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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:

MICHAEL R. BROOKS,

Respondent.

Order No. S-03-176-04-TO01

SUMMARY ORDER SUSPENDING  
SECURITIES SALESPERSON  
REGISTRATION AND TO CEASE AND  
DESIST, AND NOTICE OF INTENT TO  
ENTER AN ORDER TO REVOKE  
REGISTRATION, IMPOSE FINES, ORDER  
RESTITUTION, AND CHARGE COSTS

8 THE STATE OF WASHINGTON TO:

MICHAEL R. BROOKS, CRD #2086694

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**STATEMENT OF CHARGES**

11 Please take notice that the Securities Administrator of the State of Washington has reason to  
12 believe that Respondent Michael R. Brooks has violated the Securities Act of Washington. The  
13 Securities Administrator believes that those violations justify the suspension of Michael R. Brooks's  
14 securities salesperson registration pursuant to RCW 21.20.110(1) and the entry of an order against the  
15 Respondent to cease and desist from such violations pursuant to RCW 21.20.390. The Securities  
16 Administrator finds that delay in ordering the Respondent to cease and desist from such violations, and in  
17 ordering the suspension of the Respondent's securities salesperson registration, would be hazardous to  
18 investors and to the public and that a Summary Order Suspending Securities Salesperson Registration  
and to Cease and Desist should be entered immediately.

19 The Securities Administrator finds as follows:

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**TENTATIVE FINDINGS OF FACT**

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**RESPONDENT**

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1. Michael Robert Brooks ("Brooks") is a registered securities salesperson in the State of

SUMMARY ORDER SUSPENDING SECURITIES  
SALESPERSON REGISTRATION AND TO CEASE AND  
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DEPARTMENT OF FINANCIAL INSTITUTIONS  
Securities Division  
PO Box 9033  
Olympia, WA 98507-9033  
360-902-8760

1 Washington with Fox & Company Investments Inc. (“Fox”). Fox’s corporate headquarters are located in  
2 Phoenix, Arizona. Brooks resides on Bainbridge Island, Washington. Brooks has been employed by Fox  
3 since November 1993. He has been registered as a securities salesperson in the State of Washington  
4 since October 1995. From January 1993 through October 1993, Brooks was a registered securities  
5 salesperson with Lehman Brothers Inc. and Smith Barney Shearson Inc. From December 1991 through  
6 January 1993, Brooks was a registered securities salesperson with PaineWebber Incorporated  
7 (“PaineWebber”). From February 1991 through December 1991, Brooks was a registered securities  
8 salesperson with Prudential Securities Incorporated. From July 1990 through December 1990, Brooks was  
9 a registered securities salesperson with Dean Witter Reynolds Inc.

#### 10 NATURE OF RESPONDENT’S CONDUCT

##### 11 *Loan from Joyce and Bruce M.*

12 2. In approximately October 1992, Brooks borrowed \$20,000 Joyce and Bruce M.,<sup>1</sup> customers  
13 of Brooks’s at PaineWebber. In an undated, handwritten promissory note, Brooks memorialized the  
14 following terms: “Bruce & Joyce M. 20,000 thousand (*sic*) loan payment arrangement 500 or 1000 or  
15 more a month till paid in full. Or if bonus is met from work paid in full to the M.’s. Payments made on  
16 the 10<sup>th</sup> of each month.”

17 3. From October 1992 until February 1993, Brooks did not make any payments to Joyce or  
18 Bruce M.

19 4. On or about January 6, 1993, Brooks resigned from his employment with PaineWebber.  
20 On or about January 20, 1993, Joyce M. complained orally to PaineWebber alleging Brooks made three  
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22 <sup>1</sup> The full names of the customers are omitted for privacy protection purposes.

1 unauthorized trades in her account and that he borrowed \$20,000 from her, which he had not repaid. On  
2 or about January 25, 1993, PaineWebber reversed the three allegedly unauthorized trades in Joyce M.'s  
3 account.

4 5. Brooks made one loan payment to Joyce M. in the amount of \$500 on or about February 19,  
5 1993. When Joyce deposited the check, the check was returned due to insufficient funds in Brooks's  
6 account.

7 6. In approximately March 1994, PaineWebber repaid customer Joyce M. \$20,000 in  
8 settlement of her complaint against Brooks regarding the loan.

