



1 adviser, and that Goldmark had acted as an unregistered investment adviser representative in violation of the  
2 Alabama Securities Act. The order also alleges that investors' funds were deposited into an account  
3 controlled exclusively by Berk.

#### 4 **Nature of the Conduct**

5 3. In 2015 and 2016, two Washington residents invested approximately \$238,000 in binary  
6 option trades through InvestingCI after learning about InvestingCI through unsolicited phone calls from its  
7 representatives. One of these investors had no prior experience investing in binary options. InvestingCI  
8 made misleading statements and failed to disclose facts concerning the risk of investing in binary options,  
9 whether the trades were insured, and investors' ability to withdraw their funds. One Washington investor  
10 has been unable to recover any of the \$190,000 he invested with InvestingCI. Another Washington investor  
11 invested \$48,000, of which the investor recovered \$38,000 that he invested by credit card, after filing a  
12 complaint with the credit card's issuer.

13 4. Unlike conventional option trades, whether an investor holding a binary option receives a  
14 payout is completely determined by the outcome of a yes/no proposition. This proposition usually relates to  
15 whether or not the price of the underlying asset exceeds a specified amount at a specific time. Unlike other  
16 kinds of options, the investor does not have the right to buy or sell the underlying asset. Instead, when a  
17 binary option expires, the investor will receive either a pay out or nothing. Binary options are often called  
18 "all-or-nothing options" or "fixed return" options.

19 5. Two Washington investors opened accounts with InvestingCI after receiving unsolicited  
20 phone calls from InvestingCI representatives. During such an unsolicited phone call, InvestingCI  
21 representatives stated to a Washington investor that InvestingCI was focusing on binary options linked to  
22 the price of oil. The representatives further stated that each option required a \$50,000 investment, and that  
23 an investor could reserve the position for immediate payment of \$5,000. Once he opened this initial  
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1 account, the investor received emails from InvestingCI representatives in which they promoted specific  
2 transactions involving binary options. One of these emails included a graph purporting to show movement  
3 in the price of oil in order to bolster earlier statements of InvestingCI representatives. The investor  
4 transferred funds to InvestingCI's account at Chase in New York to purchase the binary option. Shortly  
5 thereafter, an InvestingCI representative sent an email to the investor, informing him that the representative  
6 was going to prepare the investor's portfolio for the trade. The investor paid a total of \$165,000 by wire  
7 transfer for three binary options linked to the price of oil, none of which were successful. Each time,  
8 InvestingCI notified the investor by email that he was "out of the money."

9 6. The Washington investor later transferred \$15,025 by wire to a bank in Singapore to open a  
10 second account. The investor opened this account for day trading of binary options after receiving an email  
11 from an InvestingCI representative. The InvestingCI representative stated in his email that he was  
12 InvestingCI's day trading specialist, and that he would manage this new account, including executing trades.  
13 InvestingCI representatives exercised complete discretion over this day trading account.

14 7. After receiving an unsolicited phone call, another Washington investor opened two accounts  
15 with InvestingCI. Between August and October 2015, InvestingCI provided account balances that led this  
16 Washington investor to believe that he was trading successfully. This apparent success prompted the  
17 investor to continue adding funds to his account. The investor made nine deposits totaling \$48,000 in that  
18 three month period.

19 8. InvestingCI made misleading statements concerning anticipated returns. During the initial  
20 call, InvestingCI's representative stated that if a trade were successful, the investor would receive a 75%  
21 return. However, the representative failed to disclose the basis for such a return, and failed to disclose the  
22 likelihood that a trade would succeed.  
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1 9. InvestingCI made misleading statements concerning the risks of binary options trading.  
2 During the initial call to a Washington investor, InvestingCI failed to disclose any risks of investing in  
3 binary options. Further, the representative stated that the Washington investor's principal was not at risk  
4 because all trades were insured. However, no insurance was provided when the investor's binary options  
5 did not perform, and InvestingCI has not returned any of the investor's funds.

6 10. InvestingCI made misleading statements concerning investors' ability to withdraw their  
7 funds. InvestingCI credited a Washington investor's day trading account with funds that the investor did  
8 not deposit ("bonus money"). Shortly thereafter, the investor attempted to withdraw his funds from this  
9 account. InvestingCI denied this request, and referred the investor to its withdrawal policy. The withdrawal  
10 policy stated that funds could not be withdrawn from accounts with bonus money before the account had a  
11 trading volume equal to twenty-five times the sum of the original deposit and the bonus money. However, in  
12 its email proposing the day trading account, InvestingCI had stated that the funds in the day trading account  
13 were "entirely liquid." InvestingCI similarly denied the other Washington investor's request to withdraw  
14 his funds after InvestingCI had deposited bonus money in his account. InvestingCI representatives did not  
15 disclose this withdrawal policy when soliciting the Washington investors.  
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17 Based upon the Tentative Findings of Fact, the following Conclusions of Law are made:

18 **CONCLUSIONS OF LAW**

19 1. The offer and/or sale of the binary options described above constitute the offer and/or sale of  
20 a security as defined in RCW 21.20.005(14) and (17).

21 2. InvestingCI has violated RCW 21.20.010, because, as set forth in the Tentative Findings of  
22 Fact, Respondent made untrue statements of material fact or omitted to state material facts necessary to  
23 make the statements made, in light of the circumstances in which they were made, not misleading.  
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3 **NOTICE OF INTENT TO ORDER THE RESPONDENT TO CEASE AND DESIST**

4 Based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities  
5 Administrator intends to order, pursuant to RCW 21.20.390(1), that InvestingCI, its agents and employees  
6 each shall cease and desist from violations of RCW 21.20.010.

7 **NOTICE OF INTENT TO IMPOSE A FINE**

8 Pursuant to RCW 21.20.395, and based upon the Tentative Findings of Fact and Conclusions of  
9 Law, the Securities Administrator intends to order that Respondent InvestingCI shall be liable for and shall  
10 pay a fine of \$10,000.

11 **NOTICE OF INTENT TO CHARGE COSTS**

12 Pursuant to RCW 21.20.390, and based upon the Tentative Findings of Fact and Conclusions of  
13 Law, the Securities Administrator intends to order that Respondent InvestingCI shall be liable for and shall  
14 pay the costs, fees, and other expenses incurred in the administrative investigation, in an amount not less  
15 than \$2,500.  
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17 **AUTHORITY AND PROCEDURE**

18 This Statement of Charges is entered pursuant to the provisions of Chapter 21.20 RCW and is  
19 subject to the provisions of Chapter 34.05 RCW. The Respondent InvestingCI may make a written request  
20 for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR  
21 HEARING accompanying this Order. If a Respondent does not make a hearing request in the time allowed,  
22 the Securities Administrator intends to adopt the above Tentative Findings of Fact and Conclusions of Law  
23 as final and to enter a permanent order to cease and desist as to that Respondent, to impose any fines sought  
24 against that respondent, and to charge any costs sought against that Respondent.  
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Signed and Entered this 27th day of February 2017.



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William M. Beatty  
Securities Administrator

Approved by:



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Suzanne Sarason  
Chief of Enforcement

Presented by:



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Edward R. Thunen  
Financial Legal Examiner

Reviewed by:



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Robert Kondrat  
Financial Legal Examiner Supervisor