

Peter J. Eichler, Jr.  
*In pro per*

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDING  
File No. 3-17003

In the Matter of

PETER J. EICHLER, JR.

DECLARATION OF PETER  
J. EICHLER, JR. IN  
RESPONSE TO JANUARY  
12, 2016 ORDER TO SHOW  
CAUSE

I, PETER J. EICHLER, JR., declare and state:

1. The following facts are based upon my personal knowledge, and/or based upon facts which I reasonably believe to be true and correct, as explained below.
2. On January 12, 2016, this Court issued an Order to Show Cause which appears to be based in part on a determination that I had failed to provide a response to the Order Instituting Proceedings filed by the SEC on December 14, 2015. As I understand it, the Order to Show Cause requires me to demonstrate why I ought not be banned from the securities industry.
3. The purpose of this declaration is to provide the Court with the facts which are responsive to the Order to Show Cause.
4. In connection with this (and other) matters pending between me and the SEC, I have been dealing with SEC attorney Gary Leung of the SEC's Los Angeles offices.
5. On December 31, 2015, I prepared and sent Mr. Leung an email which I intended to be, and believed was, my response to the Order Initiating Proceedings. I have attached a true and correct copy of my December 31, 2015 email to this declaration. I have also reiterated and restated below the key points of my communication with Mr. Leung.
6. From my perspective, this proceeding is improper, and ought not proceed for a number of reasons.

7. First, the SEC's delay in filing the Order Initiating Proceedings has resulted in fundamentally unfair and substantial prejudice to my ability to present a meaningful defense to the SEC's allegations. My understanding of the allegations is that most of them stem from transactions which occurred six to seven years ago. With this protracted passage of time, my ability to locate witnesses and documents to establish my defenses to the SEC's allegations has likely been gravely undermined, if not destroyed.
8. Second, on November 11, 2012, my prior company, Aletheia Research and Management, Inc. filed bankruptcy. In connection with the bankruptcy, the U.S. Bankruptcy Trustee seized all of Aletheia's books and records. For this reason, I do not have possession of or access to the company's records.
9. Third, if I did have access to Aletheia's records, those records would show that transactions in which I was involved, were reviewed by Aletheia's traders, compliance officers and legal officers, and a trading sheet approving the trades was created and signed by a compliance officer signaling their approval. (An example of this sheet can be found in my Appellant brief). Significantly, in the several years since the SEC has been investigating and prosecuting multiple Aletheia related proceedings, it has never asserted any allegations of failure to supervise or otherwise initiated proceedings against any of the numerous-and highly credentialed-compliance officers, traders, lawyers and consultants employed by Aletheia.
10. Fourth, in October of 2013, I entered into what I understood to be a settlement agreement with the SEC. Since that date, I have not been engaged in the securities industry. I refrained from doing so because I understood that this was a requirement of my agreement with the SEC.
11. Fifth, with my business shuttered and my income from Aletheia ceasing entirely in October of 2012, [REDACTED] I no longer have the financial resources to pay for a lawyer to represent me in any of the SEC proceedings, nor do I have the ability to pay to travel to Washington, D.C. in connection with this proceeding, or to locate and interview witnesses, or to attempt to locate and copy documents.
12. Sixth, the original complaint double counted the "perfect information" trades and also used a category of "unrealized estimates" that were highly inaccurate and have been proven to be so. Also, the local SEC office commingled legitimate hedging trades with other trading. These actions served to significantly inflate the damage claim and make me look worse.
13. Seventh, the SEC purposely left out many other option trades that I did that were almost identical to trades done on behalf of the hedge fund. In many cases these trades lost money. Had these trades been included, it would have changed the nature and context of my actions, and it would most definitely changed the SEC's calculation of my "return" based on various option trades. (an example of these can be found in my "Appellant's Brief").
14. Eighth, most of the individuals that received the "perfect information trades" were also partners of the hedge fund in question (including myself). The SEC portrayed the hedge fund and its partners as victims. The correct understanding

of the trading would have shown a different context and a much more nuanced situation. There were not two, separate groups of investors, but rather the same people that had multiple accounts and certain partnership interests at Aletheia. A different context would also be revealed by the understanding that almost every client of Aletheia asked me repeatedly to increase the number of puts and or short or other hedge trades to protect them after the Market Crash in 2008.