9 *Investment from Pamela D.*

10 7. In approximately November 2001, Brooks contacted Pamela D., a customer of Brooks's at  
11 Fox. At the time, Pamela resided in Scottsdale, Arizona. Pamela is a personal friend of Brooks's, having  
12 known him for approximately ten years. In the past, Brooks was engaged to Pamela's daughter.

13 8. Brooks was the broker for Pamela's individual retirement account ("IRA") at Fox. As of  
14 October 31, 2001, Pamela's IRA was worth approximately \$10,268. Approximately \$434 of her IRA  
15 was held in a money market fund and approximately \$9,834 was held in a high yield bond fund.

16 9. On or about November 30, 2001, Brooks told Pamela that he had a "hot" new investment  
17 opportunity for her, in a Seattle-area company or some other local venture. Brooks did not provide  
18 Pamela many details on this new opportunity. According to Brooks, the investment was not offered  
19 through Fox. Rather, Brooks represented to Pamela that he would personally deliver her investment to  
20 the promoters. Brooks urged her to invest quickly because the deadline for making an investment was  
21 rapidly approaching. After Pamela expressed concern about incurring a tax penalty for withdrawing  
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1 money from her IRA, Brooks reassured her that the new investment would also be tax deferred. Pamela  
2 relied upon Brooks and agreed to make the recommended investment.

3 10. On or about November 30, 2001, Brooks sent a facsimile of an authorization form for  
4 Pamela to sign. The form authorized an early withdrawal from Pamela's IRA. That same day, Brooks  
5 sold Pamela's shares of the high yield bond fund. The trade confirmation noted that the trade was  
6 unsolicited.

7 11. On or about December 4, 2001, Fox, through its clearing broker, wired \$9,698.29 to  
8 Pamela's personal checking account at Wells Fargo Bank. That same day, Pamela deposited \$8,740  
9 directly into Brooks's Bank of America personal checking account pursuant to his instructions.

10 12. That same day, Brooks withdrew \$8,500 from his personal checking account at Bank of  
11 America in the form of a cashier's check made payable to the Department of the Treasury.

12 13. Pamela made numerous requests of Brooks to provide her with proof of how her \$8,740  
13 was invested. To date, he has provided no documentation on the nature of her purported investment. In  
14 approximately March 2002, Brooks provided Pamela a one-page document for her 2001 tax return that  
15 showed her name, an account number and an account value of \$10,000. The tax document did not reveal  
16 where her purported investment was held.

17 14. Starting in at least January 2004, Pamela was no longer able to contact Brooks because his  
18 telephone had been disconnected. On or about February 3, 2004, Pamela reported the loss of her  
19 investment to the Kirkland, Washington police department.

20 *Loan from Marie O.*

21 15. In approximately 1998, while employed as a securities salesperson with Fox, Brooks  
22 acquired a pool hall, Hughies' Break-Time in Redmond, Washington ("Hughies"). In approximately

1 1999, Brooks acquired a bar, the White Buffalo Grill in Kirkland, Washington (the "WBG"). Brooks  
2 was the sole owner and officer of the WBG.

3 16. In approximately July 2002, a customer at the WBG, Marie O., confided in Brooks that she  
4 was having marital problems and would be receiving a large sum of money from the pending sale of the  
5 family home. Marie was uncertain what she should do with the money and knew that Brooks was a  
6 stockbroker.

7 17. In the summer of 2001, Marie, then age 45, separated from her husband of 24 years. Marie  
8 did not work outside the home during her marriage, staying home to raise two children. In addition, her  
9 husband managed the family finances. Marie has a high-school education.

10 18. Pursuant to the property settlement, Marie received approximately \$100,000, 75% of the  
11 proceeds of the sale of the family home in Woodinville, Washington. The money was intended to allow  
12 her to purchase a new home and return to school.

13 19. Brooks asked Marie if she wanted to invest in WBG. Marie wanted to learn more about the  
14 opportunity and prepared a list of issues about which she wanted more information. Brooks and Marie  
15 met approximately four or five times to discuss the WBG business. Brooks did not disclose the financial  
16 troubles plaguing WBG. As of June 28, 2002, the WBG savings account had an ending balance of  
17 negative \$1.91 and the checking account had an ending balance of negative \$2,372.19. In addition,  
18 Brooks was in arrears for payments owed to the former owner of the WBG, to the Department of  
19 Revenue and for the lease on the WBG space. Instead of disclosing this information, Brooks described to  
20 Marie his plans to start a card room and open a casino.

