

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 Thomson Financial Advisors LLC;
6 Lindsay Thomson;
Brendan Shaw,

7 Respondents

Order No.: S-17-2258-19-SC01

STATEMENT OF CHARGES AND NOTICE OF
INTENT TO ENTER ORDER TO CEASE AND
DESIST, TO DENY FUTURE REGISTRATIONS, TO
IMPOSE FINES, AND TO CHARGE COSTS

8 THE STATE OF WASHINGTON TO:

Thomson Financial Advisors LLC (CRD #139165)
Lindsay Thomson (CRD #2984060)
Brendan Shaw (CRD #4721215)

10 **STATEMENT OF CHARGES**

11 Please take notice that the Securities Administrator of the state of Washington has reason to believe
12 that Respondents Thomson Financial Advisors LLC, Lindsay Thomson, and Brendan Shaw have each
13 violated the Securities Act of Washington. The Securities Administrator believes those violations justify the
14 entry of an order against the respondents to cease and desist from such violations and to charge costs pursuant
15 to RCW 21.20.390, and under RCW 21.20.395 to impose fines. The Securities Administrator finds as follows:

16 **TENTATIVE FINDINGS OF FACT**

17 **Respondents**

18 1. Thomson Financial Advisors LLC (“Thomson Financial Advisors”) is an Arizona entity
19 formed on December 13, 2005 with its principal place of business in Scottsdale, Arizona. Thomson Financial
20 Advisors provides investment advisory services to its clients. Thomson Financial Advisors was registered as
21 an investment adviser with the Securities and Exchange Commission from 2006 until 2012. Thomson
22 Financial Advisors has been registered as an investment adviser with Arizona since 2012 (CRD #139165).

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

1 2. Lindsay Thomson (“Thomson”) resides in Scottsdale, Arizona. Thomson is the founder and
2 principal of Thomson Financial Advisors. Thomson was registered as an investment adviser representative in
3 Arizona (CRD #2984060). Thomson withdrew his registration with Arizona in October 2018. Thomson was
4 registered with Washington State as a securities salesperson from 1999 to 2006. From 2005 to 2014, Thomson
5 had sixteen customer complaints filed against him relating to options trading in client accounts. These
6 complaints included eleven allegations that Thomson executed unauthorized trades in customer accounts, six
7 allegations that he made misrepresentations to customers, five allegations that he placed customers in
8 unsuitable investments, and six allegations that he mishandled customers’ investment accounts. In 2005, UBS
9 Financial Services Inc. terminated Thomson for making unauthorized trades in customer accounts and for not
10 following an instruction from his manager. In 2009, the Financial Industry Regulatory Authority (“FINRA”),
11 a self-regulatory organization that regulates member brokerage firms and exchange markets, suspended
12 Thomson from association with any FINRA regulated broker/dealer in any capacity for 25 business days
13 based on allegations that he sent emails to customers that contained misleading and inaccurate information
14 relating to options trading.

15 3. Brendan Shaw (“Shaw”) resides in Phoenix, Arizona. Shaw worked at Thomson Financial
16 Advisors from 2005 until 2016 as the Chief Operating Officer and Chief Compliance Officer. During this
17 time, Shaw was registered as an investment adviser representative with Arizona (CRD# 4721215). Prior to
18 working for Thomson Financial Advisors, Shaw worked as a securities salesperson at UBS Financial Services
19 Inc. from 2003 to 2005. In 2005, UBS Financial Services Inc. terminated Shaw for sharing confidential client
20 financial information with the spouse of a recently terminated financial adviser. In 2017, Shaw had a customer
21 complaint filed against him relating to options trading in client accounts at Thomson Financial Advisors.

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1 **Overview**

2 4. Between November 2012 and June 2017, Thomson Financial Advisors, Thomson, and Shaw
3 provided investment advisory services to an unsophisticated Washington State resident (“Investor DE”)
4 interested in low-risk investments. Thomson Financial Advisors, Thomson, and Shaw made unsuitable high-
5 risk options trades in Investor DE’s account including large and speculative bets on the performance of the
6 S&P 500. Thomson Financial Advisors, Thomson, and Shaw invested Investor DE exclusively in options on
7 the S&P 500 index, never taking any other positions. In the end, Thomson Financial Advisors, Thomson, and
8 Shaw’s highly concentrated, speculative, and high-risk trades were unsuitable for Investor DE and contributed
9 to a total loss in Investor DE’s account of approximately \$60,000.

10 **Nature of the Conduct**

11 5. In or around November 2012, Thomson and Investor DE spoke on the telephone regarding
12 investment opportunities. Thomson informed Investor DE that he was an investment adviser. Investor DE told
13 Thomson that she had an inheritance of \$100,000. Investor DE agreed to hire Thomson Financial Advisors to
14 invest and manage her \$100,000 inheritance. Investor DE told Thomson that because this \$100,000
15 represented most of her savings, she did not want to invest her money in anything high-risk. Investor DE was
16 fifty-seven years old and did not have any prior investment experience.

17 6. In their capacity as either an investment adviser or an investment adviser representative,
18 Thomson Financial Advisors, Thomson, and Shaw had an ethical duty to place clients in investments that
19 were suitable for the client based on information furnished by the client including the client’s investment
20 objectives, financial situation, and needs.

