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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 the State  
of Washington by:

Charles Jean Guzek,

Respondent.

Order Number S-09-446-11-FO01

ENTRY OF FINDINGS OF FACT AND  
CONCLUSIONS OF LAW AND FINAL ORDER  
TO CEASE AND DESIST

THE STATE OF WASHINGTON TO: Charles Jean Guzek

**INTRODUCTION**

On November 9, 2010, the Securities Administrator of the State of Washington issued Statement of Charges and Notice of Intent to Enter Order to Cease and Desist, Impose Fines, and Charge Costs S-09-446-10-SC01, hereinafter referred to as "Statement of Charges," against Respondent Charles Jean Guzek.

The Statement of Charges, together with a Notice of Opportunity to Defend and Opportunity for Hearing, hereinafter referred to as "Notice of Opportunity for Hearing" and an Application for Adjudicative Hearing, hereinafter referred to as "Application for Hearing", were served on Respondent Charles Jean Guzek on or about November 12, 2010. The Notice of Opportunity for Hearing advised Respondent Charles Jean Guzek that a written application for an administrative hearing on the Statement of Charges must be received within twenty days from the date of receipt of the notice. Respondent Charles Jean Guzek failed to request an administrative hearing within twenty days of receipt of the Statement of Charges and Notice of Opportunity for Hearing, either on the Application for Hearing provided or otherwise.

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1 The Securities Administrator therefore will adopt as final the findings of fact and conclusions of  
2 law as set forth in the Statement of Charges and enter a final order against Respondent Charles Jean  
3 Guzek to cease and desist from violations of the Securities Act.

#### 4 **FINDINGS OF FACT**

##### 5 Respondent

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7 1. Charles Jean Guzek (“Guzek”) resides in Seattle, Washington. Guzek does not currently hold, and  
8 has never held, licenses to sell securities, commodities, or futures.

##### 9 Nature of the Conduct

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11 2. Investor A, a resident of Washington State, became acquainted with Respondent Guzek when he  
12 engaged Respondent Guzek’s pressure washing business to pressure wash his roof. Respondent Guzek told  
13 Investor A that he had started trading currencies in the foreign exchange market (“forex”). Respondent  
14 Guzek represented that he was realizing profits of 40% to 60% annually. Respondent Guzek told Investor A  
15 he should consider investing with him. Respondent Guzek suggested that Investor A view his website,  
16 [www.mcperform.com](http://www.mcperform.com), which discussed investing in the forex market.

17  
18 3. Sometime in January 2009, Investor A and his friend met Respondent Guzek to discuss Respondent  
19 Guzek’s investment strategies and results. Respondent Guzek represented that he was an “unlicensed trader”  
20 and his forex trades were limited to the dollar versus the euro. He further represented that he traded every  
21 night, Sunday through Thursday, and his investment strategy involved utilizing \$250,000 worth of software.  
22 Respondent Guzek represented that all investor funds were commingled and only 2% of the money was at  
23 risk. According to Respondent Guzek, investors would lose a maximum of 2% if the trades did not go well.

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1 Respondent Guzek showed Investor A his brother's account, which had grown from approximately \$30,000  
2 to \$60,000 in a few months. Respondent Guzek represented that investors would be given a password to  
3 [www.mcperform.com](http://www.mcperform.com) so they could follow the trading activity and check account balances. Investor A  
4 understood that invested funds could be withdrawn with two weeks' notice.

5 4. Investor A discussed this investment opportunity with his son. Investor A's son decided to invest  
6 \$10,000 with Respondent Guzek. Around February 2009, Investor A and his son met with Respondent  
7 Guzek to provide the investment funds. Respondent Guzek represented that his fee was 25% of the profits.  
8 He further represented that he had over 50 investors and \$3,600,000 under management.

9 5. Respondent Guzek insisted on a cashier's check from Bank of America because he held an account  
10 at Bank of America. Respondent Guzek initially wanted the cashier's check made out to "Mr. Charles  
11 Investments." At the last minute, he requested that it be made out to "Mr. Charles" instead. The cashier's  
12 check was negotiated at a Bank of America, on or about March 2, 2009.

13 6. Respondent Guzek told Investor A's son that within one week, he would receive a packet in the mail  
14 with his investment account information and a password for the [www.mcperform.com](http://www.mcperform.com) website. Investor A's  
15 son never received such a packet.

