

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION

IN THE MATTER OF DETERMINING) Order No.: S-17-2327-17-SC01
Whether there has been a violation of the)
Securities Act of Washington by:) STATEMENT OF CHARGES AND NOTICE OF INTENT
) TO ENTER ORDER TO CEASE AND DESIST, TO
Mitchell R. Johnson,) SUSPEND REGISTRATION, TO IMPOSE FINES, AND TO
) CHARGE COSTS
Respondent.)

THE STATE OF WASHINGTON TO: Mitchell R. Johnson (CRD #1488814)

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the state of Washington has reason to believe that Respondent Mitchell R. Johnson violated the Securities Act of Washington. The Securities Administrator believes that these violations justify the entry of an order against Mitchell R. Johnson to cease and desist from such violations and to charge costs pursuant to RCW 21.20.390 and RCW 21.20.110, to suspend Mitchell R. Johnson's investment adviser representative registration pursuant to RCW 21.20.110, and to impose fines against Mitchell R. Johnson pursuant to RCW 21.20.110 and RCW 21.20.395. The Securities Administrator finds the following:

TENTATIVE FINDINGS OF FACT

Respondents

1. Mitchell R. Johnson (CRD #1488814) is an Oregon resident, who was registered with the Securities Division as a securities broker-dealer representative from 2003 to 2006. Mitchell R. Johnson has also generally been registered with the Securities Division as an investment adviser representative from 2015 to present. From April 2009 to August 2016, Mitchell R. Johnson also worked as an agent for CLA USA, Inc.,¹ an insurance company with headquarters in Frisco, Texas. Some of Mitchell R. Johnson's work as an investment adviser representative and as an agent for CLA USA took place in Washington.

Overview

2. The Securities Division requires that investment adviser representatives seeking to register with the state complete and submit initial regulatory filings, which request a range of personal information, such as employment, legal, and financial history, and a description of any outside business activities. The Securities Division and employing firms rely on the information in these regulatory filings to monitor and ensure an investment adviser representative's

¹ CLA USA used to do business under the name, Charles Loper & Associates, USA.

1 compliance with the Securities Act of Washington. In regulatory filings with the Securities Division from 2014 to
2 2017, Mitchell R. Johnson made a series of false representations related to his work with CLA USA.

3 3. From April 2009 to August 2016, Mitchell R. Johnson worked as an agent for CLA USA, a company that he
4 characterized as a trust mill. A trust mill is a scheme, in which, companies employ non-attorney salespersons to sell
5 and then help prepare living trusts. These living trusts are either not completed by an actual attorney or are written in a
6 generic fashion, not specific to an individual's needs. Further, these non-attorney salespersons are typically insurance
7 agents, who under the pretense of preparing living trusts or other estate planning documents, attempt to sell individuals
8 insurance products. Trust mills typically target older individuals. Mitchell R. Johnson used his work as an agent for
9 CLA USA to sell insurance products.

10 4. During Mitchell R. Johnson's work for CLA USA, Mitchell R. Johnson also submitted a number of regulatory
11 filings with the Securities Division as part of his registration as an investment adviser representative in the state. In
12 these regulatory filings with the Securities Division, Mitchell R. Johnson failed to document the full scope of his work
13 with CLA USA as well as a past regulatory action as a result of his work with CLA USA. These series of omissions in
14 his regulatory filings constitute false filings with the Securities Division.

15 Mitchell R. Johnson's Work for CLA USA in Washington

16 5. CLA Estate Services, Inc. began hosting estate planning seminars in Washington in 2009. Through phone calls
17 or mailings, CLA Estate Services solicits Washington residents to attend an estate planning seminar hosted by the
18 company at a local restaurant. At the seminar, CLA Estate Services representatives speak generally about estate
19 planning considerations and emphasize the costs of probate. CLA Estate Services representatives then recommend that
20 attendees create and place their assets into a revocable living trust to avoid the costs of probate.²

21 6. At the end of a seminar, CLA Estate Services encourages attendees to have a CLA Estate Services
22 representative meet with them in their homes. During these initial in-home meetings, CLA Estate Services
23 representatives solicit an estate planning package. As part of the estate planning package, CLA Estate Services
24 represents that it will coordinate with an attorney to draft a customer's revocable living trust and other estate planning
25 documents, deliver and notarize the customer's estate planning documents, and arrange for future meetings with the
customer to help transfer a customer's assets into the revocable living trust. CLA Estate Services and its
representatives receive income through the sale of these estate planning packages.

