

1 **STATE OF WASHINGTON**  
2 **DEPARTMENT OF FINANCIAL INSTITUTIONS**  
3 **SECURITIES DIVISION**

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

5 Josef Erick Ewert, a/k/a Jay Ellis,  
a/k/a James Ellis

6 Respondent.

Order No. S-18-2511-19-FO01

ENTRY OF FINDINGS OF FACT AND  
CONCLUSIONS OF LAW AND FINAL ORDER TO  
CEASE AND DESIST, TO IMPOSE A FINE, AND  
TO CHARGE COSTS

7  
8 **THE STATE OF WASHINGTON TO:**

**Josef Erick Ewert, a/k/a Jay Ellis, a/k/a James Ellis**

9  
10 On July 10, 2019, the Securities Administrator of the state of Washington issued Statement of Charges  
11 and Notice of Intent to Enter Order to Cease and Desist, To Impose a Fine, and to Charge Costs, Order No.  
12 S-18-2511-19-SC01 (Statement of Charges). The Statement of Charges, together with a Notice of Opportunity  
13 to Defend and Opportunity for Hearing (Notice of Opportunity for Hearing) and an Application for  
14 Adjudicative Hearing (Application for Hearing), were served on Respondent Josef Erick Ewert on August 5,  
15 2019. The Notice of Opportunity for Hearing advised Respondent Josef Erick Ewert that a written application  
16 for an administrative hearing on the Statement of Charges must be received within twenty days from the date  
17 of receipt of the notice. Respondent Josef Erick Ewert failed to request an administrative hearing within  
18 twenty days of receipt of the Statement of Charges and Notice of Opportunity for Hearing, either on the  
19 Application for Hearing or otherwise.

20 The Securities Administrator therefore will adopt as final the following Findings of Fact and  
21 Conclusions of Law as set forth in the Statement of Charges and will enter a final order against the respondent  
22 to cease and desist from violations of the Securities Act, to impose a fine, and to charge costs as sought in the  
23 Statement of Charges.

**FINAL ORDER**

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

1 The Securities Administrator makes the following Findings of Fact and Conclusions of Law:

2 **FINDINGS OF FACT**

3 **Respondent**

4 1. Josef Erick Ewert, a/k/a Jay Ellis, a/k/a James Ellis, (“Ewert”) was a resident of Seattle,  
5 Washington at all times relevant to this Statement of Charges. During this time period, Ewert offered and sold  
6 investments using the names Jay Ellis and James Ellis, and he did business as Mogul Corp.

7 **Prior Civil, Criminal, and Enforcement Actions**

8 2. On August 4, 2011, a lawsuit was filed against Ewert in King County Superior Court. The  
9 plaintiffs in the suit alleged that Ewert failed to pay funds that he owed under a settlement agreement, which  
10 had terminated a partnership agreement between the parties. On August 8, 2011, the court entered a default  
11 judgment of about \$15,000 against Ewert.

12 3. On April 22, 2012, prosecutors in Webb County, Texas filed an indictment against Ewert  
13 alleging that Ewert engaged in forgery with the intent to defraud or harm another, and in theft of the property  
14 of another worth between \$20,000 and \$100,000. On August 9, 2012, the judge issued a bench warrant for  
15 Ewert’s arrest after Ewert failed to appear for criminal proceedings. The warrant for Ewert’s arrest is currently  
16 outstanding.

17 4. On May 22, 2012, the Securities Division entered a Statement of Charges and Notice of Intent  
18 to Enter an Order to Cease and Desist, to Impose a Fine, and to Charge Costs against Ewert. The Statement  
19 of Charges alleged that Ewert violated the Securities Act of Washington by selling more than \$40,000 of  
20 unregistered investments to at least three investors, and by failing to disclose material information about the  
21 investments. On June 28, 2012, the Securities Division entered a Final Order against Ewert in which it adopted  
22 its Findings of Fact and Conclusions of Law as final, ordered Ewert to cease and desist from violating the  
23 Securities Act of Washington, and ordered Ewert to pay a fine and investigative costs.

1 **Nature of the Conduct**

2 *Overview*

3 5. Between about May 2017 and September 2017, Ewert offered and sold at least \$16,500 of  
4 unregistered securities to two residents of California and Delaware. Ewert sold securities in two different  
5 investments. He sold a \$1,500 investment in Uber Car #5, which would purportedly lease a car to an Uber  
6 driver. Ewert then sold two investments totaling \$15,000 in Sippin' Soup Truck #1, which would purportedly  
7 own a food truck that sold drinkable soup in coffee cups. In each of these offerings, Ewert failed to disclose  
8 to the investors material information about the investments, including Ewert's background and the risks of  
9 investing.

