

1
2
3
4
5
6
7

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION**

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE MATTER OF DETERMINING) Order No.: S-16-2012-16-SC01
Whether there has been a violation of the)
Securities Act of Washington by:) STATEMENT OF CHARGES AND
Binary Banc,) NOTICE OF INTENT TO
Respondent.) ENTER ORDER TO CEASE AND DESIST,
) TO IMPOSE A FINE, AND TO CHARGE COSTS
)
)

THE STATE OF WASHINGTON TO: Binary Banc

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the state of Washington has reason to believe that Respondent Binary Banc has violated the Securities Act of Washington. The Securities Administrator believes those violations justify the entry of an order against Respondent Binary Banc to cease and desist from such violations and to charge costs pursuant to RCW 21.20.390, and under RCW 21.20.395 to impose a fine. The Securities Administrator finds as follows:

TENTATIVE FINDINGS OF FACT

Respondent

1. Binary Banc holds itself out to be an investment firm that specializes in binary options and operates an online trading platform to trade binary options. Binary Banc's website, www.binarybanc.com, states that its head office is located in the nation of Georgia and lists another address in the United Kingdom. Binary Banc's website is registered to an address in the Marshall Islands.

Background

2. A binary option is a type of options contract in which the payout depends on the outcome of a yes/no proposition that is contingent upon the future value of an underlying asset, such as stock and stock

1 indices. In 2013, the United States Securities and Exchange Commission (SEC) and Commodity Futures
2 Trading Commission (CFTC) issued a joint Investor Alert entitled “Binary Options and Fraud” after those
3 agencies received numerous complaints of fraud associated with websites that offer binary options through
4 Internet-based trading platforms.

5 **Nature of the Conduct**

6 3. In July 2016, a Washington resident (hereinafter, the “Washington investor”) received an
7 unsolicited email that later redirected him to the Binary Banc website. After watching a video on the Binary
8 Banc website, the Washington investor opened an online trading account. The Washington investor had no
9 prior experience in binary options trading, and little prior investment experience. The Washington investor
10 began receiving as many as two to three calls per day from representatives of Binary Banc, who solicited
11 him to deposit additional funds into his trading account. By the end of the month, the Washington investor
12 incurred more than \$67,000 in credit card and debit card charges, stemming from telephone and email
13 solicitations that he received from Binary Banc representatives. The Washington investor did not place
14 trades in his online trading account. All trades in his account were made by representatives of Binary Banc.
15

16 4. Binary Banc encouraged investors to deposit funds into their trading account using credit
17 cards. The Binary Banc website included a Terms & Conditions section, which stated: “Your Credit Card
18 Will Be Debited With The Descriptor Binary Banc.” In fact, the Washington investor incurred more than
19 20 debit and credit card charges in connection with his trading account, but none of the charges referenced
20 Binary Banc. Records for the Washington investor’s debit and credit cards indicate that payments were
21 made to various other entities, including Greymountain Management Ltd., Options24FX, and
22 FX24Platform. Binary Banc failed to disclose its relationship with any of these third-party entities. Binary
23 Banc failed to disclose that a few months earlier, in April 2016, the Financial and Consumer Affairs
24

1 Authority of Saskatchewan had issued an enforcement order against Greymountain Management Ltd. for
2 securities violations in connection with a binary options trading platform.

3 5. The Washington investor was initially contacted by a representative of Binary Banc's
4 Compliance Team. The Binary Banc representative directed the Washington investor to send him color
5 copies of the front and back of his credit card, as well as color copies of his government-issued photo
6 identification and a recent bank statement or utility bill. The Binary Banc representative stated that these
7 documents were needed in order to "verify" his account.

8 6. The Washington investor was also contacted by a member of Binary Bank's Activation
9 Team, who solicited him to deposit funds into his trading account. The Binary Banc representative led the
10 investor to believe that if he deposited \$10,000 into his trading account, Binary Banc would give him a
11 "gold membership" with access to a broker who would make trades for him. The Binary Banc
12 representative stated that depositing \$10,000 would also entitle the investor to a \$5,000 bonus and three
13 "risk free trades." Binary Banc failed to disclose the terms and conditions of the "risk free" trades. The
14 Washington investor provided his credit card information to Binary Banc, and subsequently incurred
15 \$10,000 in charges.
16

17 7. The Washington investor was then solicited by another Binary Banc representative who was
18 described as his "assigned broker." During one telephone solicitation, the Binary Banc broker sent an email
19 to the Washington investor containing a link to download software. After downloading the software, the
20 Binary Banc broker was able to view the investor's computer screen, including his online bank account
21 statement. After reviewing this information, the Binary Banc broker advised the Washington investor to
22 deposit an additional \$47,000 into his Binary Banc trading account. The Binary Banc representative told the
23 Washington investor that he could not do any further trading for him, unless he paid the additional funds.
24
25

1 8. The Binary Banc broker made misleading statements concerning the trading success of
2 Binary Bank, and the returns on investment. The Binary Banc broker claimed that depositing an additional
3 \$47,000 into his account would provide the Washington investor with “full access to Class A trades” from
4 his department. The Binary Banc representative stated that his department had a 98.7% “success rate” and a
5 “96% return per investment.” The Binary Banc representative failed to disclose any additional information
6 regarding “Class A trades” or provide the basis for its “success rate” or the return on investment.

