

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:

Charles Jean Guzek,

Respondent.

Order Number S-09-446-10-SC01

STATEMENT OF CHARGES AND NOTICE
OF INTENT TO ENTER ORDER TO
CEASE AND DESIST, IMPOSE FINES,
AND CHARGE COSTS

THE STATE OF WASHINGTON TO:

Charles Jean Guzek

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the State of Washington has reason to believe that Respondent Charles Jean Guzek has violated the Securities Act of Washington and that his violations justify the entry of an order of the Securities Administrator under RCW 21.20.390 against him to cease and desist from such violations. The Securities Administrator finds as follows:

TENTATIVE FINDINGS OF FACT

Respondent

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

Nature of the Conduct

2. Investor A, a resident of Washington State, became acquainted with Respondent Guzek when he engaged Respondent Guzek’s pressure washing business to pressure wash his roof. Respondent Guzek told Investor A that he had started trading currencies in the foreign exchange

1 market (“forex”). Respondent Guzek represented that he was realizing profits of 40% to 60%
2 annually. Respondent Guzek told Investor A he should consider investing with him. Respondent
3 Guzek suggested that Investor A view his website, www.mcperform.com, which discussed
4 investing in the forex market.

5 3. Sometime in January 2009, Investor A and his friend met Respondent Guzek to discuss
6 Respondent Guzek’s investment strategies and results. Respondent Guzek represented that he
7 was an “unlicensed trader” and his forex trades were limited to the dollar versus the euro. He
8 further represented that he traded every night, Sunday through Thursday, and his investment
9 strategy involved utilizing \$250,000 worth of software. Respondent Guzek represented that all
10 investor funds were commingled and only 2% of the money was at risk. According to
11 Respondent Guzek, investors would lose a maximum of 2% if the trades did not go well.
12 Respondent Guzek showed Investor A his brother’s account, which had grown from
13 approximately \$30,000 to \$60,000 in a few months. Respondent Guzek represented that
14 investors would be given a password to www.mcperform.com so they could follow the trading
15 activity and check account balances. Investor A understood that invested funds could be
16 withdrawn with two weeks’ notice.

17
18 4. Investor A discussed this investment opportunity with his son. Investor A’s son decided
19 to invest \$10,000 with Respondent Guzek. Around February 2009, Investor A and his son met
20 with Respondent Guzek to provide the investment funds. Respondent Guzek represented that his
21 fee was 25% of the profits. He further represented that he had over 50 investors and \$3,600,000
22 under management.

23
24 5. Respondent Guzek insisted on a cashier’s check from Bank of America because he held
25 an account at Bank of America. Respondent Guzek initially wanted the cashier’s check made out

1 to “Mr. Charles Investments.” At the last minute, he requested that it be made out to “Mr.
2 Charles” instead. The cashier’s check was negotiated at a Bank of America, on or about March 2,
3 2009.

4 6. Respondent Guzek told Investor A’s son that within one week, he would receive a packet
5 in the mail with his investment account information and a password for the
6 www.mcperform.com website. Investor A’s son never received such a packet.
7

8 7. Investor A began calling Respondent Guzek when the packet never arrived. Respondent
9 Guzek would either make excuses or fail to return Investor A’s phone calls. Around July 2009,
10 Respondent Guzek told Investor A that he had been “hammered” by his forex trades and Investor
11 A’s mistake was investing with Respondent Guzek in March rather than in January. Investor A
12 requested that Respondent Guzek return his son’s funds within two weeks. To date, Respondent
13 Guzek has not provided any payment to either Investor A or his son.

14 8. Respondent Guzek admitted that he “took money” from Investor A in February 2009 and
15 “it did not work out.” Respondent Guzek claimed that he lost the money trading. It is believed
16 that GAIN Capital Group, LLC (“GAIN Capital”) was the only registered futures commission
17 merchant that Respondent Guzek held accounts with. It is believed that Respondent Guzek held
18 four accounts with FOREX.com, a division of GAIN Capital. Despite the fact that Respondent
19 Guzek solicited funds from Investor A’s son around February 2009, the last trading activity that
20 occurred in Respondent Guzek’s FOREX.com accounts appears to be around September 2008.
21

22 Misrepresentations and Omissions

23 9. Respondent Guzek failed to provide material information regarding the investment
24 opportunity, including but not limited to: financial statements, a complete description of
25

1 Respondent Guzek's business background and experience, the general risks of investing, and the
2 specific risks of investing in the foreign exchange market.

3 Registration Status

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

6 11. Respondent Charles Jean Guzek is not currently registered as a securities salesperson or
7 broker-dealer in the State of Washington and has not previously been so registered.
8

9
10 Based upon the Tentative Findings of Fact, the following Conclusions of Law are made:

11 **CONCLUSIONS OF LAW**

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

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

17 3. Respondent Charles Jean Guzek violated RCW 21.20.040, the securities salesperson
18 registration provision of the Securities Act, by offering or selling said securities while not
19 registered as a securities salesperson in the state of Washington.
20

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

1 **NOTICE OF INTENT TO ORDER THE RESPONDENT TO CEASE AND DESIST**

2 Based on the above Tentative Findings of Fact and Conclusions of Law, the Securities
3 Administrator intends to order, pursuant to RCW 21.20.390(1), that Respondent Charles Jean
4 Guzek cease and desist from violations of RCW 21.20.010, RCW 21.20.040, and RCW
5 21.20.140.

6 **NOTICE OF INTENT TO IMPOSE FINES**

7 Pursuant to RCW 21.20.395, and based upon the Tentative Findings of Fact and
8 Conclusions of Law, the Securities Administrator intends to order that Respondent Charles Jean
9 Guzek shall be liable for and pay a fine of \$5,000.

10 **NOTICE OF INTENT TO CHARGE COSTS**

11 Pursuant to RCW 21.20.390(5), and based upon the Tentative Findings of Fact and
12 Conclusions of Law, the Securities Administrator intends to order that Respondent Charles Jean
13 Guzek shall be liable for and pay the Securities Division the costs, fees and other expenses
14 incurred in the conduct of the administrative investigation and hearing of this matter in an
15 amount not less than \$1,500.

16 **AUTHORITY AND PROCEDURE**

17 This Statement of Charges is entered pursuant to the provisions of RCW 21.20 and is
18 subject to the provisions of RCW 34.05. The respondent, Charles Jean Guzek, may make a
19 written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND
20 AND OPPORTUNITY FOR HEARING accompanying this order.

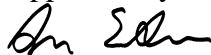
21 If the respondent does not request a hearing, the Securities Administrator intends to adopt
22 the above Tentative Findings of Fact and Conclusions of Law as final and enter an order to cease
23 and desist permanent as to that respondent.

Dated this 9th day of November, 2010.



WILLIAM M. BEATTY
Securities Administrator

Approved by:



SUZANNE E. SARASON
Chief of Enforcement

Presented by:



Jiyoung C. Kwon
Financial Legal Examiner