



Washington State Department of Financial Institutions

## Division of Securities

### WINTER 2020 UPDATE

#### DFI TO SEEK REPEAL OF DEBENTURE COMPANY LAWS TO FACILITATE CAPITAL FORMATION

DFI plans to seek legislation that would repeal the debenture company laws from the Securities Act of Washington, RCW 21.20, in order to facilitate capital formation.

The Securities Act of Washington was enacted in 1959 and is largely based on the original Uniform Securities Act promulgated by the National Conference of Commissioners on Uniform State Laws (“NCCUSL”) in 1956. In the 1970s and 1980s, however, the Legislature amended the Securities Act of Washington to add a number of provisions applicable to “debenture companies” in response to issues that arose with Washington-based companies that sold debt securities to investors to fund various investment-related activities. The debenture company provisions contained in the Act impose a restrictive safety and soundness regulatory regime on these companies and are unique to Washington.

#### Division Stats At A Glance As Of December 31, 2019

##### Number of Licensees

Securities Broker Dealers	1,731
Investment Advisers	712
Investment Adviser Representatives	13,254
Securities Salespersons	180,392
Registered Securities Offerings	40
Registered Franchise Offerings	1,278
Registered Business Opportunities	2

##### Complaints Received

271

##### Enforcement Actions Issued

91

##### Active Cases

168

## **TROY VAN SICKLE SENTENCED TO 30 MONTHS IN PRISON FOR DEFRAUDING WASHINGTON INVESTORS**

On September 30, 2019, Troy Van Sickle was sentenced in U.S. District Court in Seattle to 30 months in prison for defrauding investors. Beginning in 2011, Van Sickle fraudulently operated an asset recovery business that targeted Washington State investors who had previously lost a significant amount of money with a Bellevue investment company. Van Sickle lured his victims by pretending to be an experienced professional in asset recovery. In reality, Van Sickle had no experience with asset recovery.

In addition to the prison time, Van Sickle was ordered to repay the investors a total of \$250,000, which included the \$75,000 they had loaned him and an additional \$175,000 in other funds that he received from them. **Brian Guerard** and **Michelle Mack** of the Securities Division worked with the FBI and the U.S. Attorney's Office to investigate and prosecute this case.

## **In A Win for Investors: Washington State Supreme Court Holds That Reliance Is Not a Required Element in Securities Anti-Fraud Lawsuits**

In a 6-3 decision, the Washington State Supreme Court in *Fed. Home Loan Bank of Seattle v. Credit Suisse Sec. (USA) LLC*, ruled that a plaintiff does not need to prove they relied on misleading statements or omissions to establish a claim under RCW 21.20.010(2).

The certified question before the Washington State Supreme Court was “whether the Securities Act of Washington requires a plaintiff suing for a violation of RCW 21.20.010(2) to prove reliance.”

DFI filed an amicus brief arguing that Washington law does not require a plaintiff to prove reliance. Of the many arguments asserted in the amicus brief, DFI argued that not only does a plain language reading of the Securities Act indicate reliance is not a required element, but that the Act was modeled after the Uniform Securities Act of 1956, not federal Rule 10b-5, and the commentary to the '56 Act explicitly states that it was “not intended as a requirement that the buyer prove reliance on [an] untrue statement or the omission.”