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

IN THE MATTER OF DETERMINING  
whether there has been a violation of the  
Securities Act of Washington by:

John A.B. Black,

Respondent.

Order Number S-06-094-06-SC01

STATEMENT OF CHARGES AND NOTICE  
OF INTENT TO ENTER AN ORDER TO  
CEASE AND DESIST AND DENIAL OF  
FUTURE APPLICATION

THE STATE OF WASHINGTON TO: John A.B. Black

**STATEMENT OF CHARGES**

Please take notice that the Securities Administrator of the State of Washington has reason to believe that the Respondent, John A.B. Black, has violated the Securities Act of Washington. The Securities Administrator believes those violations justify the entry of an order against John A.B. Black to cease and desist from such violations pursuant to RCW 21.20.390 and pursuant to RCW 21.20.110(1) the denial of John A.B. Black's future broker-dealer, securities salesperson, investment adviser and/or investment adviser representative application. The Securities Administrator finds as follows:

**TENTATIVE FINDINGS OF FACT**

**I. RESPONDENT**

1. John A.B. Black ("Black") is an individual residing in Wenatchee, Washington. Black was registered as a securities salesperson with the Washington State Securities Division from July of 1999 to

1 December of 2004. Black was associated with NYLIFE Securities, Inc. as an Investment  
2 Company/Variable Contracts Representative from February of 1991 to December of 2004. Black has  
3 been licensed to sell insurance in Washington State since December of 1989. Black is not currently  
4 registered or associated with any firm. Black's securities salesperson license number with the NASD is:  
5 CRD # 2131246.

## 6 II. NATURE OF THE CONDUCT

### 7 MRS. H

8 2. Mrs. H is a 59 year old seasonal apple picker. On June 28, 2002 her husband passed away.  
9 At the time her annual income was approximately \$15,000 and her net worth was approximately  
10 \$195,000, including death benefits she received from a life insurance policy through NYLIFE upon her  
11 husband's death. Mrs. H had very little prior investment experience and had not previously purchased  
12 investment products.

13 3. Mrs. H was contacted by Black after her husband passed away. Mrs. H wanted to pay off  
14 the \$61,000 mortgage on her home with the life insurance proceeds because she was concerned that her  
15 income would not support the mortgage payments in the future. Despite Mrs. H's concerns, between July  
16 of 2002 and November of 2002, Black advised Mrs. H to purchase three variable annuities. The total for  
17 all annuity contracts was approximately \$164,765. Mrs. H paid little to no income tax and did not need  
18 the tax deferral features of the variable annuities purchased.

19 4. In addition to the variable annuity contracts, Black recommended and sold Mrs. H a whole  
20 life policy with an initial payment of \$8,876 and annual premiums of \$2,876.

21 5. The forms filled out by Black to purchase the variable annuities indicated that Mrs. H had  
22 previously purchased investment products. Because the form indicated that Mrs. H has previous

1 investment experience, Black was not required to fill out the Risk Analysis section of the new account  
2 form. Black indicated that Mrs. H's risk tolerance was the "highest" level and that Mrs. H's investment  
3 objective was aggressive growth. Mrs. H does not have the highest risk tolerance and her investment  
4 objectives were to pay off her mortgage and have enough money to pay her living expenses.

5 6. Mrs. H, after the annuity purchases and the life insurance purchases recommended by  
6 Black, did not have enough liquid assets to pay for living expenses such as mortgage payments.

7 MRS. Q

8 7. Mrs. Q is a retired 75 year old. Mrs. Q's husband passed away in late 2001. Her husband  
9 had handled all financial matters. In 2001 Mrs. Q's income was \$29,335 and her liquid net worth was  
10 \$300,000 including death benefits she received from a life insurance policy through NYLIFE upon her  
11 husband's death. Mrs. Q had no prior investment experience and had not previously purchased  
12 investment products.

13 8. Between November of 2001 and January of 2002 Black advised Mrs. Q to purchase three  
14 variable annuities. The total for all annuity contracts was approximately \$231,293. Black told Mrs. Q that  
15 she had too much money in savings and needed to buy life insurance and that his recommendations  
16 would save her on income tax even though Mrs. Q already paid very little income tax and needed the  
17 liquidity to pay for basic living expenses.