10 *Uber Car #5*

11 6. In or around May 2017, Ewert sold a \$1,500 investment in Uber Car #5 to Investor A. Investor  
12 A knew Ewert as Jay Ellis, a poker enthusiast who had an Instagram account with the handle JacksCracked.  
13 Investor A followed Ewert on Instagram, and the two developed a friendship. Ewert told Investor A that he  
14 wanted to help Investor A earn some extra money, and Ewert offered Investor A an investment in his business.

15 7. Ewert told Investor A that he bought cars from auctions, fixed them up, and then leased them  
16 to people who wanted to drive for Uber. Ewert told the investor that Ewert had five cars leased out to Uber  
17 drivers, and that he made about \$1,500 a month from the business. Ewert offered to sell Investor A 75%  
18 ownership in Ewert's fifth Uber car for \$1,500.

19 8. Ewert sent the investor a Joint Venture Agreement, which described the investment. In the  
20 Agreement, Ewert identified himself as Jay Ellis doing business as Mogul Corp. The Agreement stated that  
21 the investor would be a silent investor, and that Ewert would manage the car leasing business. In the  
22 Agreement, Ewert stated that the car would be leased to a new Uber driver if the first driver defaulted on their  
23 payments. The Agreement did not disclose any risks of investing in Uber Car #5.



1 served in coffee cups. Ewert told Investor B that the food truck would be operational by October 2017, and  
2 he told Investor A that the food truck would be operational by late November or early December 2017.

3 15. Ewert told the investors that there would be additional Sippin' Soup food trucks within weeks  
4 of the first food truck being operational. Sippin' Soup Truck #1 would be based in Seattle. Ewert would then  
5 quickly expand to Portland, Oregon; Boston, Massachusetts; and Chicago, Illinois or New York, New York.  
6 Ewert told the investors that he had owned an ice cream truck in the past, and that he had experience running  
7 a successful food truck.

8 16. Ewert sent Investor B a business plan and offering document, in which Ewert identified himself  
9 as James Ellis. In the business plan, Ewert projected that a single Sippin' Soups truck would earn net revenue  
10 of about \$19,000 a month. He also projected that each investor would receive a return of about \$1,200 a week.  
11 Ewert told Investor A that the food truck would make gross revenue of \$300,000 a year.

12 17. In or around September 2017, Ewert sent each investor a Partnership Agreement in which he  
13 identified himself as Jay Ellis. In the Agreement Ewert, doing business as Mogul Corp, offered each investor  
14 25% ownership of Sippin' Soup Truck #1 for \$7,500. Ewert told the investors that they would each own 25%  
15 of the food truck owned by Sippin' Soup Truck #1. Ewert would retain the remaining 50% ownership. Under  
16 the Agreement, Ewert would be in charge of all day to day operations, decision making, guidance of the  
17 company's growth, and deciding whether to sell the food truck. Each investor agreed to invest \$7,500.

18 18. In September and October 2017, the investors made investment payments to Ewert totaling  
19 \$15,000. Investor A took out a personal loan in order to invest with Ewert. After they invested, neither investor  
20 received any return on their investment. When the investors asked Ewert why they had not received any  
21 payments, Ewert told them that different problems had arisen, such as permitting issues and personal issues  
22 with Ewert's brother. Ewert also told the investors that he was distracted from managing the food truck by his  
23

1 attempts to sell another business that he purportedly owned called Hop1N. Ewert told the investors that  
2 Hop1N was a ridesharing company based in Seattle, Washington.

3 19. In or around February 2018, Ewert told the investors that he had negotiated a deal to sell  
4 Hop1N for \$3.2 million. Ewert told the investors that they would each receive 1% or 2% of Hop1N's sale  
5 price as a concession for Ewert being distracted from managing the food truck. Ewert never made any  
6 payments to either investor from the purported sale of Hop1N.

7 20. In or around June 2018, Ewert told the investors that Ewert had sold the food truck and was  
8 waiting for payment from the sale, and that the food truck was earning revenue while Ewert was waiting to  
9 receive the funds from the sale. Ewert asked each investor to send him the information for their mobile  
10 payment applications so that he could send them payments. Ewert never sent the investors any payments from  
11 the purported revenue or sale of the food truck. In or around July 2018, Ewert stopped responding to the  
12 investors' attempts to get information about their investments.

