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

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IN THE MATTER OF DETERMINING) Order No.: S-17-2327-18-CO01
Whether there has been a violation of the)
Securities Act of Washington by:) CONSENT ORDER
)
Mitchell R. Johnson,)
)
Respondent.)

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INTRODUCTION

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On February 2, 2018, the Securities Administrator of the state of Washington issued Statement of Charges and Notice of Intent to Enter Order to Cease and Desist, to Suspend Registration, to Impose Fines, and To Charge Costs (Statement of Charges), order number S-17-2327-17-SC01, against Respondent Mitchell R. Johnson.

Pursuant to the Securities Act of Washington, the Securities Division and Respondent Mitchell R. Johnson enter into this Consent Order to settle the allegations described in the Statement of Charges.

Respondent Mitchell R. Johnson neither admits nor denies the following Findings of Fact or Conclusions of Law:

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

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

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

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

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

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

19 6. At the end of a seminar, CLA Estate Services encourages attendees to have a CLA Estate Services
20 representative meet with them in their homes. During these initial in-home meetings, CLA Estate Services
21 representatives solicit an estate planning package. As part of the estate planning package, CLA Estate Services
22 represents that it will coordinate with an attorney to draft a customer's revocable living trust and other estate planning
23 documents, deliver and notarize the customer's estate planning documents, and arrange for future meetings with the
24 customer to help transfer a customer's assets into the revocable living trust. CLA Estate Services and its
25 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
use this access and information to then suggest that customers liquidate their assets and purchase insurance products,
such as annuities, life insurance, and long-term care insurance. CLA USA and its representatives make money through
commissions from the sale of these insurance policies.

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

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

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

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

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

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

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

24 13. In the consent order, the OIC documented that Mitchell R. Johnson made errors in completing the replacement
25 forms for at least two Washington residents to whom he had sold new annuities to replace their then-existing annuities.
These errors had the effect of misleading the Washington residents about the existence and amount of the surrender
penalties of the new annuities. 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 independent
contractor for CLA USA. The OIC's investigation into Mitchell R. Johnson's compliance with state insurance laws
took place while Mitchell R. Johnson worked as an independent contractor for CLA USA. And the consent order was

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 entered while Mitchell R. Johnson worked as an independent contractor for CLA USA. At least two of the annuity
2 sales documented in the OIC's consent order took place through Mitchell R. Johnson's work as an independent
3 contractor 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 independent contractor for CLA USA, he sought to register with the
9 Securities Division as an investment adviser representative beginning in 2014. Although Mitchell R. Johnson
10 continued to work with CLA USA through August 2016, in his filings with the Securities Division, Mitchell R.
11 Johnson falsely represented that he no longer worked with and received compensation from CLA USA. In filings with
12 the Securities Division, Mitchell R. Johnson further failed to disclose that he was the subject of a regulatory action by
13 the OIC.

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

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

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

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

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

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

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

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

5 **CONCLUSIONS OF LAW**

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

- 7 1. Mitchell R. Johnson violated RCW 21.20.350 by submitting false or misleading Form U4 filings with the
8 Securities Division.
- 9 2. Mitchell R. Johnson violated WAC 460-24A-205 by failing to update or amend his filings with the Securities
10 Division through IARD to reflect his ongoing employment with CLA USA and to document the OIC's September
11 2015 regulatory action against him.

12 **CONSENT ORDER**

13 Based upon the foregoing and finding it in the public interest:

14 IT IS AGREED AND ORDERED that Mitchell R. Johnson shall cease and desist from violating RCW
15 21.20.350, the provision of the Securities Act of Washington prohibiting false filings with the Securities Division.

16 IT IS FURTHER AGREED AND ORDERED that Mitchell R. Johnson shall cease and desist from violating
17 WAC 460-24A-205, the Securities Division's rule requiring timely updates and amendments to filings with the
18 Securities Division.

19 IT IS FURTHER AGREED AND ORDERED that Mitchell R. Johnson shall be liable for and shall pay a \$1,500
20 fine to the Securities Division prior to the entry of this Consent Order.

21 IT IS FURTHER AGREED AND ORDERED that Mitchell R. Johnson shall be liable for and shall pay \$1,500
22 in investigative costs to the Securities Division prior to entry of this Consent Order.

23 IT IS FURTHER AGREED AND ORDERED that Mitchell R. Johnson's investment adviser representative
24 registration is withdrawn in lieu of revocation. Mitchell R. Johnson, voluntarily, will not apply to register as a securities
25 broker-dealer, securities salesperson, investment adviser, or investment adviser representative in the state of
Washington.

IT IS FURTHER AGREED that the Securities Division has jurisdiction to enter this Consent Order.

IT IS FURTHER AGREED that Mitchell R. Johnson entered into this Consent Order freely and voluntarily and
with a full understanding of its terms and significance.

IT IS FURTHER AGREED that in consideration of the foregoing, Mitchell R. Johnson withdraws his request
for a hearing and waives their right to a hearing in this matter pursuant to RCW 21.20.440 and Chapter 34.05 RCW.

WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