21 20. On or about July 21, 2002, Brooks, signing as president of WBG, executed a promissory  
22 note in the amount of \$75,000. Brooks drafted the note and asked Marie to sign it. Pursuant to the note,

1 the WBG borrowed \$75,000 from Marie at an interest rate of 9% annually. The term of the note was five  
2 years. Payments were due on the 20<sup>th</sup> of each month, beginning on August 20, 2002. The note provided  
3 for payment in full to Marie in the event of nonpayment of an installment by the borrower, or in the event  
4 of the sale, transfer or assignment of the assets of the WBG.

5 21. Marie was concerned about having her share of the home proceeds in a joint account with  
6 her husband. Brooks convinced her to withdraw the money from her account and give it to him for  
7 safekeeping. On or about July 23, 2002, Brooks deposited in his WBG savings account at Cascade Bank  
8 a cashier's check in the amount of \$100,592.74 that Marie had signed over to him. The balance in the  
9 WBG savings account immediately prior to the deposit of Marie's money was \$600.

10 22. The next day, on July 24, 2002, Brooks returned \$10,000 to Marie in the form of a check  
11 drawn from the WBG checking account at Cascade Bank. Brooks also immediately withdrew \$20,000  
12 for the former owner of the WBG and \$9,000 for the Department of Revenue.

13 23. Brooks did not make the monthly payment of \$1,556.88 to Marie on August 20, 2002.  
14 Brooks did not make any subsequent regularly scheduled payment to Marie.

15 24. In approximately September 2002, Marie moved to Idaho. She informed Brooks that she  
16 needed her money, at a minimum the \$15,000 difference between the \$100,000 Marie gave Brooks, the  
17 \$75,000 note and \$10,000 check he wrote her. Brooks agreed to open a checking account through Fox  
18 for her. On or about September 24, 2002, Brooks wired \$15,000 to Fox to fund an account for Marie.  
19 Due to various account processing errors, Marie had difficulty accessing the funds in her Fox account.

20 25. Marie grew frustrated with Brooks and demanded the return of the remainder of her funds  
21 in the amount of \$75,000. Brooks told her that he was unable to return her money.



1 **EMERGENCY**

2 The Securities Administrator finds that the continued offering or sale of investment contracts or  
3 evidences of indebtedness to brokerage firm customers in the manner described in the above Tentative  
4 Findings of Fact presents a threat to the investing public. The Securities Administrator further finds that  
5 delay in ordering the Respondent to cease and desist from such violations, and in ordering the suspension  
6 of the Respondent’s securities salesperson registration, would be hazardous to investors and to the public.

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

8 **CONCLUSIONS OF LAW**

9 1. The offer or sale of promissory notes and/or investment opportunities as described above  
10 constitutes the offer or sale of a security as described in RCW 21.20.005(10) and (12).

11 2. The offer or sale of said securities in is violation of RCW 21.20.140 because no registration  
12 for such offer or sale is on file with the Securities Administrator.

13 3. Michael R. Brooks, as set forth in the Tentative Findings of Fact above, in connection with  
14 the offer or sale of said securities, made untrue statements of material fact or omitted to state material  
15 facts necessary in order to make the statements made, in light of the circumstances under which they  
16 were made, not misleading, in violation of RCW 21.20.010. Such practice is a ground for suspending or  
17 revoking Michael R. Brooks’s securities salesperson’s registration pursuant to RCW 21.20.110(1).

18 4. Michael R. Brooks has committed a dishonest and unethical practice under RCW  
19 21.20.110(1)(g), as described above, by accepting a loan from at least one customer. WAC 460-22B-  
20 090(1) defines the practice of lending or borrowing money or securities from a customer as a “dishonest  
21 and unethical practice” as that term is used in RCW 21.20.110(1)(g). Brooks’s dishonest and unethical  
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1 conduct is a ground for the suspension or revocation of Brooks’s securities salesperson’s license under  
2 RCW 21.20.110(1)(g).

3 5. Michael R. Brooks has committed a dishonest and unethical practice under RCW  
4 21.20.110(1)(g), as described above, by marking an order ticket unsolicited when in fact the sale was  
5 solicited. WAC 460-22B-090(18) defines the marking any order ticket or confirmation as unsolicited  
6 when in fact the transaction is solicited as a “dishonest and unethical practice” as that term is used in  
7 RCW 21.20.110(1)(g). Brooks’s dishonest and unethical conduct is a ground for the suspension or  
8 revocation of Brooks’s securities salesperson’s license under RCW 21.20.110(1)(g).