13 21. Ewert failed to disclose to Investor A and Investor B material information related to their  
14 investment in Sippin' Soup Truck #1. Ewert failed to disclose the risks of investing, and he failed to disclose  
15 a reasonable basis for the written and oral projections he made to the investors. Ewert also failed to disclose  
16 material information related to his background. Ewert failed to disclose his real name, that he was the subject  
17 of a \$15,000 default judgment, that he was the subject of a 2012 enforcement action by the Securities Division,  
18 that he had been indicted in 2012 for theft and forgery, and that there was an outstanding warrant for his arrest.

### 19 **Registration Status**

20 22. Mogul Corp is not currently registered to sell its securities in the state of Washington and has  
21 not previously been so registered.

22 23. Josef Erick Ewert, a/k/a Jay Ellis, a/k/a James Ellis, is not currently registered as a securities  
23 salesperson or broker-dealer in the state of Washington and has not previously been so registered.

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

2 **CONCLUSIONS OF LAW**

3 1. The offer and sale of investments in Uber Car #5 and Sippin' Soup Truck #1 as described  
4 above constitutes the offer and sale of securities as defined in RCW 21.20.005(14) and RCW 21.20.005(17).

5 2. Josef Erick Ewert, a/k/a Jay Ellis, a/k/a James Ellis has violated RCW 21.20.140 because, as  
6 set forth in the Findings of Fact, Ewert offered and sold securities for which no registration is on file with the  
7 Securities Administrator.

8 3. Josef Erick Ewert, a/k/a Jay Ellis, a/k/a James Ellis has violated RCW 21.20.040 because, as  
9 set forth in the Findings of Fact, Ewert offered and sold said securities while not being registered as a securities  
10 salesperson or broker-dealer in the state of Washington.

11 4. Josef Erick Ewert, a/k/a Jay Ellis, a/k/a James Ellis has violated RCW 21.20.010 because, as  
12 set forth in the Findings of Fact, Ewert made untrue statements of material fact or omitted to state material  
13 facts necessary to make the statements made, in light of the circumstances in which they were made, not  
14 misleading.

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

16 **FINAL ORDER**

17 IT IS HEREBY ORDERED that Respondent Josef Erick Ewert, his agents, and his employees each  
18 shall cease and desist from offering and/or selling securities in any manner in violation of RCW 21.20.140, a  
19 registration section of the Securities Act of Washington requiring registration.

20 IT IS FURTHER ORDERED that Respondent Josef Erick Ewert, his agents, and his employees each  
21 shall cease and desist from offering and/or selling securities in any manner in violation of RCW 21.20.040, a  
22 registration section of the Securities Act of Washington.

1 IT IS FURTHER ORDERED that Respondent Josef Erick Ewert, his agents, and his employees each  
2 shall cease and desist from violating RCW 21.20.010, the anti-fraud section of the Securities Act of  
3 Washington.

4 IT IS FURTHER ORDERED that Respondent Josef Erick Ewert shall be liable for and pay a fine in  
5 the amount of \$20,000.

6 IT IS FURTHER ORDERED that Respondent Josef Erick Ewert shall be liable for and pay costs in  
7 the amount of \$1,750.

8 **AUTHORITY AND PROCEDURE**

9 This FINAL ORDER is entered pursuant to the provisions of RCW 21.20.390, and it is subject to the  
10 provisions of RCW 21.20.440 and Chapter 34.05 RCW. Respondent has the right to petition the superior court  
11 for judicial review of this agency action under the provisions of Chapter 34.05 RCW. For the requirements of  
12 judicial review, see RCW 34.05.510 and sections following. Pursuant to RCW 21.20.395, a certified copy of  
13 this order may be filed in the superior court. If so filed, the clerk shall treat the order in the same manner as a  
14 superior court judgment as to the fine, and the fine may be recorded, enforced, or satisfied in like manner.

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16 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

17 SIGNED and ENTERED this 4th day of September 2019.

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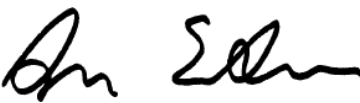
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William M. Beatty  
Securities Administrator



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Approved by:



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Chief of Enforcement

Presented by:



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Financial Legal Examiner

Reviewed by:



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