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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:

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

Respondent.

Order No. S-18-2511-19-SC01

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

THE STATE OF WASHINGTON TO:

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

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the state of Washington has reason to believe that Respondent Josef Erick Ewert, a/k/a Jay Ellis, a/k/a James Ellis, has violated the Securities Act of Washington. The Securities Administrator believes that these violations justify the entry of an order against Respondent to cease and desist from such violations pursuant to RCW 21.20.390, to charge costs pursuant to RCW 21.20.390, and to impose a fine pursuant to RCW 21.20.395. The Securities Administrator finds as follows:

TENTATIVE FINDINGS OF FACT

Respondent

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

Prior Civil, Criminal, and Enforcement Actions

2. On August 4, 2011, a lawsuit was filed against Ewert in King County Superior Court. The plaintiffs in the suit alleged that Ewert failed to pay funds that he owed under a settlement agreement, which

1 had terminated a partnership agreement between the parties. On August 8, 2011, the court entered a default
2 judgment of about \$15,000 against Ewert.

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

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

15 **Nature of the Conduct**

16 *Overview*

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

Uber Car #5

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

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

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

15 9. In the Agreement, Ewert projected that Investor A would receive a return of \$6,600 over two
16 years. Ewert told Investor A that his return would be paid in twenty-three monthly payments of \$262.50 after
17 an initial payment of \$500. Investor A agreed to invest.

18 10. On or around May 26, 2017, as instructed by Ewert, Investor A sent \$1,500 to Ewert's friend
19 in Everett, Washington. After Investor A invested, he received monthly payments as promised by Ewert.
20 Investor A did not receive these payments directly from Ewert. Instead, Ewert had friends send Investor A
21 the payments using a mobile payment application.

22 11. In or around November 2017, Investor A stopped receiving payments from Ewert. Ewert told
23 Investor A that the payments stopped because the person leasing the car had wrecked the car. Ewert said that

1 he was deciding whether to repair the car or sell it for parts. Investor A did not receive any additional updates
2 on his investment in Uber Car #5, and he did not receive any additional return on his investment.

3 12. Ewert failed to disclose to Investor A material information related to an investment in Uber
4 Car #5. Ewert failed to disclose the risks of investing. Ewert also failed to disclose his background to Investor
5 A. Ewert failed to disclose his real name, that he was the subject of a \$15,000 default judgment, that he was
6 the subject of a 2012 enforcement action by the Securities Division, that he had been indicted in 2012 for theft
7 and forgery, and that there was an outstanding warrant for his arrest.

8 *Sippin' Soup Truck #1*

9 13. In or around September 2017, Ewert sold \$15,000 of investments in Sippin' Soup Truck #1 to
10 Investor A and a second investor, Investor B. Investor B also knew Ewert as Jay Ellis, an Instagram account
11 holder who posted under the handle JacksCracked and posted about poker and business. Ewert and Investor
12 B became friendly after Investor B started following Ewert on Instagram.

13 14. Ewert told Investor A and Investor B that Ewert owned a truck that his brother was converting
14 into a food truck. Ewert told the investors that Ewert was going to use the food truck to sell drinkable soup
15 served in coffee cups. Ewert told Investor B that the food truck would be operational by October 2017, and
16 he told Investor A that the food truck would be operational by late November or early December 2017.

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

22 16. Ewert sent Investor B a business plan and offering document, in which Ewert identified himself
23 as James Ellis. In the business plan, Ewert projected that a single Sippin' Soups truck would earn net revenue

1 of about \$19,000 a month. He also projected that each investor would receive a return of about \$1,200 a week.
2 Ewert told Investor A that the food truck would make gross revenue of \$300,000 a year.

3 17. In or around September 2017, Ewert sent each investor a Partnership Agreement in which he
4 identified himself as Jay Ellis. In the Agreement Ewert, doing business as Mogul Corp, offered each investor
5 25% ownership of Sippin' Soup Truck #1 for \$7,500. Ewert told the investors that they would each own 25%
6 of the food truck owned by Sippin' Soup Truck #1. Ewert would retain the remaining 50% ownership. Under
7 the Agreement, Ewert would be in charge of all day to day operations, decision making, guidance of the
8 company's growth, and deciding whether to sell the food truck. Each investor agreed to invest \$7,500.

9 18. In September and October 2017, the investors made investment payments to Ewert totaling
10 \$15,000. Investor A took out a personal loan in order to invest with Ewert. After they invested, neither investor
11 received any return on their investment. When the investors asked Ewert why they had not received any
12 payments, Ewert told them that different problems had arisen, such as permitting issues and personal issues
13 with Ewert's brother. Ewert also told the investors that he was distracted from managing the food truck by his
14 attempts to sell another business that he purportedly owned called Hop1N. Ewert told the investors that
15 Hop1N was a ridesharing company based in Seattle, Washington.

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

20 20. In or around June 2018, Ewert told the investors that Ewert had sold the food truck and was
21 waiting for payment from the sale, and that the food truck was earning revenue while Ewert was waiting to
22 receive the funds from the sale. Ewert asked each investor to send him the information for their mobile
23 payment applications so that he could send them payments. Ewert never sent the investors any payments from

1 the purported revenue or sale of the food truck. In or around July 2018, Ewert stopped responding to the
2 investors' attempts to get information about their investments.

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

9 **Registration Status**

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

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

14
15 Based upon the above Tentative Findings of Fact, the following Conclusions of Law are made:

16 **CONCLUSIONS OF LAW**

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

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

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

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

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

9 Pursuant to RCW 21.20.390(1), and based upon the above Tentative Findings of Fact and Conclusions
10 of Law, the Securities Administrator intends to order that Respondent Josef Erick Ewert, a/k/a Jay Ellis, a/k/a
11 James Ellis, his agents, and his employees each shall cease and desist from violations of RCW 21.20.140,
12 RCW 21.20.040, and RCW 21.20.010.

13 **NOTICE OF INTENT TO IMPOSE A FINE**

14 Pursuant to RCW 21.20.395, and based upon the above Tentative Findings of Fact and Conclusions
15 of Law, the Securities Administrator intends to order that Respondent Josef Erick Ewert, a/k/a Jay Ellis, a/k/a
16 James Ellis shall be liable for and shall pay a fine of \$20,000.

17 **NOTICE OF INTENT TO CHARGE COSTS**

18 Pursuant to RCW 21.20.390, and based upon the above Tentative Findings of Fact and Conclusions
19 of Law, the Securities Administrator intends to order that Respondent Josef Erick Ewert, a/k/a Jay Ellis, a/k/a
20 James Ellis shall be liable for and shall pay the costs, fees, and other expenses incurred in the administrative
21 investigation and hearing of this matter, in an amount not less than \$1,750.

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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 respondent, Josef Erick Ewert, a/k/a Jay Ellis, a/k/a James Ellis, 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 the 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 the respondent, to impose any fines sought against the respondent, and to charge any costs sought against the respondent.

Signed and Entered this 10th day of July 2019.



William M. Beatty
Securities Administrator

Approved by:



Suzanne Sarason
Chief of Enforcement

Presented by:



Holly Mack-Kretzler
Financial Legal Examiner

Reviewed by:



Brian J. Guérard
Financial Legal Examiner Supervisor