21 7. According to Investor DE, Thomson Financial Advisors, Thomson, and Shaw did not enter
22 into a written investment advisory agreement with Investor DE.

1 8. The Securities Division subpoenaed investment advisory agreements and client profiles
2 directly from Thomson Financial Advisors and Thomson, but, at the time of this order, they have refused to
3 provide any documents to the Securities Division.

4 9. In November 2012, Thomson assisted Investor DE in opening a TD Ameritrade margin
5 brokerage account.

6 10. In a TD Ameritrade account application, Investor DE granted trading authority in her TD
7 Ameritrade brokerage account to Thomson Financial Advisors and granted Thomson Financial Advisors the
8 authority to deduct advisory fees directly from her TD Ameritrade Brokerage account. Thomson Financial
9 Advisors charged Investor DE a fee of 1% of her assets under management.

10 11. Investor DE initially funded this brokerage account with her entire inheritance of \$100,000.

11 *Unsuitable Trades*

12 12. From about 2013 through 2017, Thomson Financial Advisors, Thomson, and Shaw used
13 margin to make hundreds of options trades on behalf of Investor DE.

14 13. Thomson Financial Advisors, Thomson, and Shaw invested Investor DE's funds exclusively
15 in option contracts that tracked the performance of the S&P 500. Thomson Financial Advisors, Thomson, and
16 Shaw never held any other positions in Investor DE's account.

17 14. Thomson Financial Advisors, Thomson, and Shaw implemented a market timing strategy in
18 Investor DE's account. A market timing strategy makes investment decisions based on predictions of future
19 market price movement (in this case the performance of the S&P 500). Placing a high concentration of an
20 investor's assets in a market timing strategy is highly speculative and is not appropriate for a low-risk investor.

21 15. Thomson Financial Advisors, Thomson, and Shaw made unsuitable trades on behalf of
22 Investor DE when, using S&P index options, they invested a high concentration of her assets in a market
23 timing strategy that was highly speculative and not appropriate for a low-risk investor.

1 16. For example, on October 14, 2013, Thomson Financial Advisors, Thomson, and Shaw placed
2 a high concentration of Investor DE's funds in options, which expired on November 16, 2013, that speculated
3 that the S&P 500 index would not gain more than approximately three percentage points. If Thomson
4 Financial Advisors, Thomson, and Shaw's speculation proved to be correct, Investor DE could earn a
5 maximum profit of approximately \$16,250. If their speculation proved to be incorrect, Investor DE could face
6 a maximum loss of approximately \$48,000. In the end, the S&P 500 index gained over five percentage points
7 during this period, leading to losses in Investor DE's account of approximately \$35,000.

8 17. In the following two months, Thomson Financial Advisors, Thomson, and Shaw predicted that
9 the price of the S&P 500 index would drop in the coming weeks. Accordingly, Thomson Financial, Thomson,
10 and Shaw executed twenty-six call and put options with the same expiration date in a bear market strategy. In
11 order for this strategy to be profitable, the S&P 500 index needed to drop in price. In the end, the market
12 gained during this period, and contributed to Investor DE's loss of over \$22,000.

13 18. Thomson Financial Advisors, Thomson, and Shaw failed to disclose to Investor DE that their
14 trading strategy consisted of a highly concentrated, speculative and high-risk market timing strategy.

15 19. Due to Thomson Financial Advisors, Thomson, and Shaw's highly speculative market timing
16 strategy, from October 2013 through December 2013, Investor DE's investment account lost over \$60,000 or,
17 after accounting for \$20,000 in withdrawals, about 80% of the total value of her investment account.

18 20. As an unsophisticated investor, Investor DE found her account statements confusing. On at
19 least one occasion, Investor DE noticed that her account value was low. When Investor DE asked Thomson
20 why her account value was so low, Thomson told her not to pay attention to the account value, as it would be
21 confusing to her.

22 21. By June 2014, Thomson Financial Advisors, Thomson, and Shaw, utilizing aggressive, high-
23 risk and speculative trading strategies, depleted Investor DE's investment account to approximately \$2,000.

1 22. In or around July 2014, Thomson contacted Investor DE to discuss the losses in her account.
2 In this conversation, Thomson told Investor DE that her entire investment was gone, and that he needed an
3 additional \$20,000 from her to get it back.

4 23. In July 2014, Investor DE borrowed \$20,000 from her brother and deposited it in her TD
5 Ameritrade account in order for Thomson Financial Advisors, Thomson, and Shaw to recover her significant
6 investment losses. Thomson failed to disclose to Investor DE that Thomson Financial Advisors would
7 continue to manage her account using the same unsuitable and high-risk investment strategy as before.

