

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING ) Order No.: S-11-0688-13-SC02  
Whether there has been a violation of the )  
Securities Act of Washington by: ) STATEMENT OF CHARGES AND NOTICE OF INTENT  
SuperFix, LLC; Kenneth Kinnear, ) TO ENTER ORDER TO CEASE AND DESIST, TO  
Respondents. ) IMPOSE A FINE AND TO CHARGE COSTS  
)  
)

**THE STATE OF WASHINGTON TO: SuperFix, LLC;  
Kenneth Kinnear.**

**STATEMENT OF CHARGES**

Please take notice that the Securities Administrator of the state of Washington has reason to believe that Respondents, SuperFix, LLC and Kenneth Kinnear, have each violated the Securities Act of Washington and that their violations justify the entry of an order of the Securities Administrator under RCW 21.20.390 against each to cease and desist from such violations and to charge costs, and under RCW 21.20.395 to impose a fine. The Securities Administrator finds as follows:

**TENTATIVE FINDINGS OF FACT**

Respondents

1. SuperFix, LLC (“SuperFix”) is an inactive Washington limited liability company that was in the business of repairing consumer electronic devices. SuperFix was founded in 2009 and its principal place of business was in Seattle, Washington.

2. Kenneth Kinnear (“Kinnear”) is a Washington resident and was the managing member of SuperFix. Kinnear held himself out as the CEO and manager of 12th Ave., Inc, which purportedly managed and held the majority interest in SuperFix. 12th Ave., Inc. was not incorporated or otherwise licensed to do business in Washington.

Related Entity

3. Showdown Partners, LLC (“Showdown”) is an inactive Washington limited liability company created to exhibit touring indoor motor sports shows. Kinnear was the manager of Showdown, which within four years had spent over \$5 million it raised from investors. Showdown’s principal place of business was in Seattle, Washington.

1 In 2009, Kinnear attempted to salvage Showdown, which was unable to repay its debts. Among the problems Kinnear  
2 and Showdown faced were the failure to generate any returns on investor's funds and the inability to make timely  
3 lease payments. Kinnear eventually resorted to calling on Showdown's investors to increase their investments and to  
4 seeking out personal loans so Showdown's management could make lease payments. Despite this effort, Showdown  
5 eventually ceased operations. Respondents failed to disclose Showdown's failures to prospective SuperFix investors.

6 Nature of the Offering

7 4. Between 2009 and 2010, Respondents offered and sold at least \$160,000 of SuperFix's membership interests  
8 to at least five investors, of whom at least three were Washington residents. At least one SuperFix investor was not  
9 accredited. SuperFix represented to prospective investors that it planned to raise \$2,500,000 by offering a 10%  
10 ownership stake in its computer repair business. Respondents represented that SuperFix would use offering proceeds  
11 to retire certain costs, expand its telecommunications capabilities, pay for marketing-related expenses, and recruit and  
12 train employees. SuperFix had limited or no operational history when Respondents began soliciting investors to  
13 purchase the company's membership interests.

14 5. To sell SuperFix's membership interests, Kinnear identified prospective investors and presented SuperFix's  
15 offering to them. Kinnear typically identified prospective investors by contacting past friends, associates, and  
16 acquaintances to see if they or someone they knew were interested in investing in SuperFix. Kinnear then conducted  
17 PowerPoint presentations and provided prospective investors with offering materials. Respondents failed to keep  
18 track of all of their investment solicitations.

19 6. During investment solicitations, Respondents claimed that SuperFix's sole focus on computer repair and  
20 service, rather than on selling computers, was its competitive advantage over companies like Costco, BestBuy, Geek  
21 Squad, Computer Doctor, and VAR Channels. Respondents identified remote IT services, a proprietary recovery disk  
22 that allowed for online software repair, computer hardware replacement strategies, and an expedited repair cycle as  
23 innovations that differentiated SuperFix from its competitors. Respondents also claimed that SuperFix's principals  
24 had over 40 years combined experience with computer sales, service, and system design. Respondents further  
25 projected that they would, within four years, acquire as customers 1.4942% of US households with computers. This

1 purportedly amounted to over six million business transactions per year. Respondents did not explain limitations on  
2 their ability to capture a market share or identify the advantages that their established competitors had over SuperFix.

3 7. When soliciting investment in SuperFix, Respondents also made profit projections. Respondents projected  
4 that SuperFix would, in four years, generate revenues of over \$615 million and make monetary distributions to its  
5 members of over \$180 million. Respondents also projected that investors would, within 24 months, receive a return  
6 of three times their investment.

7 8. SuperFix offered and sold only Class D membership interests. At least five investors purchased at least  
8 \$160,000 of Class D interests. SuperFix allotted Class D members dilution protection and a "Premium Return"  
9 payment of two times their initial capital contribution. This payment was to be made in addition to periodical  
10 monetary distributions to SuperFix's members. Class D members had no voting rights or management authority over  
11 SuperFix's business activities. Respondents held out 12th Ave, Inc. as SuperFix's sole Class A member while, in  
12 practice, Kinnear retained managerial control over SuperFix.