7. CLA USA then sends separate representatives, like Mitchell R. Johnson, to subsequent in-home meetings with
customers. During these meetings, CLA USA representatives often first ask customers to list their assets, purportedly,
as a way to help customers coordinate the assets to be placed in their revocable living trust. CLA USA representatives

² The use of a living trust as an estate planning tool may not be appropriate or necessary for all people.

1 use this access and information to then suggest that customers liquidate their assets and purchase insurance products,
2 such as annuities, life insurance, and long-term care insurance. CLA USA and its representatives make money through
3 commissions from the sale of these insurance policies.

4 8. From April 2009 to August 2016, as an agent for CLA USA, Mitchell R. Johnson sold insurance products to
5 approximately 88 Washington residents. Through these sales, Mitchell R. Johnson earned \$278,904 in commissions.³
6 Most of the insurance products that Mitchell R. Johnson sold were annuities, which provide for high sales
7 commissions.

8 9. Most of the customers with whom Mitchell R. Johnson met were elderly, unsophisticated about investing, and
9 of more modest means. Mitchell R. Johnson and other CLA USA agents in Washington often did not disclose to CLA
10 USA customers that they were insurance agents, explain to CLA USA customers that they would receive a commission
11 through the sale of an insurance products, or provide CLA USA customers with a prospectus for the insurance product
12 that they sold. Some CLA USA customers described high-pressure sales tactics by the company's agents

13 10. Often, Mitchell R. Johnson and other CLA USA agents in Washington encouraged Washington residents to
14 invest nearly all of their liquid net worth into annuities. However, investing a large portion of one's liquid assets into
15 an annuity poses risks, since annuities can be relatively illiquid due to the high surrender fees issuing companies
16 charge. If an investor requires funds in an emergency, the investor may face a steep price for accessing funds from the
17 investor's annuity. Indeed, a number of CLA USA customers to whom Mitchell R. Johnson and other CLA USA
18 agents in Washington sold large annuities expressed frustration at the lack of liquidity that annuities afforded.

19 11. In a July 2016 email to the Securities Division, Mitchell R. Johnson admitted that CLA USA operates a trust
20 mill.

21 Regulatory Action Related to Mitchell R. Johnson's Misrepresentations in the Sale of Insurance

22 12. In September 2015, the Office of the Insurance Commissioner (OIC) for the State of Washington entered into
23 a consent order with Mitchell R. Johnson, as a result of Mitchell R. Johnson's failure to accurately complete insurance
24 replacement forms in connection with the sale of annuities through CLA USA.

25 13. In the consent order, the OIC documented that Mitchell R. Johnson falsely represented to at least two separate
Washington residents that the annuities he sold to them did not have any surrender penalties. The OIC further
identified at least one instance in which Mitchell R. Johnson did not provide to a Washington resident all of the
disclosure documents required for the sale an annuity.

14. These documented violations took place during the time that Mitchell R. Johnson worked as an agent for CLA
USA. The OIC's investigation into Mitchell R. Johnson's compliance with state insurance laws took place while

³ Mitchell R. Johnson also earned nominal fees from CLA USA for meeting with CLA USA customers, ostensibly to help them manage their revocable living trusts.

1 Mitchell R. Johnson worked as an agent for CLA USA. And the consent order was entered while Mitchell R. Johnson
2 worked as an agent for CLA USA. At least two of the annuity sales documented in the OIC's consent order took place
3 through Mitchell R. Johnson's work as an agent for CLA USA.

4 15. The OIC fined Mitchell R. Johnson \$2,000 as part of the consent order.

5 16. The Securities Act of Washington grants the Securities Division the authority to revoke, suspend, or deny the
6 registration of investment adviser representatives, who are the subject of regulatory actions by the OIC.

7 Mitchell R. Johnson's False Filings with the Securities Division

8 17. While Mitchell R. Johnson worked as an agent for CLA USA, he sought to register with the Securities
9 Division as an investment adviser representative beginning in 2014. Although Mitchell R. Johnson continued to work
10 for CLA USA through August 2016, in his filings with the Securities Division, Mitchell R. Johnson falsely represented
11 that he no longer worked for and received compensation from CLA USA. In filings with the Securities Division,
12 Mitchell R. Johnson further failed to disclose that he was the subject of a regulatory action by the OIC.