18 9. In addition to the variable annuity contracts, Black recommended and sold Mrs. Q seven  
19 variable universal life insurance policies in January of 2002; five whole life policies between November  
20 of 2001 and January of 2002; and two more whole life policies in April and August of 2002. The  
21 premiums on the life insurance policies were almost \$52, 000 a year, exceeding her yearly income.



1 proper information about annuitizing an annuity contract in violation of WAC 284-23-440(2)(a). Black  
2 was deemed untrustworthy and a source of injury and loss to the public and not qualified to be an  
3 insurance agent in the State of Washington. On August 23, 2006 Black entered into a Stipulation and  
4 Consent Order (“SCO”) with OIC; as part of the SCO, Black’s insurance agent’s license is suspended for  
5 six months.

6 13. On March 15, 2006 Black entered into a Letter of Acceptance and Waiver of Consent  
7 (“AWC”) with the NASD regarding the actions he had taken in relation to sales of variable annuities of  
8 Mrs. Q and Mrs. H. As part of the AWC, Black was barred from associating with any member of the  
9 NASD in any capacity.

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

11  
12 **CONCLUSIONS OF LAW**

13 1. The offer and/or sale of variable annuities by John A.B. Black, as described above,  
14 constitutes the offer or sale of a security, as defined in RCW 21.20.005(10) and (12).

15 2. John A.B. Black, as described above, has violated RCW 21.20.702 by recommending the  
16 purchase and sale of variable annuities without reasonable grounds to believe that the transactions were  
17 suitable. Such practice is grounds for denial of his future broker-dealer, securities salesperson, investment  
18 adviser and/or investment adviser representative application pursuant to RCW 21.20.110(1) (b).

19 3. John A.B. Black, as described above, has violated RCW 21.20.110(g) by engaging in one or  
20 more dishonest or unethical practices in the securities business, as defined by WAC 460-22B-090, by  
21 falsifying information on annuity applications. Such practice is grounds for denial of John A.B. Black’s

1 future broker-dealer, securities salesperson, investment adviser and/or investment adviser representative  
2 application pursuant to RCW 21.20.110(1).

3 4. John A.B. Black, as described above, failed to comply with NASD Conduct Rule 2310(a),  
4 Recommendations to Customers (Suitability), NASD Conduct Rule 2110, Standards of Commercial  
5 Honor and Principles of Trade, and NASD Conduct Rule 3110, Books and Records. Such conduct is a  
6 dishonest or unethical business practice as defined by WAC 460-22B-090 (19) and is grounds for denial  
7 of John A.B. Black's future broker-dealer, securities salesperson, investment adviser and/or investment  
8 adviser representative application pursuant to RCW 21.20.110(1) (g).

9  
10 **NOTICE OF INTENT TO DENY FUTURE APPLICATION**

11 Pursuant to RCW 21.20.110(1), and based upon the above Tentative Findings of Fact and  
12 Conclusions of Law, the Securities Administrator intends to order that any future broker-dealer,  
13 securities salesperson, investment adviser and/or investment adviser representative application of John  
14 A.B. Black be denied.

15  
16 **NOTICE OF INTENT TO ORDER RESPONDENT TO CEASE AND DESIST**

17 Pursuant to RCW 21.20.390, and based upon the above Tentative Findings of Fact and  
18 Conclusions of Law, the Securities Administrator intends to order that John A.B. Black permanently  
19 cease and desist from violations of RCW 21.20.702 and RCW 21.20.110.

1 **AUTHORITY AND PROCEDURE**

2 This Statement of Charges is entered pursuant to the provisions of RCW 21.20.110, 21.20.390 and  
3 is subject to the provisions of RCW 21.20.120 and Chapter 34.05 RCW. The Respondent, John A.B.  
4 Black, may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO  
5 DEFEND AND OPPORTUNITY FOR HEARING accompanying this Order. If the Respondent, John  
6 A.B. Black, does not request a hearing, the Securities Administrator intends to adopt the foregoing  
7 Tentative Findings of Fact and Conclusions of Law as final, enter a permanent cease and desist order,  
8 and impose any other relief sought in this Order.  
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10 DATED and ENTERED this 13th day of November, 2006.

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13 MICHAEL E. STEVENSON  
14 Securities Administrator

14 Approved by:

14 Presented by:

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16 \_\_\_\_\_  
17 Suzanne Sarason  
18 Chief of Compliance & Examinations

16 \_\_\_\_\_  
17 Kate Reynolds  
18 Financial Legal Examiner