State of Kansas.
4. On February 1, 2016, KSC Staff received an email from an employee of a Kansas business. The email indicated that a man was seeking advertising through the business' radio station and the business was unsure of the legality of the advertisement. The body of the email contained the purported advertisement which stated:

“Planning to start a new company....Trails End Packing”

Looking for people supplying beef[.] Investors in the company wanted[.] Every cattleman invited[.] [REDACTED] Ivan Garrett[.]

The email further stated that the following meetings had been scheduled in connection with the advertisement:

White City[.] City Hall [.] Feb. 1st[.] 6pm[.]

Chapman[.] Feb. 2nd[.] Storm Shelter[.] 6 pm[.]

Junction City[.] Feb. 15th[.] 222 west 6th Eco Devo Center[.] 6pm[.]

Clay Center[,] Feb. 16th[,] CC Medical Center[,] 6pm[.]

The email also contained a newspaper story titled “New beef company looking to set up in northeast Kansas”. The story stated, *inter alia*:

A new beef company is looking to set up shop in northeast Kansas, but needs farmers to sign on first. Ivan Garrett, who will be the manager of a plant tentatively named Trails End Packing Co., said they are seeking a location with farms nearby that are willing to supply cattle. . . . Public meetings about the possible plant will take place at 7 p.m. Nov. 21 at the Alma Community Center, 244 E. 11th, and at 7 p.m. Dec. 1 at Alta Vista Baptist Church, 402 Main St. People won't be able to invest at the public meetings, but they can get information about how to partner with the new company.

. . . .

He [Garrett] said the company is ready to move quickly if they find interested communities. ‘If we find enough interest, we could be up and ready to kill cattle in a year,’ he said.

5. On March 3, 2016, KSC Director of Compliance and Enforcement, Randy Mullikin (“Mullikin”), and Hammes called and spoke with Garrett via phone. After Garrett identified himself, the following was discussed, *inter alia*:
 - a. Garrett admitted to previously speaking to Hammes.
 - b. Mullikin stated that he had received information from a radio station stating that Garrett had requested to advertise multiple meeting dates and locations in the State of Kansas in order to solicit interest in his proposal to construct a beef packing plant in Kansas. Mullikin asked Garrett if said meetings actually transpired in Kansas and Garrett confirmed that the meetings had occurred.
 - c. Mullikin reviewed the meeting dates and locations provided by the radio station to KSC. Garrett stated that he had held three separate meetings, to which no one

attended, on (1) February 1, 2016 at 6:00 p.m. in White City, Kansas in the City Hall, (2) February 2, 2016 at 6:00 p.m. in Chapman, Kansas at a storm shelter, and (3) February 15, 2016 at 6:00 p.m. in Junction City, Kansas at the ECO Development Center. However, Garrett stated that five to six people attended the meeting on February 16, 2016 at 6:00 p.m. that took place in Clay Center, Kansas [presumably at the CC Medical Center as the advertisement referenced above indicated]. Garrett described the attendees as ranchers from which he obtained the contact information from those who had expressed an interest in additional information. Garrett stated that he didn't solicit the transfer of funds at this meeting.

- d. Garrett stated that he advertised the above-referenced meeting information in the following Kansas newspapers: White City, Kansas and Manhattan Grass and Grain ("Grass & Grain"), a publication with a mailing address of 1531 Yuma, P.O. Box 1009, Manhattan, Kansas, 66505.
- e. Garrett also stated that the above-referenced meeting information was also aired via radio station advertisements in Manhattan, Kansas and Clay Center, Kansas but he didn't recall the names of the radio stations that he placed the advertisements with.
- f. Garrett stated that he presented a business plan to the people who attended the Clay Center, Kansas meeting. According to Garrett, the business plan stated that Garrett would have to raise \$8,000,000-\$10,000,000 (eight to ten million) in order to construct the beef packing plant.
- g. KSC Staff advised Garrett that the State of Kansas has regulations requiring certain filings to be completed if a person wishes to solicit indications of interest in a security within this state.

