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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-TO02

**AMENDED SUMMARY ORDER
SUSPENDING SECURITIES
SALESPERSON REGISTRATION AND
NOTICE OF INTENT TO REVOKE
SECURITIES SALESPERSON
REGISTRATION, IMPOSE FINES, AND
ORDER AFFIRMATIVE RELIEF**

Case No. S-03-006

THE STATE OF WASHINGTON TO:

Dave Augustus Green, CRD #2787039

INTRODUCTION

On March 19, 2003, the Securities Administrator of the State of Washington issued a 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. After the entry of that order, new information that requires the amendment of the prior order has come to the attention of the Securities Administrator. The Securities Administrator now proceeds to amend the prior order to incorporate the new information.

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the State of Washington has reason to believe that Respondent, Dave Augustus Green (“Green”), has engaged in dishonest and unethical practices in the securities business while employed as a registered securities salesperson and that those practices and

1 violations justify a summary suspension of Respondent's securities salesperson registration pursuant to RCW
2 21.20.110. The Securities Administrator finds as follows:

3 **TENTATIVE FINDINGS OF FACT**

4 **I. Respondent**

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

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3 **II. Nature of the Conduct**

4 ***Fred and Donna Mason***

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

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

9 4. Mason agreed to open an account with Green at CGF and to purchase 500 shares of US
10 Oncology at \$6.81 per share. Green submitted a buy order on July 16, 2002 at 3:44 PM. Mason paid a
11 \$75.00 commission and a \$14.75 fee to CGF.

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

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

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

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

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

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

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

17 ***Gerald Royal***

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

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

1 14. Royal agreed to open an account with Green at CGF and to purchase 500 shares of US
2 Oncology at \$6.55 per share. Green submitted a buy order on July 24, 2002 at 1:29 PM. Royal paid a
3 \$75.00 commission and a \$14.75 fee to CGF.

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

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

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

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

21 19. Green profited from this unauthorized trading activity, while the value of Royal’s account
22 declined. Royal’s account suffered a net loss of \$5,658.76 from the trades occurring between October 29,

1 2002 and November 1, 2002. Green received \$2,163.51 in gross commissions from these unauthorized
2 trades.

3 **EMERGENCY**

4 Based upon the foregoing, the Securities Administrator finds that an emergency exists. The
5 Securities Administrator further finds that a summary suspension of Respondent's securities salesperson
6 registration is in the public interest and necessary for the protection of the investing public. Based upon
7 the above Tentative Findings of Fact, the following Conclusions of Law are made:

8 **CONCLUSIONS OF LAW**

9 1. Dave Augustus Green has committed a dishonest and unethical practice under RCW
10 21.20.110(1)(g), as described above, by executing a transaction on behalf of a customer without
11 authorization to do so. WAC 460-22B-090(8), defines the execution of a transaction on behalf of a
12 customer without authorization to do so as a "dishonest and unethical practice" as that term is used in
13 RCW 21.20.110(1)(g). Green's dishonest and unethical conduct is a ground for the suspension or
14 revocation of Green's securities salesperson's license under RCW 21.20.110(1)(g).

15 2. Dave Augustus Green has committed a dishonest and unethical practice under RCW
16 21.20.110(1)(g), as described above, by trading with excessive frequency in the accounts of Fred Mason
17 and Gerald Royal. WAC 460-22B-090(6) defines the inducement of trading in a customer's account
18 which is excessive in size or frequency in view of the financial resources and character of the account as a
19 "dishonest and unethical practice" as that term is used in RCW 21.20.110(1)(g). Green's dishonest and
20 unethical conduct is a ground for the suspension or revocation of Green's securities salesperson's license
21 under RCW 21.20.110(1)(g).

1 **SUMMARY ORDER**

2 Based upon the foregoing, NOW, THEREFORE, IT IS HEREBY ORDERED that the securities
3 salesperson registration of Respondent be, and hereby is, summarily suspended pending a final determination
4 in this proceeding.

5 **NOTICE OF INTENT TO REVOKE REGISTRATION**

6 Pursuant to RCW 21.20.110(1), and based upon the above Tentative Findings of Fact and
7 Conclusions of Law, the Securities Administrator intends to order that the securities salesperson
8 registration of the Respondent be revoked.

9 **NOTICE OF INTENT TO IMPOSE FINES**

10 Pursuant to RCW 21.20.110(1) and RCW 21.20.395, and based upon the above Tentative Findings
11 of Fact and Conclusions of Law, the Securities Administrator intends to order that Respondent Dave
12 Augustus Green shall be liable for and pay a fine of \$10,000.

13 **NOTICE OF INTENT TO ORDER AFFIRMATIVE RELIEF**

14 Pursuant to RCW 21.20.390, and based upon the above Tentative Findings of Fact and
15 Conclusions of Law, the Securities Administrator finds that affirmative action is warranted to correct the
16 conditions resulting from Respondent’s violations. Therefore, the Securities Administrator intends to
17 order that Respondent Dave Augustus Green shall be liable for and shall provide appropriate affirmative
18 action, including, without limitation, a requirement to pay the costs, fees, and other expenses incurred in
19 the conduct of this investigation.

20 **AUTHORITY AND PROCEDURE**

21 This Order is entered pursuant to the provisions of RCW 21.20.110, RCW 21.20.390, and RCW
22 21.20.395 and is subject to the provisions of Chapter 34.05 RCW. The Respondent may make a written

1 request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND
2 OPPORTUNITY FOR HEARING accompanying this Order. If the Respondent does not request a
3 hearing, the Securities Administrator intends to adopt the foregoing Tentative Findings of Fact and
4 Conclusions of Law as final, and enter a permanent order against the Respondent revoking the
5 Respondent's securities salesperson registration and imposing the fine sought.

6 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

7 DATED this 23 day of September, 2003

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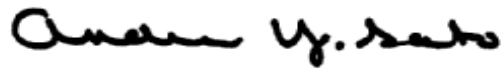
11 DEBORAH R. BORTNER
12 Securities Administrator

13 Approved by:

14 Presented by:

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16 Michael E. Stevenson
17 Chief of Enforcement

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19 Andrea Y. Sato
20 Enforcement Attorney