13 9. In October 2010, Respondents offered their landlord between \$75,000 and \$125,000 of Class E membership  
14 interests in lieu of timely lease payments. Kinnear represented to the landlord that SuperFix had been operating since  
15 1999, that SuperFix was close to completing a \$4 million initial public offering, and that the Class E membership  
16 interests could be freely traded after the initial public offering. The landlord rejected the offer.

17 10. By April 2012, SuperFix had become inactive and conducted only limited business transactions. Respondents  
18 never repaid or made monetary distributions to investors.

### 19 Misrepresentations and Omissions

20 11. When soliciting investment in SuperFix, Respondents failed to provide material information to prospective  
21 investors including information concerning SuperFix's operational and financial history, Kinnear's business  
22 experience, the possibility of a public offering, the inadequate capitalization of SuperFix, 12th Ave, Inc.'s  
23 incorporation status, and Kinnear's financial status and litigation history. Kinnear's undisclosed litigation history  
24 includes active litigation in 2009 with Chase Bank USA for a consumer debt he owed, King County Superior Court  
25 Case No. 10-2-04306-3, which resulted in a \$46,878.18 judgment against Kinnear.

12. Respondents' claims regarding market penetration and profit projections, as described in paragraphs six and seven above, were misleading because Respondents failed to provide a reasonable basis for the claims and projections.

13. Respondents' claims regarding an initial public offering and SuperFix's operational history, as described in paragraph nine above, were misleading because Respondents failed to provide a reasonable basis for the claims.

Registration Status

14. SuperFix is not currently registered to sell securities in the state of Washington and has not previously been so registered.

15. Kinnear is not currently registered as a securities salesperson or broker-dealer, or to otherwise sell securities in the state of Washington, and has not previously been so registered.

Based upon the above Tentative Findings of Fact, the following Conclusions of Law are made:

**CONCLUSIONS OF LAW**

1. The offer or sale of membership interests as described above constitute the offer and/or sale of a security as defined in RCW 21.20.005(14) and (17).

2. The offer and/or sale of said securities is in violation of RCW 21.20.040 because Kenneth Kinnear offered and/or sold said securities while not registered as a securities salesperson or broker-dealer in the state of Washington.

3. The offer and/or sale of said securities is in violation of RCW 21.20.140 because no registration for such an offer and/or sale is on file with the Securities Administrator, state of Washington.

4. The offer and/or sale of said securities is in violation of RCW 21.20.010 because Respondents made misstatements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

**NOTICE OF INTENT TO ORDER THE RESPONDENT TO CEASE AND DESIST**

Pursuant to RCW 21.20.390(1) and based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities Administrator intends to order that Respondents, SuperFix, LLC and Kenneth Kinnear, each shall cease and desist from violations of RCW 21.20.010, RCW 21.20.040, and RCW 21.20.140.

**NOTICE OF INTENT TO IMPOSE A FINE**

Pursuant to RCW 21.20.395, and based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities Administrator intends to order that Respondent, Kenneth Kinnear, shall be liable for and shall pay a fine of \$10,000.

**NOTICE OF INTENT TO CHARGE COSTS**

Pursuant to RCW 21.20.390, and based upon the Tentative Findings of Fact and Conclusions of Law, the Securities Administrator intends to order that Respondent, Kenneth Kinnear, shall be liable for and shall pay investigative costs of at least \$5,000.

**AUTHORITY AND PROCEDURE**

This Statement of Charges is entered pursuant to the provisions of Chapter 21.20 RCW and is subject to the provisions of Chapter 34.05 RCW. The Respondents, SuperFix, LLC and Kenneth Kinnear, may each make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Order. If a respondent does not make a hearing request in the time allowed, the Securities Administrator intends to adopt the above Tentative Findings of Fact and Conclusions of Law as final and to enter a permanent order to cease and desist as to that respondent, to impose any fines sought against that respondent, and to charge any costs sought against that respondent.

Signed and Entered this 3rd day of July 2013.



William M. Beatty  
Securities Administrator

Approved by:



Suzanne Sarason  
Chief of Enforcement

Presented by:



Drew Stillman  
Enforcement Attorney

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATEMENT OF CHARGES AND NOTICE  
OF INTENT TO ENTER ORDER TO  
CEASE AND DESIST AND TO IMPOSE A FINE  
AND TO CHARGE COSTS

DEPARTMENT OF FINANCIAL INSTITUTIONS  
Securities Division  
PO Box 9033  
Olympia WA 98507-9033  
360-902-8760

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Reviewed by:



---

Jack McClellan  
Financial Legal Examiner Supervisor