7 9. On or about July 15, 2016, the Washington investor paid an additional \$47,000, using
8 multiple debit cards and credit cards. Days later, the Binary Banc broker sent an email to the Washington
9 investor which stated: “I have great news on the account!!!! This is CRAZY!!” The Binary Banc broker
10 sent another email that stated: “go look at the NINTENDO STOCK!!!! and you will see why your account
11 went up so high.” The Washington investor’s online account showed that his account balance had increased
12 to approximately \$213,000.

13 10. The Binary Banc broker then solicited the Washington investor to deposit additional funds
14 into his trading account. After the Washington investor stated that he did not have any additional funds to
15 invest, the Binary Banc representative asked the Washington investor to provide him with his user name and
16 password for his trading account at Binary Banc. The Washington investor’s account balance subsequently
17 dropped to approximately \$19,000. The Washington investor was next contacted by a “senior broker” at
18 Binary Banc who stated that he was now servicing the Washington investor’s trading account. The senior
19 broker stated that in order to recover his losses, the Washington investor needed to deposit an additional
20 \$10,000 into his account. The senior broker further stated: “we will try to take your account to \$60k to \$65k
21 [\$60,000 to \$65,000] today.” Shortly after paying the additional \$10,000, the Washington investor’s
22 account balance increased to approximately \$60,000. The senior broker later contacted the Washington
23
24
25

investor and asked him to deposit additional funds into his account. After the Washington investor stated that he had no additional funds, his account balance dropped to approximately \$25,000.

11. Binary Banc representatives made misleading statements concerning the investor's ability to withdraw funds from his trading account. When the Washington investor first opened his account, Binary Banc sent him an email stating that he could withdraw funds from his account "at any time he is not happy with our services." A week later, the Washington investor made a withdrawal request, and Binary Banc sent him an email stating that it was expediting the request and that it would be completed within a "maximum of 7 business days." A week later, Binary Banc sent another email stating that withdrawals only occurred on the 9th and 25th day of each month. After the Washington investor directed Binary Banc to close his account and refund his remaining funds, Binary Banc stopped responding to his phone calls and emails.

12. By August 2016, the Washington investor contacted his financial institutions and disputed the credit card and debit card charges that were associated with his Binary Banc trading account. In response, a Binary Banc representative contacted the Washington investor and attempted to get him to withdraw his dispute. Binary Banc claimed that disputing the charges was illegal and that it could not refund his funds unless he cancelled the dispute. While the Washington investor has received some credits from his financial institutions, he remains responsible for thousands of dollars in charges attributed to his Binary Banc trading account.

Registration Status

13. Binary Banc is not currently registered to sell its securities in the state of Washington and has not previously been so registered, nor has it filed a claim of exemption from registration.

14. Binary Banc is not currently registered as a broker-dealer in the state of Washington and has not previously been so registered.

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

CONCLUSIONS OF LAW

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

3 2. Binary Banc has violated RCW 21.20.010, because, as set forth in the Tentative Findings of
4 Fact, it made untrue statements of material fact or omitted to state material facts necessary to make the
5 statements made, in light of the circumstances in which they were made, not misleading; and engaged in an
6 act, practice, or course of business that operated as a fraud or deceit upon customers.

NOTICE OF INTENT TO ORDER THE RESPONDENT TO CEASE AND DESIST

7
8
9 Based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities
10 Administrator intends to order, pursuant to RCW 21.20.390(1), that Respondent Binary Banc, their agents
11 and employees each shall cease and desist from violations of RCW 21.20.010.

NOTICE OF INTENT TO IMPOSE A FINE

12
13 Pursuant to RCW 21.20.395, and based upon the Tentative Findings of Fact and Conclusions of
14 Law, the Securities Administrator intends to order that Respondent Binary Banc shall be liable for and shall
15 pay a fine of \$10,000.

NOTICE OF INTENT TO CHARGE COSTS

16
17 Pursuant to 21.20.390, and based upon the Tentative Findings of Fact and Conclusions of Law, the
18 Securities Administrator intends to order that Respondent Binary Banc shall be liable for and shall pay the
19 costs, fees, and other expenses incurred in the administrative investigation and hearing of this matter, in an
20 amount not less than \$2,000.

AUTHORITY AND PROCEDURE

21
22
23 This Statement of Charges is entered pursuant to the provisions of Chapter 21.20 RCW and is
24 subject to the provisions of Chapter 34.05 RCW. Respondent Binary Banc may make a written request for a
25

1 hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR
2 HEARING accompanying this Order. If a Respondent does not make a hearing request in the time allowed,
3 the Securities Administrator intends to adopt the above Tentative Findings of Fact and Conclusions of Law
4 as final and to enter a permanent order to cease and desist as to that Respondent, to impose any fines sought
5 against that respondent, and to charge any costs sought against that Respondent.

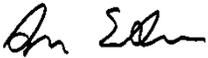
6 Signed and Entered this 7th day of November 2016.

7
8 

9
10 _____
11 William M. Beatty
12 Securities Administrator

13 Approved by:

14 Presented by:

15 

16 

17 _____
18 Suzanne Sarason
19 Chief of Enforcement

20 _____
21 Robert Kondrat
22 Financial Legal Examiner Supervisor