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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:

Dave Augustus Green,

Respondent.

S-03-006-03-CO01

CONSENT ORDER

Case No. S-03-006

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INTRODUCTION

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On March 19, 2003, the Securities Administrator of the State of Washington issued SUMMARY ORDER SUSPENDING SECURITIES SALESPERSON REGISTRATION AND NOTICE OF INTENT TO REVOKE SECURITIES SALESPERSON REGISTRATION, IMPOSE FINES, AND ORDER AFFIRMATIVE RELIEF S-03-006-003-TO01 (hereinafter referred to as the "Summary Order"), against the Respondent Dave Augustus Green ("Green"). Certain information came to the attention of the Securities Administrator that required the amendment of the Summary Order. On September 23, 2003 the Securities Administrator issued AMENDED SUMMARY ORDER SUSPENDING SECURITIES SALESPERSON REGISTRATION AND NOTICE OF INTENT TO REVOKE SECURITIES SALESPERSON REGISTRATION, IMPOSE FINES, AND ORDER AFFIRMATIVE RELIEF S-03-006-03-TO02 (hereinafter referred to as the "Amended Summary Order"), against Respondent Green. The Securities Division and the Respondent Green do hereby agree to this Consent Order in settlement of the above captioned matter. Respondent Green neither admits nor denies the Tentative Findings of Fact and Conclusions of Law as set forth below.

1 **TENTATIVE FINDINGS OF FACT**

2 **I. Respondent**

3 1. Dave Augustus Green (“Green”) was a registered securities salesperson in the state of
4 Washington with CGF Securities LLC (“CGF”) in Boca Raton, FL from January 24, 2002 to January 14,
5 2003. From July 1996 through October 2001, Green was a registered securities salesperson with First
6 Security Investments, Inc., a registered broker-dealer. From October 2001 through January 2002, Green was
7 a registered securities salesperson with Preferred Securities Group (“Preferred”). Preferred submitted a full
8 withdrawal on January 23, 2002. From January 22, 2002 through January 24, 2002, Green was employed
9 by Vertical Capital Partners, a registered broker-dealer. Green is currently associated with Gunnallen
10 Financial, Inc. (“Gunnallen”), a registered broker-dealer, as a “financial consultant.” Central Registration
11 Depository (“CRD”) records indicate that on January 13, 2003, CGF initiated an internal review of
12 complaints by two of Green’s customers alleging that Green executed unauthorized transactions in their
13 accounts and on January 14, 2003, CGF discharged Green from employment for a breach of his
14 employment agreement and violations of National Association of Securities Dealers (“NASD”) and firm
15 policies. CRD records further indicate that Green is the subject of two current investigations alleging
16 unauthorized trading. CRD records further indicate that during Green’s employment with First Security
17 Investments he was the subject of at least two customer complaints, one of which, alleging
18 mismanagement of the customer’s account, resulted in a settlement in August 2001 for \$65,000. Green’s
19 securities salesperson registration in the state of Washington has been pending transfer to Gunnallen since
20 January 23, 2003.

21 **II. Nature of the Conduct**

22 *Fred and Donna Mason*

1 2. Fred and Donna Mason live in Deer Park, Washington. Fred Mason ("Mason") is employed
2 in the industrial electronics field. He spends two or three weeks each month at a remote job-site in
3 Alaska.

4 3. On or about July 16, 2002, Mason received a telephone solicitation from Green. Green
5 recommended the purchase of stock in a health-care services company, US Oncology.

6 4. Mason agreed to open an account with Green at CGF and to purchase 500 shares of US
7 Oncology at \$6.81 per share. Green submitted a buy order on July 16, 2002 at 3:44 PM. Mason paid a
8 \$75.00 commission and a \$14.75 fee to CGF.

9 5. As of September 30, 2002, the value of Mason's account had increased to \$4,055 due to an
10 increase in the price of US Oncology stock to \$8.11 per share.

11 6. Green and Mason had no further contact until November 12, 2002. On that date, Green
12 telephoned Mason to seek his approval for the sale of the US Oncology stock, which was trading at
13 approximately \$8.10 per share. Mason approved the sale.