9 6. Michael R. Brooks has committed a dishonest and unethical practice under RCW  
10 21.20.110(1)(g), as described above, by engaging in a business activity outside the scope of his  
11 employment with Fox without providing prompt written notice to Fox. WAC 460-22B-090(19) defines  
12 failing to comply with any applicable provision of the Conduct Rules of the National Association of  
13 Securities Dealers as a “dishonest and unethical practice” as that term is used in RCW 21.20.110(1)(g).  
14 Rule 3030 of the Conduct Rules of the National Association of Securities Dealers provides that no person  
15 associated with a member in any registered capacity shall be employed by, or accept compensation from,  
16 any other person as a result of any business activity, other than a passive investment, outside the scope of  
17 his relationship with his employer firm, unless he has provided prompt written notice to the member.  
18 Brooks’s dishonest and unethical conduct is a ground for the suspension or revocation of Brooks’s  
19 securities salesperson’s license under RCW 21.20.110(1)(g).

20 7. Michael R. Brooks, as described above, failed to comply with his duty to update his  
21 licensing application within thirty (30) days of his acquisition of Hughies’ and the WBG, as required by  
22 WAC 460-22B-060(1).

1 **SUMMARY ORDER**

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

5 It is further SUMMARILY ORDERED that Respondent Michael R. Brooks cease and desist from  
6 violation of RCW 21.20.010, the anti-fraud provision of the Securities Act.

7 It is further SUMMARILY ORDERED that Respondent Michael R. Brooks cease and desist from  
8 violation of RCW 21.20.140, the registration provision of the Securities Act.

9 **NOTICE OF INTENT TO REVOKE REGISTRATION**

10 Pursuant to RCW 21.20.110(1), and based upon the above Tentative Findings of Fact and  
11 Conclusions of Law, the Securities Administrator intends to order that the securities salesperson  
12 registration of Respondent Michael R. Brooks be permanently revoked.

13 **NOTICE OF INTENT TO IMPOSE FINES**

14 Pursuant to RCW 21.20.110(1) and (4), and based upon the above Tentative Findings of Fact and  
15 Conclusions of Law, the Securities Administrator intends to order that Respondent Michael R. Brooks  
16 shall be liable for and pay a fine in an amount of not less than fifteen thousand dollars (\$15,000).

17 **NOTICE OF INTENT TO ORDER RESTITUTION**

18 Pursuant to RCW 21.20.110(8), and based upon the above Tentative Findings of Fact and  
19 Conclusions of Law, the Securities Administrator intends to order that Respondent Michael R. Brooks  
20 shall be liable for and pay restitution.

1 **NOTICE OF INTENT TO CHARGE COSTS**

2 Pursuant to RCW 21.20.110(7), and based upon the above Tentative Findings of Fact and  
3 Conclusions of Law, the Securities Administrator intends to order that Respondent Michael R. Brooks  
4 shall be liable for and pay the costs, fees, and other expenses incurred in the conduct of the  
5 administrative investigation and hearing of this matter. As of March 31, 2004, these costs total  
6 approximately seven thousand eight hundred dollars (\$7,800).

7 **AUTHORITY AND PROCEDURE**

8 This Order is entered pursuant to the provisions of RCW 21.20.110, RCW 21.20.390, and RCW  
9 21.20.395, and is subject to the provisions of Chapter 34.05 RCW. The Respondent may make a written  
10 request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND  
11 OPPORTUNITY FOR HEARING accompanying this Order. If the Respondent does not request a  
12 hearing, the Securities Administrator intends to adopt the foregoing Tentative Findings of Fact and  
13 Conclusions of Law as final, and enter a permanent order against the Respondent revoking registration,  
14 imposing fines, ordering restitution and charging costs, as described above.

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

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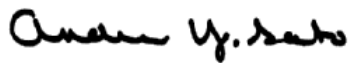
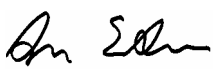
DATED this \_\_\_\_\_ day of May, 2004.



MICHAEL E. STEVENSON  
Securities Administrator

Approved by:

Presented by:



\_\_\_\_\_  
Suzanne Sarason  
Chief of Enforcement

\_\_\_\_\_  
Andrea Y. Sato  
Enforcement Attorney