16 7. Investor A began calling Respondent Guzek when the packet never arrived. Respondent Guzek  
17 would either make excuses or fail to return Investor A's phone calls. Around July 2009, Respondent Guzek  
18 told Investor A that he had been "hammered" by his forex trades and Investor A's mistake was investing  
19 with Respondent Guzek in March rather than in January. Investor A requested that Respondent Guzek return  
20 his son's funds within two weeks. To date, Respondent Guzek has not provided any payment to either  
21 Investor A or his son.  
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1 8. Respondent Guzek admitted that he “took money” from Investor A in February 2009 and “it did not  
2 work out.” Respondent Guzek claimed that he lost the money trading. It is believed that GAIN Capital  
3 Group, LLC (“GAIN Capital”) was the only registered futures commission merchant that Respondent  
4 Guzek held accounts with. It is believed that Respondent Guzek held four accounts with FOREX.com, a  
5 division of GAIN Capital. Despite the fact that Respondent Guzek solicited funds from Investor A’s son  
6 around February 2009, the last trading activity that occurred in Respondent Guzek’s FOREX.com accounts  
7 appears to be around September 2008.

8 Misrepresentations and Omissions

9 9. Respondent Guzek failed to provide material information regarding the investment opportunity,  
10 including but not limited to: financial statements, a complete description of Respondent Guzek’s business  
11 background and experience, the general risks of investing, and the specific risks of investing in the foreign  
12 exchange market.

13 Registration Status

14 10. Respondent Charles Jean Guzek is not currently registered to offer or sell securities in the State of  
15 Washington and has not previously been so registered.

16 11. Respondent Charles Jean Guzek is not currently registered as a securities salesperson or broker-  
17 dealer in the State of Washington and has not previously been so registered.

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20 Based upon the above Findings of Fact, the following Conclusions of Law are made:  
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**CONCLUSIONS OF LAW**

1. The offer or sale of the investment described above constitutes the offer or sale of a security as defined in RCW 21.20.005(10) and (12), to wit: an investment contract.

2. Respondent Charles Jean Guzek violated RCW 21.20.140, the securities registration provision of the Securities Act, because he offered and/or sold securities for which there was no registration on file with the Securities Administrator.

3. Respondent Charles Jean Guzek violated RCW 21.20.040, the securities salesperson registration provision of the Securities Act, by offering or selling said securities while not registered as a securities salesperson in the state of Washington.

4. The offer or sale of said securities was made in violation of RCW 21.20.010 because, as set forth in the Tentative Findings of Fact, Respondent Charles Jean Guzek, in connection with the offer or sale of said securities directly or indirectly made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

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**FINAL ORDER**

Based upon the foregoing and finding it in the public interest:

It is hereby ORDERED that Respondent Charles Jean Guzek, his agents, and employees each cease and desist from offering and/or selling securities in any manner in violation of RCW 21.20.140, the section of the Securities Act of Washington requiring registration.

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1 It is further ORDERED that Respondent Charles Jean Guzek, his agents, and employees each  
2 cease and desist from violation of RCW 21.20.010, the anti-fraud section of the Securities Act.

3 It is further ORDERED that Respondent Charles Jean Guzek, his agents, and employees each  
4 cease and desist from violation of RCW 21.20.040, the broker-dealer and securities salesperson  
5 registration section of the Securities Act.

6 It is further ORDERED that Respondent Charles Jean Guzek shall be liable for and pay a fine of  
7 \$5,000.

8 It is further ORDERED that Respondent Charles Jean Guzek shall be liable for and pay costs  
9 incurred in the investigation of this matter in the amount of \$1,500.

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11 **AUTHORITY AND PROCEDURE**

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13 This Final Order is entered pursuant to the provisions of RCW 21.20.390, and is subject to the  
14 provisions of Chapter 34.05 RCW. Respondent has the right to petition the superior court for judicial  
15 review of this agency action under the provisions of Chapter 34.05 RCW. For the requirements for filing a  
16 Petition for Judicial Review, see RCW 34.050.510 and sections following. Pursuant to 21.20.395, a  
17 certified copy of this order may be filed in Superior Court. If so filed, the clerk shall treat the order in the  
18 same manner as a Superior Court judgment as to the fine, and the fine may be recorded, enforced, or  
19 satisfied in like manner.  
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22 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE**

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24 ENTRY OF FINDINGS OF FACT AND  
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DATED and ENTERED this 12th day of January, 2011.



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WILLIAM M. BEATTY  
Securities Administrator

Approved by:



SUZANNE E. SARASON  
Chief of Enforcement

Presented by:



Jiyoung C. Kwon  
Financial Legal Examiner