14 7. Green also recommended additional stock trades during the November 12, 2002 telephone
15 call. Mason told Green that he did not want to engage in additional trading at that point in time. Mason
16 informed Green that he was leaving for approximately three weeks and that he did not have the money for
17 additional trades. Mason then suggested trading on margin. Mason declined to trade on margin, saying
18 that he was not experienced in margin trading. Mason left for his job in Alaska on November 13, 2002.
19 He did not return to Washington until November 28, 2002.

20 8. Immediately following the November 12, 2002 telephone call with Mason, Green placed an
21 order to sell 500 shares of US Oncology at \$8.161 per share. Mason paid CGF a \$100 commission and
22 \$14.88 in fees. The Masons received a credit of \$3,965.62 to their brokerage account.

1 9. From this point on, Green began aggressively trading in Mason's account on an unauthorized
2 basis. On November 12, 2002, despite Mason's instructions to the contrary, Green purchased 1,000
3 shares of Seibel Systems, Inc. at \$7.65 per share for Mason's account. Green placed a \$0.25 mark-up on
4 the order, which generated a \$250 commission for Green. Green then began to further increase the
5 trading velocity in Mason's account. On November 21, 2002 alone, Green executed a total of eight
6 transactions. From November 12, 2002 to November 22, 2002, Green engaged in seventeen trades in
7 Mason's account, sixteen of which were unauthorized, involving a total of 19,800 shares of stock.

8 10. Green's unauthorized trading was both aggressive and high risk. Among Green's
9 unauthorized transactions were two short sales. A short sale is the sale of securities a seller does not own.
10 Since Mason was obligated to at some future point in time to deliver the stock, the short sale exposed
11 Mason to unlimited liability for any potential appreciation in share price.

12 11. Green profited from this unauthorized trading activity, while the value of Mason's account
13 declined. Green received \$2,450 in gross commissions from the unauthorized trades.

14 ***Gerald Royal***

15 12. Gerald Royal ("Royal") lives in Marysville, Washington. Royal owns and operates a
16 seasonal tree farm and is a part-time commercial fisherman in Alaska.

17 13. On or about July 24, 2002, Royal received a telephone solicitation from Green. Green
18 recommended the purchase of stock in a health-care services company, US Oncology.

19 14. Royal agreed to open an account with Green at CGF and to purchase 500 shares of US
20 Oncology at \$6.55 per share. Green submitted a buy order on July 24, 2002 at 1:29 PM. Royal paid a
21 \$75.00 commission and a \$14.75 fee to CGF.

1 15. On August 9, 2002 Green telephoned Royal to seek his approval for the sale of the US
2 Oncology stock, which was trading at approximately \$8.01 per share. Royal approved the sale.

3 16. That same day, Green recommended that Royal sell short 500 shares of Cognizant
4 Technology Solutions Corporation (“CTSH”) at \$51.60 per share. Royal had never sold a stock short
5 before, but agreed to do so based on Green’s recommendation. Green told Royal that selling a stock short
6 was “how to make money in a down market.” However, contrary to Green’s prediction, the price of
7 shares of CTSH rose. On August 27, 2002, Royal was forced to cover his short sale with the purchase of
8 CTSH at \$61.05 per share, for a loss to Royal of \$4,854.50.

9 17. Throughout the months of August and September, Green and his colleague Louis Nolfo
10 (“Nolfo”) telephoned Royal to recommend the purchase and sale of additional securities. Based on
11 Green’s recommendation, Royal deposited an additional \$9,500 with CGF on August 14, 2002.

12 18. Starting in mid-October 2002, the velocity of Green’s trading in Royal’s account increased.
13 Green began to execute trades without contacting Royal for his authorization. Based on telephone
14 records provided by CGF, Green’s last contact with Royal was on October 18, 2002. From October 29,
15 2002 through November 1, 2002, four trading days, Green executed 13 trades without contacting Royal.
16 Green’s trading was both aggressive and high-risk. Four trades were intra-day trades and three trades
17 were short sales.

18 19. Green profited from this unauthorized trading activity, while the value of Royal’s account
19 declined. Royal’s account suffered a net loss of \$5,658.76 from the trades occurring between October 29,
20 2002 and November 1, 2002. Green received \$2,163.51 in gross commissions from these unauthorized
21 trades.

