



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF DETERMINING ) DFI No.: S-17-2275-20-FO01
Whether there has been a violation of the ) OAH No.: 09-2019-DFI-00087
Securities Act of Washington by: )
Richard O. Johnson II, ) FINAL DECISION & ORDER AFFIRMING INITIAL
) ORDER ON SUMMARY JUDGMENT MOTION AS TO
) RICHARD O. JOHNSON II
Respondent. )

THIS MATTER has come before the Director ("Director") of the Washington State Department of Financial Institutions ("Department") for entry of the Director's Final Decision & Order pursuant to RCW 34.05.464.

1.0 PROCEDURAL HISTORY

On July 3, 2019, the Director, through Securities Administrator, William M. Beatty, entered a Statement of Charges and Notice of Intent to Enter Order to Cease and Desist, to Deny Future Registrations, to Impose a Fine, and to Charge Costs, S-17-2275-19-SC01, ("Statement of Charges") against Respondent Richard O. Johnson II. The Statement of Charges, together with a Notice of Opportunity to Defend and Opportunity for Hearing, and an Application for Adjudicative Hearing, were served on Respondent Richard O. Johnson II, by certified mail on July 13, 2019. Respondent Richard O. Johnson II, on August 1, 2019, submitted an Application for Adjudicative Hearing. On September 27, 2019, the Department made a request to the Office of Administrative Hearings ("OAH") to assign an Administrative Law Judge ("ALJ") to schedule and conduct a hearing on the Statement of Charges.

On October 4, 2019, OAH issued a Notice of Prehearing Conference from ALJ Martin scheduling a prehearing conference on October 17, 2019 at 11:00 AM.

On October 17, 2019, Respondent Richard O. Johnson II and a representative for the Division attended a telephonic prehearing conference.

On December 19, 2019, the Division filed a Motion for Summary Judgment. On January 21, 2020, Respondent Richard O. Johnson II filed a response to the Department's summary judgment motion, and the

1 Department subsequently filed a timely reply. On February 21, 2020, ALJ Martin issued an Order Denying  
2 Department's Motion for Summary Judgment.

3 On March 2, 2020, the Division filed a Petition for Reconsideration of Order Denying Department's Motion  
4 for Summary Judgment. On March 9, 2020, Respondent Richard O. Johnson II filed a response to the Department's  
5 petition for reconsideration.

6 On March 23, 2020, ALJ Martin issued an Initial Order Granting Department's Motion for Reconsideration  
7 (Initial Order). In this Initial Order, ALJ Martin revised Conclusions of Law 5.15 and 5.16 and incorporated the Facts  
8 for Purpose of Summary Judgment found in the Order Denying Department's Motion for Summary Judgment. ALJ  
9 Martin ordered that since no genuine dispute of material fact exists, the Order Denying Department's Motion for  
10 Summary Judgment is reversed and the Department's Motion for Summary Judgment is subsequently granted. On  
11 March 23, 2020, OAH served the Initial Order on Respondent Richard O. Johnson II by first class mail.

12 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent had twenty (20) days from the date of service  
13 of the Initial Order to file a Petition for Review with the Director of the Department. Respondent did not file a Petition  
14 for Review during the statutory period.

15 **2.0 RECORD ON REVIEW**

16 The record presented to the Director for their review and for entry of a Final Decision & Order was the entire  
17 record on review from OAH, including the following:

- 18 2.1 Statement of Charges, with documentation of service;
- 19 2.2 Application for Adjudicative Hearing for Richard O. Johnson II;
- 20 2.3 Request to OAH for Assignment of Administrative Law Judge;
- 21 2.4 Notice of Prehearing Conference, dated October 4, 2019, with certificate of service;
- 22 2.5 Department's Motion for Summary Judgment;
- 23 2.6 Respondent's Response to Motion for Summary Judgment;
- 24 2.7 Division's Reply on Summary Judgment;
- 25 2.8 Order Denying Department's Motion for Summary Judgment;

- 1 2.9 Department's Petition for Reconsideration of Order Denying Motion for Summary Judgment;  
2 2.10 Respondent's Response to Petition for Reconsideration; and  
3 2.11 Initial Order Granting Department's Petition for Reconsideration, with documentation of service.