13 18. To register as an investment adviser representative, a registrant must complete and file with the Securities
14 Division through the Investment Adviser Registration Depository (IARD) a Form U4, the Uniform Application for
15 Securities Industry Registration or Transfer form. The Form U4 requests a range of information from the registrant,
16 including personal information, employment history, legal history, and outside business activities. Once registered, a
17 registrant must file an amended Form U4 with the Securities Division within thirty days of any information in the
18 registrant's initial Form U4 changing.

19 19. Between January 2014 and April 2016, Mitchell R. Johnson filed five Forms U4 with the Securities Division.
20 Three of Forms U4 were initial filings to register with separate investment adviser firms and two of the filings were
21 amendments.

22 20. In each of these five Form U4 filings with the Securities Division, when asked to document his employment
23 history, Mitchell R. Johnson falsely represented that he had stopped working for CLA USA in October 2013, a date
24 prior to each of these five Form U4 filings.

25 21. Further, when asked in each of these five Form U4 filings to disclose his participation in other businesses,
Mitchell R. Johnson identified his participation in some outside business activities, however, he failed to disclose that
he worked for and received compensation from CLA USA at the time.

26 22. In addition to falsely representing to the Securities Division that he no longer worked for CLA USA, Mitchell
R. Johnson never filed an amended Form U4 to document his ongoing work with CLA USA.

27 23. Separately, the Form U4 asks applicants to identify whether the applicant has ever been the subject of any
regulatory action involving the violation of state insurance laws. After entering into a consent order with the OIC in
September 2015 for making false representations in connection with the sale of annuities, Mitchell R. Johnson filed

two Forms U4 with the Securities Division. In both of these filings, Mitchell R. Johnson falsely represented that he has never been the subject of any regulatory action involving the violation of state insurance laws.

24. In August 2016, CLA USA terminated Mitchell R. Johnson as an agent for selling to CLA USA customers insurance products that were not approved by CLA USA.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the following conclusions of law are made:

1. Mitchell R. Johnson violated RCW 21.20.350 by submitting false Form U4 filings with the Securities Division.
2. Mitchell R. Johnson violated WAC 460-24A-205 by failing to update or amend his filings with the Securities Division through IARD to reflect his ongoing employment with CLA USA and to document the OIC's September 2015 regulatory action against him.

NOTICE OF INTENT OF ORDER 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 Mitchell R. Johnson shall cease and desist from violations of RCW 21.20.350 and WAC 460-24A-205.

NOTICE OF INTENT TO SUSPEND REGISTRATION

Pursuant to RCW 21.20.110(1), and based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities Administrator intends to order that the investment adviser representative registration of Mitchell R. Johnson be suspended for 6 months.

NOTICE OF INTENT TO CHARGE COSTS

Pursuant to RCW 21.20.110(7) and RCW 21.20.390, and based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities Administrator intends to order that Mitchell R. Johnson shall be liable for and pay costs, fees, and expenses incurred in the administrative investigation and hearing of no less than \$1,500.

NOTICE OF INTENT TO IMPOSE FINES

Pursuant to RCW 21.20.110(4) and RCW 21.20.395, and based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities Administrator intends to order that Mitchell R. Johnson shall be liable for and pay a fine of \$1,500.

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. Mitchell R. Johnson may 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 Mitchell R. Johnson does not make a hearing request in the time allowed, the Securities Administrator intends to

1 adopt the above Tentative Findings of Fact and Conclusions of Law as final and to enter a permanent order to cease
2 and desist against Mitchell R. Johnson, to suspend the investment adviser representative registration of Mitchell R.
3 Johnson, to impose any fines sought against Mitchell R. Johnson, and to charge any costs sought against Mitchell R.
4 Johnson.

5 Signed and Entered this 2nd day of February 2018.



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7
8 *William M. Beatty*

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11 William M. Beatty
Securities Administrator

12 Approved by:

13 *Suzanne Sarason*

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15 Suzanne Sarason
16 Chief of Enforcement

17 Presented by:

18 *Eric Palosaari*

19
20 Eric Palosaari
21 Financial Legal Examiner

22 Reviewed by:

23 *Jack McClellan*

24
25 Jack McClellan
Financial Legal Examiner Supervisor