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

1 **CONCLUSIONS OF LAW**

2 1. Dave Augustus Green has committed a dishonest and unethical practice under RCW
3 21.20.110(1)(g), as described above, by executing a transaction on behalf of a customer without
4 authorization to do so. WAC 460-22B-090(8), defines the execution of a transaction on behalf of a
5 customer without authorization to do so as a “dishonest and unethical practice” as that term is used in
6 RCW 21.20.110(1)(g). Green’s dishonest and unethical conduct is a ground for the suspension or
7 revocation of Green’s securities salesperson’s license under RCW 21.20.110(1)(g).

8 2. Dave Augustus Green has committed a dishonest and unethical practice under RCW
9 21.20.110(1)(g), as described above, by trading with excessive frequency in the accounts of Fred Mason
10 and Gerald Royal. WAC 460-22B-090(6) defines the inducement of trading in a customer’s account
11 which is excessive in size or frequency in view of the financial resources and character of the account as
12 a “dishonest and unethical practice” as that term is used in RCW 21.20.110(1)(g). Green’s dishonest and
13 unethical conduct is a ground for the suspension or revocation of Green’s securities salesperson’s license
14 under RCW 21.20.110(1)(g).

15 **CONSENT ORDER**

16 Based upon the foregoing,

17 IT IS AGREED AND ORDERED that Green shall cease and desist from engaging in acts and
18 practices in violation of the Securities Act of Washington, RCW 21.20.

19 IT IS FURTHER AGREED that, as of the date of entry of this Consent Order, Green will
20 voluntarily surrender his securities salesperson registration to the Securities Division.

21 IT IS FURTHER AGREED AND ORDERED that Green shall not make application for nor be
22 granted a broker-dealer, investment adviser, securities salesperson, or investment adviser representative

1 license for a period of three years from the date of entry of this Consent Order by the Securities
2 Administrator.

3 IT IS FURTHER AGREED that Green shall pay the Securities Division Two Thousand One
4 Hundred Sixty Four Dollars (\$2,164) for disgorgement of commissions received from investor Gerald
5 Royal. Said payment is to be made to the Securities Division prior to the entry of this Consent Order.
6 The funds will be paid into a special account established by the Securities Division for reimbursement to
7 Gerald Royal. Upon receipt of the funds, the Securities will promptly issue a warrant from that special
8 account to the investor.

9 IT IS FURTHER AGREED AND ORDERED that Green shall pay a fine in the amount of
10 \$3,000. Said payment is to be made to the Securities Division prior to the entry of this Consent Order.

11 IT IS FURTHER AGREED that Green shall reimburse the Securities Division Eight Hundred
12 Thirty Six Dollars (\$836) for its costs incurred in its investigation of this matter. Said payment is to be
13 made to the Division prior to the entry of this Consent Order.

14 IT IS FURTHER AGREED that the Securities Division has jurisdiction to enter this Consent
15 Order.

16 IT IS FURTHER AGREED AND ORDERED that in consideration of the foregoing, Green
17 withdraws his request for a hearing, waives his right to a hearing on this matter, waives his right to
18 judicial review of the Order pursuant to RCW 21.20.440, and the Securities Division hereby vacates the
19 Summary Order S-03-006-003-TO01 and Amended Summary Order S-03-006-03-TO02 as to Green.

1 DATED this 1st day of October, 2003.

2 Approved for entry by:

3 /s/ Ronald D. Shindler

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5 Ronald D. Shindler, Esq.
6 Fowler White Burnett P.A.
7 Attorney for Dave A. Green

8 Signed by:

9 /s/ Dave Augustus Green

10 _____
11 Dave Augustus Green

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13 **THIS ORDER ENTERED THIS 29th DAY OF October , 2003 BY:**

14 *Deborah R. Bortner*

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16 DEBORAH R. BORTNER
17 Securities Administrator

18 Approved for entry by:

19 *Michael E. Stevenson*

20 _____
21 Michael E. Stevenson
22 Chief of Enforcement

23 Presented by:

24 *Andrea Y. Sato*

25 _____
26 Andrea Y. Sato
27 Enforcement Attorney