14. Ninth, the entire period of analysis, from 2009-2011 unfairly presents the performance of a product that was designed to be a hedge to protect other assets during a market decline. The hedge fund in question was designed to go up when the market declined significantly, which it did in 2008. It was not sold stand alone but was "married" to other long accounts as a kind of insurance. A true hedge would be expected to decline in a strong up market. The intentional selection of years when the market was rebounding spectacularly combined with the false implication that it was sold separately, helped the SEC create a false narrative about "returns" of hedge fund clients that did not include their much larger(80%-90%) long asset returns. This is extremely prejudicial to me, and does not reflect the complete set of circumstances and also creates sets of theoretical "client or hedge fund returns" that never happened. The understandably weaker hedge fund returns(given the years selected), combined with only a partial view of clients' complete accounts and an incomplete selection of my total trading is unfair and not accurate.
15. Tenth, the local SEC personnel and lawyers have also unfairly used a prior consent that Aletheia and I entered into(along with a former Compliance officer, Roger Peikin who was terminated by Aletheia) to present me as recidivist, when even a cursory review of that prior consent shows that the issues settled at that time were areas that were clearly not my day to day responsibility. Indeed, the SEC left my name off of the most serious charges(they were done by Roger Peikin) I did accept my responsibility as CEO but I again want the true context and nature of my record to be judged. Up until I had several business partners trying to destroy me and my business, I had an unblemished record in the Securities industry for approximately 35 years. This fact was purposely ignored by the SEC staff in Los Angeles.
16. Eleventh, the SEC is seeking multi-million dollar, crippling monetary damages against me. As I have previously stated, I am destitute, and have no financial or other assets whatsoever. It is unfair act against me in this manner when I am not able to adequately defend myself and at the same time, prevent me from working so that I might survive, take care of my children, and potentially begin to pay money to the SEC.
17. I have already been abiding by the Consent I signed with the SEC in 2013. I have therefore already been out of the securities industry for nearly 2 ½ years. When the local SEC staff decided to abrogate the Consent and terms that they themselves hand-crafted, they said at the time, that they could not proceed with the Consent due to problems relating to my bankruptcy. These were financial issues, not issues with the appropriateness of the five-year bar. It should also be repeated, that at their maximum, the assets in the hedge fund in question averaged less than 1% of the assets under management at Aletheia. The

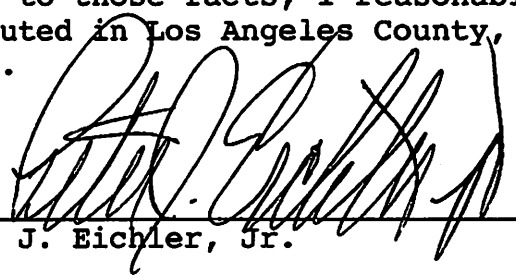
vast majority of assets that I managed at Aletheia were LONG separately managed accounts. There has been no allegation that I did anything wrong with these separate accounts that constituted the overwhelming majority(99%) of the assets we managed. I note that the SEC just recommended a two-year supervisory bar(related to hedge funds only) for an individual whose firm plead guilty and paid a \$1.8 Billion fine. I have already served more time than that. Lastly, two of the three years in question, and thus a majority of the trades in question, occurred before the passage of Sarbanes-Oxley. I believe this may matter, if the SEC is seeking a bar that goes beyond supervision of hedge funds. I do not think a bar against areas where I did nothing wrong is fair or appropriate.

18. At all times, Aletheia employed multiple compliance, legal and other officers. During the years in question, Aletheia hired additional compliance staff that included Jorge DeNeve who had worked at the SEC in its enforcement division for five years and Steve Olson who along with Jorge had worked at O'melveny & Myers running that firm's SEC practice. Steve Olson's father has for many years been Warren Buffet's top legal advisor and a law partner of Charlie Munger. In addition to these fine professionals we had several other Compliance officers and FTI Consulting helping us as well. These Professionals reviewed all of my trading and literally signed off on it. The SEC allegation of a large "scheme" would necessarily have involved them. Yet there has never been any allegation of the kind. I followed compliance rules set forth by these people. In all the years in question, the only formal communication shown or sent to me that even mentions any specific trade actually was a letter to the file that APPROVED of the trade in question. There are thousands of trade sheets approving of my trades. It was reasonable for me to rely on my compliance and legal team. In my Appellant's brief I have included multiple communications from our Compliance and legal team attesting to the fitness of Aletheia operations including compliance and trading.

