

ADMINISTRATIVE PROCEEDING

BEFORE THE

COMMISSIONER OF THE OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA

IN THE MATTER OF:)

David Michael Burke and)
Komak Investments, LLC,)

Respondents.)

ORDER TO CEASE AND DESIST

File No. 15008

WHEREAS, the Securities Division of the Office of the Attorney General of the State of South Carolina (the "Division") has been authorized and directed by the Securities Commissioner of South Carolina (the "Securities Commissioner") to administer the provisions of S.C. Code Ann. § 35-1-101, *et seq.*, the South Carolina Uniform Securities Act of 2005 (the "Act"); and

WHEREAS, the Division received information regarding alleged securities-related

II. RESPONDENTS

2. Respondent Burke is a South Carolina resident with a last known address of 1766 Ion Avenue, Unit C, Sullivan's Island, South Carolina 29482.

3. Respondent Komak is a South Carolina company with a last known address of 1766 Ion

[REDACTED]

Avenue, Unit C, Sullivan's Island, South Carolina 29482.

4. Respondent Komak was formed on or about July 2, 2012.

5. At all times relevant to this Order, Respondent Burke was the managing member and

11. The Equity Margin Facility Agreement further stated that the Investor could expect an annual return of twelve percent (12%) on her investment, or twelve thousand dollars (\$12,000) per year, payable in quarterly installments of three percent (3%), or three thousand dollars (\$3,000) per quarter.

12. Based on the Respondents' representations, the Investor wired \$100,000 to an account controlled by the Respondents on or about February 28, 2013.

13. Contrary to the representations made to the Investor by the Respondents in connection

~~with the offer and sale of the Equity Margin Investment, the Respondents did not~~

substantially implement trading strategies using the Investor's investment.

14. ~~Contrary to the representations made to the Investor by the Respondents in connection~~

19. The Commodities Trading Agreement further stated that the Respondents would commit \$50,000 in addition to the Investor's contributions to the Commodities Trading Investment.
20. The Commodities Trading Agreement further stated that the Investor would receive ten percent (10%) of all profits up to \$25,000, twenty percent (20%) of all profits up to \$50,000, and thirty percent (30%) of all profits thereafter.
21. Based on the Respondents' representations, the Investor wired \$50,000 to an account controlled by the Respondents on or about May 7, 2013.
22. Contrary to the representations made to the Investor by the Respondents in connection with the offer and sale of the Commodities Trading Investment, the Respondents did not

the Division or federal covered securities, and no exemption from registration has been claimed by the Respondents.

IV. CONCLUSIONS OF LAW

28. The South Carolina Uniform Securities Act of 2005, S.C. Code Ann. § 35-1-101, *et seq.*, governs the offer and sale of securities in this State.

29. Pursuant to S.C. Code Ann. § 35-1-102(20), investment contracts, stock, and certificates

may effect any transaction in or induce the purchase or sale of any security by means of

any manipulative, deceptive, or fraudulent device, practice, plan, program, design, or contrivance.

Pursuant to S.C. Code Regs. § 13-501(B)(6), it is unlawful for an agent to engage in any

conduct prohibited by Subsection A of S.C. Code Regs. § 13-501.

37. Pursuant to S.C. Code Regs. § 13-501(B)(2), it is unlawful to effect securities

transactions not recorded on the regular books and records of the broker-dealer which the

unregistered broker-dealer.

42. Respondent Komak, on at least one occasion, employed or associated with an unregistered agent who transacted business on behalf of Komak while that agent was not registered.

~~(12) The Respondents, on at least two occasions and in connection with the offer, sale, or~~

~~purchase of a security, directly or indirectly (1) employed a device, scheme, or artifice to~~

ORDERED that:

- a. Respondent Komak Investments, LLC and every successor, affiliate, control person,

agent, servant, and employee of Komak Investments, LLC and every entity owned

operated, or indirectly or directly controlled by or on behalf of Komak Investments, LLC
CEASE AND DESIST from transacting business in this State in violation of the Act, in particular, §§ 35-1-301, 35-1-401, 3-1-402(d), and 35-1-501 thereof, and various provisions of the South Carolina Code of Regulations;

- b. Respondent David Michael Burke **CEASE AND DESIST** from transacting business in this State in violation of the Act, in particular, §§ 35-1-301, 35-1-402(c), and 35-1-402(e), and 35-1-501 thereof, and various provisions of the South Carolina Code of Regulations;

- c. Respondent Komak Investments, LLC pay a civil penalty in the amount of fifty thousand dollars (\$50,000) if this Order becomes effective by operation of law, or, if Komak Investments, LLC seeks a hearing and any legal authority resolves this matter, pay a civil penalty in an amount not to exceed \$10,000 for each violation of the Act by Komak

to rely under S.C. Code Ann. §§ 35-1-201(3)(C), (7), or (8); 35-1-202; 35-1-401(b)(1)(D) or (F); or 35-1-403(b)(1)(C), has been and is **PERMANENTLY REVOKED**.

VI. REQUIREMENT OF ANSWER AND NOTICE OF OPPORTUNITY FOR HEARING

Each Respondent is hereby notified that it has the right to a hearing on the matters

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

ENTERED, this the 9 day of September, 2015.

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Commodity Futures

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