- h. KSC Staff also advised Garrett that they would send him a letter requesting information about Garrett's activities regarding the meat packing plant. Garrett stated that he would respond to said request.
6. On March 3, 2016, Mullikin mailed a letter to Garrett requesting further information in relation to Garrett's activities regarding the beef packing plant, with a response due date of March 25, 2016. Garrett didn't respond to said request.
 7. KSC Investigative Officer, Darren Othick ("Othick"), contacted Garrett via phone on March 30, 2016. During this conversation, Garrett stated that he had received Mullikin's request letter. When Othick asked Garrett if he intended to respond to the letter, Garrett stated that he didn't see anything to respond to. Othick then asked again if Garrett would respond to the letter and Garrett stated that he didn't see anything to respond to. When Othick confirmed with Garrett that Garrett had previously spoken with Mullikin and reviewed the request items of Mullikin's request letter, Garrett again stated that he had nothing to respond to. Garrett still has not responded to said request.
 8. KSC Staff obtained a copy of the advertisement placed in Grass & Grain for Garrett's business. An employee of the publication stated the advertisement was placed in the publication one time, on January 26, 2016.
 9. Due to the fact that Garrett solicited indications of interest while physically present in the State of Kansas, the solicitations were directed at Kansas residents, and the solicitations occurred through businesses located in Kansas, including printed publications and radio advertisements, the Commissioner has jurisdiction.
 10. Garrett did not provide KSC Staff with sufficient evidence to prove that his activities qualify for one of the securities registration exemptions.

11. K.A.R. 81-5-12 provides an exemption for offers of securities made by or on behalf of an issuer for the sole purpose of soliciting an indication of interest in receiving a prospectus for the security. However, Garrett does not meet the requirements of said exemption:
 - a. Garrett didn't provide KSC Staff with evidence that the issuer is registered as a business entity under the laws of the State of Kansas.
 - b. Trails End Packing Co. isn't registered as a business entity with the Kansas Secretary of State.
 - c. Garrett didn't provide KSC Staff with evidence that the issuer has a principal office in the State of Kansas.
 - d. Garrett didn't provide KSC Staff with evidence that the meat packing plant has a majority of its full-time employees located in this state.
 - e. In fact, Garrett, the purported only employee of and person in charge of the meat packing plant business, is a resident of Nebraska, not Kansas.
 - f. A solicitation of interest form KSC-15, along with the materials used to conduct solicitations of interest, including the script(s) of the broadcast(s) and the notice(s) published, were not filed with the Commissioner by Garrett, or a representative of the meat packing plant, 10 (ten) days before each initial solicitation occurred.
 - g. Each published notice or script supplied to KSC Staff by third parties, found in Exhibit 1 and Exhibit 2, did not contain the necessary legends required by K.A.R. 81-5-12(b)(1)(A)-(D).

II. CONCLUSIONS OF LAW

12. The Commissioner has jurisdiction over Respondent and this matter.

13. In violation of K.S.A. 17-12a301, Respondent offered to sell an unregistered security on behalf of an issuer by soliciting indications of interest to more than one Kansas resident while physically present in the State of Kansas. Additionally, Respondent has not provided KSC Staff with sufficient evidence to prove that said security qualifies for a securities registration exemption.
14. Respondent's actions do not qualify for the securities registration exemption for solicitations of interest, pursuant to K.A.R. 81-5-12, because the requirements of said exemption were not met by Respondent.
15. Pursuant to K.S.A. 17-12a604(a), the Commissioner may issue an order directing the Respondent to cease and desist from soliciting indications of interest for the meat packing plant because the Respondent has engaged, is engaging, or is about to engage in an act, practice, or course of business that constitutes a violation of the Kansas Uniform Securities Act and Kansas Administrative Regulations.

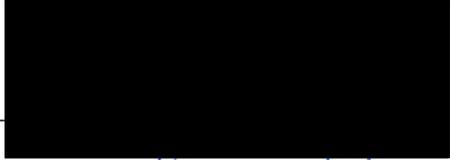
Based on the above, KSC Staff alleges that Respondent engaged in soliciting indications of interest for an unregistered security in the State of Kansas. The Respondent has failed to provide KSC Staff with sufficient evidence to prove that the security in question qualifies for an exemption to the requirement that securities must be registered, or exempt from registration, before offers are extended to Kansas residents.

III. ORDER

It is hereby Ordered that Respondent is prohibited from violating or materially aiding in any violations of K.S.A. 17-12a301 by offering or selling, as defined by K.S.A. 17-12a102(26), any securities, as defined by K.S.A. 17-12a102(28), in the State of Kansas unless those securities are registered in accordance with the provisions of K.S.A. 17-12a301.

IT IS SO ORDERED BY THE COMMISSIONER.

Entered at Topeka, Kansas, this 2nd day of May, 2016,



Joshua A. Ney
Kansas Securities Commissioner

CERTIFICATE OF SERVICE

On this 4th day of May, 2016, I was provided a copy of the aforementioned process on behalf of the Office of the Securities Commissioner. I promptly sent notice of the process to the address below, being the address set forth in the recipient's consent to service of process or last known address. The process was sent via certified mail, receipt requested to:

Ivan Garrett



Nickie Oathout