I have included with this declaration a copy of my "APPELLANT'S BRIEF" that should be helpful, and provide more insight into the context and truer version of what actually happened. I also want the opportunity to present evidence of the conspiracy meant to destroy me and my family in retaliation for the termination of several employees. One of these former employees Joe Boskovich, has testified under penalty of perjury that several weeks after his termination in 2009, he traveled to the East Coast and spent five hours on a bus ride with Congressman Christopher Cox who was then Chairman of the Securities and Exchange Commission, and had been a friend of Mr. Boskovich since their college days. In addition, Mr. Boskovich's son Joe Jr., who also worked at Aletheia, has testified under penalty of perjury that later that year, at 8:00 pm On Labor Day (when our offices were closed) he had come into Aletheia after hours and downloaded everything from Aletheia's computers and walked out the door and ultimately uploaded all of Aletheia's information into the computer systems of a competitive money-management firm(Old West) they had started. I believe that these illicit actions, and other people they conspired with to hurt me and destroy Aletheia, shed

important light on what happened, and may also partially explain advice I was or was not given by the Staff at Aletheia, and the overly harmful actions taken toward me.

I declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct, except as to such facts alleged on information and belief, and as to those facts, I reasonably believe them to be true. Executed in Los Angeles County, California on January 20, 2016.

  
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Peter J. Eichler, Jr.

**From:** Peter J Eichler, Jr [REDACTED]  
**Subject:**  
**Date:** December 31, 2015 at 10:52 AM  
**To:** Leung, Gary LeungG@SEC.GOV



Dear Mr. Leung

Thank you for your most recent email.

I must say that I am troubled and confused. As you know, Aletheia filed for bankruptcy protection in 2012. As you also know, [REDACTED]. I am not working in the securities industry, and have not since Aletheia ceased operating in 2012.

I do not have the financial ability to travel to Washington D. C. for a hearing on January 11, 2016, or, for that matter, at any time in the foreseeable future. [REDACTED]. Obviously I have no money for a lawyer to represent me, as your first email acknowledged.

Without any financial resources whatsoever, how am I supposed to be able to immediately locate, arrange for, and finance witnesses and documents responsive to the "allegations" described in the email you sent me? Also, I do not have any access to Aletheia's records, because all such records were seized by Aletheia's bankruptcy trustee. Furthermore, many if not most of these alleged violations happened 6 or 7 years ago. The long time since then and delays that in many cases are due to the SEC and your unusually long investigation and various "agreements" has unfairly deprived me of the things I would need to respond to this action. And, as you are aware, I am presently embroiled in an appeal of the SEC's recently procured judgement against me, as well as other legal matters. Finally, I think that the original Consent I signed in my agreement with the SEC, which was settled on a "no admit no deny" basis, does limit what I can say or may need to say to defend myself.

I have done my best to cooperate under extremely difficult circumstances with you and the SEC. But without the benefit of counsel, and for the other reasons stated above, all of which you and the SEC are obviously aware, I feel it is improper for the SEC to be proceeding against me in this manner at this time.

I fundamentally and strenuously object.

Very Truly Yours,

Peter J. Eichler Jr.

ATTORNEY OR PARTY WITHOUT ATTORNEY OR GOVERNMENTAL AGENCY (under Family Code, §§ 17400,17406 <i>(Name, State Bar number, and address):</i>  <b>Peter J. Eichler Jr.</b>  TELEPHONE NO.: [REDACTED] FAX NO.: ATTORNEY FOR <i>(Name):</i>	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:  OTHER PARENT/PARTY: <b>Securities and Exchange Commission</b>	CASE NUMBER: <div style="text-align: center; font-size: 1.2em;"><b>3-17003</b></div> (If applicable, provide): HEARING DATE: HEARING TIME: DEPT.:
<b>PROOF OF PERSONAL SERVICE</b>	

1. I am at least 18 years old, not a party to this action, and not a protected person listed in any of the orders.
2. Person served (name): **Gary Leung**
3. I served copies of the following documents (specify):  
**Declaration of Peter J. Eichler**

4. By personally delivering copies to the person served, as follows:

- |  |          |
|--|----------|
| a. Date:   | b. Time: |
| c. Address:<br><b>Gary Y. Leung</b><br><b>Securities and Exchange Commission</b><br><b>444 S. Flower Street, Suite 900</b><br><b>Los Angeles, Ca 90071</b> |          |

5. I am

- |  |   |
|--|---|
| a. <input checked="" type="checkbox"/> not a registered California process server.                           | d. <input type="checkbox"/> exempt from registration under Business & Profession Code section 22350(b). |
| b. <input type="checkbox"/> a registered California process server.  | e. <input type="checkbox"/> a California sheriff or marshal.  |
| c. <input type="checkbox"/> an employee or independent contractor of a registered California process server. |   |

6. My name, address, and telephone number, and, if applicable, county of registration and number (specify):  
**Clinton Eichler**

7.  I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
8.  I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date:

CLINTON EICHLER  
 (TYPE OR PRINT NAME OF PERSON WHO SERVED THE PAPERS)

▶ \_\_\_\_\_  
 (SIGNATURE OF PERSON WHO SERVED THE PAPERS)