4 3.0 DIRECTOR'S CONSIDERATIONS

5 The Director reviews the record in each matter calling for entry of a final decision and order, even in the  
6 absence of a petition for review. The Director has made a review of the Statement of Charges in relation to the  
7 language of the Initial Order and finds (1) that the Statement of Charges sets forth claims upon which relief can be  
8 granted as pleaded, (2) that the Facts for Purpose of Summary Judgment and Conclusions of Law in the Initial Order  
9 are consistent with what the Securities Division pleaded in the Statement of Charges, and (3) that the sanctions, fines,  
10 and costs imposed are not in excess of the prayer for relief in the Statement of Charges. On this basis, the Director  
11 affirms the Initial Order of ALJ Martin.

12 4.0 FINDINGS OF FACT AND CONCLUSIONS OF LAW

13 4.1 Findings of Fact. The Director affirms Section 3.0 of this Order and Paragraphs 4.1 through 4.17,  
14 inclusive, of the Order Denying Department's Motion for Summary Judgment, which was revised and incorporated by  
15 paragraph 1.3, inclusive, of the Initial Order Granting Department's Motion for Reconsideration.

16 4.2 Conclusions of Law. The Director affirms Section 3.0 of this Order and Paragraphs 5.1 through 5.19,  
17 inclusive, of the Order Denying Department's Motion for Summary Judgment, as amended by Section 2, inclusive, of  
18 the Initial Order Granting Department's Motion for Reconsideration.

19 4.3 Affirmation of Initial Order. The Director affirms Paragraphs 1.1 through 1.4, inclusive, of the Initial  
20 Order Granting Department's Motion for Reconsideration.

21 5.0 FINAL DECISION & ORDER

22 Based upon the foregoing, and the Director having considered the record and being otherwise fully advised,  
23 NOW, THEREFORE, IT IS HEREBY ORDERED:

24 5.1 Respondent Richard O. Johnson II shall cease and desist from any further violations of RCW  
25 21.20.040;

1           5.2     Any future securities registration application of Richard O. Johnson II as an investment adviser,  
2 broker-dealer, investment adviser representative, or securities salesperson shall be denied;

3           5.2     Respondent Richard O. Johnson II shall be liable for and shall pay a fine of \$10,000;

4           5.3     Respondent Richard O. Johnson II shall be liable for and shall pay costs of \$2,000 for the  
5 investigation of their violations of the Securities Act of Washington, chapter 21.20 RCW.

6     6.0     RECONSIDERATION

7           Pursuant to RCW 34.05.470, the Respondent has the right to file a Petition for Reconsideration stating the  
8 specific grounds upon which relief is requested. The Petition must be filed in the Office of the Director of the  
9 Department of Financial Institutions by courier at 150 Israel Road SW, Tumwater, Washington 98501, or by U.S.  
10 Mail at P.O. Box 41200, Olympia, Washington 98504-1200, within ten (10) days of service of the Final Decision &  
11 Order upon Respondent. The Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition  
12 for Reconsideration a prerequisite for seeking judicial review in this matter.

13           A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date the petition  
14 is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the date  
15 by which it will act on a petition.

16     7.0     STAY OF ORDER

17           The Director has determined not to consider a Petition to Stay the effectiveness of this order. Any such  
18 requests should be made in connection with a Petition for Judicial Review made under chapter 34.05 RCW and RCW  
19 34.05.550.

20     8.0     JUDICIAL REVIEW

21           Respondents have the right to petition the superior court for judicial review of this agency action under the  
22 provisions of chapter 34.05 RCW. For the requirements for filing a Petition for Judicial Review, see RCW 34.05.510  
23 and sections following.

24     9.0     NON-COMPLIANCE WITH ORDER

1 If Respondent does not comply with the terms of this order, the Department may seek its enforcement by the  
2 Office of Attorney General to include the collection of fines and fees imposed herein. Failure to comply with this  
3 Final Decision & Order may also prompt additional actions against Respondent by the Department as permitted by the  
4 Securities Act of Washington, Chapter 21.20 RCW, for failure to comply with a lawful order of the Department.

5 **10.0 SERVICE**

6 For purposes of filing a Petition for Reconsideration or a Petition for Judicial Review, service is effective  
7 upon deposit of this order in the U.S. mail with a declaration of service attached hereto.

8 DATED this 2nd day of June, 2020.

9 STATE OF WASHINGTON  
10 DEPARTMENT OF FINANCIAL INSTITUTIONS

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12 \_\_\_\_\_  
13 CHARLES E. CLARK, Director  
14 Washington State Department of Financial Institutions

CERTIFICATE OF SERVICE

I, Johanna Chaney, certify that I personally delivered or mailed a copy of the Final Decision and Order to parties named below at their respective addresses, postage pre-paid, on \_\_June 8, 2020.

*Mailed to the following:*

Richard O. Johnson, II  
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