8 24. Thomson Financial Advisors, Thomson, and Shaw continued to make unsuitable high-risk
9 trades in Investor DE's account. At first, the unsuitable speculative market timing strategy was generating
10 gains for Investor DE. From July 2014 to July 2015, Investor DE's account gained \$60,000 in its value, or
11 about 75% of Investor DE's principal investment. Unfortunately, as is common in a market timing strategy,
12 eventually Thomson Financial Advisors, Thomson, and Shaw's market predictions proved to be incorrect and
13 caused major losses once again in Investor DE's account. For example, Thomson Financial Advisors,
14 Thomson, and Shaw executed trades in August 2015 that resulted in a loss of over \$30,000, or nearly half of
15 the value of Investor DE's account at the time.

16 25. In June 2017, Investor DE closed her investment account and terminated her relationship with
17 Thomson Financial Advisors. In the end, Thomson Financial Advisors, Thomson, and Shaw's aggressive and
18 speculative trading strategy resulted in Investor DE losing over \$60,000, or roughly 50% of her investment
19 account.

20 Based upon the above Tentative Findings of Fact, the following Conclusions of Law are made:
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1 **CONCLUSIONS OF LAW**

2 1. Respondents Thomson Financial Advisors LLC, Lindsay Thomson, and Brendan Shaw acted
3 as an investment adviser and/or and investment adviser representative, as defined in RCW 21.20.005(8) and
4 (9), by selecting securities to purchase and sell for customer accounts in return for compensation.

5 2. Respondents Thomson Financial Advisors LLC, Lindsay Thomson, and Brendan Shaw
6 purchased and sold securities for customer accounts that were unsuitable for the customer given the
7 customer’s financial situation and needs, in violation of RCW 21.20.702(1) and RCW 21.20.020(1)(c). Such
8 conduct is also a dishonest or unethical practice as defined by WAC 460-24A-220(1), and is grounds for the
9 denial of any future securities registration applications pursuant to RCW 21.20.110(1)(g).

10 4. Respondents Thomson Financial Advisors LLC and Lindsay Thomson engaged in a dishonest
11 or unethical practice by failing to disclose to a client that their trading strategy consisted of a speculative and
12 high-risk market timing strategy, in violation of RCW 21.20.020 as defined by WAC 460-24A-220, and is
13 grounds for the denial of any future securities registration applications pursuant to RCW 21.20.110(1)(g).

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

15 Based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities
16 Administrator intends to order, pursuant to RCW 21.20.390(1), that Respondents Thomson Financial
17 Advisors LLC, Lindsay Thomson, and Brendan Shaw each shall cease and desist from violations of RCW
18 21.20.702 and RCW 21.20.020.

19 **NOTICE OF INTENT TO DENY FUTURE REGISTRATIONS**

20 Pursuant to RCW 21.20.110(1), and based upon the above Tentative Findings of Fact and
21 Conclusions of Law, the Securities Administrator intends to order that any future securities registration
22 applications of Respondents Thomson Financial Advisors LLC, Lindsay Thomson, and Brendan Shaw as an
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1 investment adviser, broker-dealer, investment adviser representative, or securities salesperson shall be
2 denied.

3 **NOTICE OF INTENT TO IMPOSE FINES**

4 Pursuant to RCW 21.20.395, and based upon the Tentative Findings of Fact and Conclusions of Law,
5 the Securities Administrator intends to order that:

- 6 a. Thomson Financial Advisors LLC shall be liable for and shall pay a fine of \$20,000;
- 7 b. Lindsay Thomson shall be liable for and shall pay a fine of \$20,000; and
- 8 c. Brendan Shaw shall be liable for and shall pay a fine of \$20,000.

9 **NOTICE OF INTENT TO CHARGE COSTS**

10 Pursuant to RCW 21.20.390, and based upon the Tentative Findings of Fact and Conclusions of Law,
11 the Securities Administrator intends to order that:

- 12 a. Thomson Financial Advisors LLC shall pay the costs, fees, and other expenses incurred in the
13 administrative investigation and hearing of this matter, in an amount not less than \$2,000;
- 14 b. Lindsay Thomson shall pay the costs, fees, and other expenses incurred in the administrative
15 investigation and hearing of this matter, in an amount not less than \$1,500; and
- 16 c. Brendan Shaw shall pay the costs, fees, and other expenses incurred in the administrative
17 investigation and hearing of this matter, in an amount not less than \$1,500.

18 **AUTHORITY AND PROCEDURE**

19 This Statement of Charges is entered pursuant to the provisions of Chapter 21.20 RCW and is subject
20 to the provisions of Chapter 34.05 RCW. Respondents Thomson Financial Advisors LLC, Lindsay Thomson,
21 and Brendan Shaw, may each make a written request for a hearing as set forth in the NOTICE OF
22 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Order. If a
23 respondent does not make a hearing request in the time allowed, the Securities Administrator intends to adopt

1 the above Tentative Findings of Fact and Conclusions of Law as final and to enter a permanent order to cease
2 and desist as to that respondent, to deny future registrations as to that respondent, to impose any fines sought
3 against that respondent, and to charge any costs sought against that respondent.

4 Signed and Entered this 12th day of March 2019.

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William M. Beatty
Securities Administrator

10 Approved by:

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13 _____
Suzanne Sarason
Chief of Enforcement

10 Presented by:

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Brian J. Guerard
Financial Legal Examiner

15 Reviewed by:

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18 _____
Jack McClellan
Financial Legal Examiner Supervisor