

BEFORE THE
STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF SECURITIES

In the Matter of
PERFORMANCE ASSET MANAGEMENT, LLC and
JASON J. GOSPODAREK,

PETITION FOR ORDER

File No. S-09064(EX)

Respondents.

The staff of the Bureau of Enforcement of the State of Wisconsin, Department of Financial Institutions, Division of Securities (hereinafter "the Division"), has conducted an investigation in this matter pursuant to § 551.56, Wis. Stats.¹, and as a result thereof alleges as follows:

1. Performance Asset Management, LLC, ("Performance") is a Wisconsin limited liability company organized on October 10, 2007 and whose limited liability company registration has been delinquent since October 1, 2009. Its registered agent is Jason J. Gospodarek, and its last known address is 2160 Woodcrest Drive, Green Bay, Wisconsin 54304.
2. Jason J. Gospodarek ("Gospodarek") is an adult individual with a last known home and business address of 2160 Woodcrest Drive, Green Bay, Wisconsin 54304, and who at all times material hereto was the owner, officer, and/or controlling person of Performance.
3. According to information provided by Gospodarek to Division staff, Gospodarek advertised his fund management services in a local newspaper in Green Bay, Wisconsin, on the Internet, and by word of mouth.
4. According to information and documents provided by Gospodarek to Division staff, from approximately early November 2007 through January 2008 Gospodarek, as both an owner and the sole agent and employee of Performance, advised, managed and/or invested money from his Wisconsin office for at least 26 persons located both in Wisconsin and throughout the world.
5. According to information and documents provided by Gospodarek to Division staff, Gospodarek advised investors to open an account with Interbank FX, LLC of Salt Lake City, Utah (NFA ID#0326091), an NFA Forex Dealer Member, and to name Performance as the person who will "control, manage, or direct the trading in this account" on the Interbank FX account application.
6. Gospodarek then directed the investors to execute the Interbank FX Limited Power-of-Attorney-Trading Authorization Form ("LPOA") naming Performance as the Advisor and

¹ Unless otherwise noted, the statutory references are to the Wisconsin Statutes (2005-06), which were in effect at the time of the violations alleged herein and apply pursuant to § 551.703, Wis. Stats. (2007-08).

Gospodarek as Performance's authorized agent, and authorizing Interbank FX to pay a percentage of the monthly profits (10% or more) to Performance as Advisor.

7. According to information and documents provided by Gospodarek and others to Division staff, at least 26 investors signed the LPOA's agreeing to compensate Gospodarek, through Performance, for his investment advice in managing their assets; however, Gospodarek received no fees due to his lack of success in making profitable trades.

8. The actions of Performance and Gospodarek, as described above, constitute transacting business as an investment adviser as defined in § DFI – Sec 1.02(5)(b), Wis. Admin. Code.

9. At no time have Performance or Gospodarek been licensed as an investment adviser or investment adviser representative pursuant to Ch. 551, Wis. Stats.

10. The actions of Performance and Gospodarek, as described above, constitute transacting business as an unlicensed investment adviser in violation of § 551.31(3) and (3m), Wis. Stats.

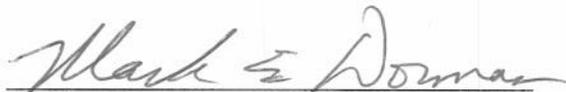
11. Gospodarek admitted that he had a verbal agreement with one of the investors that the investor's maximum exposure to loss would be no more than 10 or 15 percent of the value of the investor's investment, but instead Gospodarek's trades exposed much more, and ultimately lost 82 percent of the value of the investor's assets in one day.

12. By his representations and omissions set forth above in ¶11, Gospodarek violated § 551.44 Wis. Stats.

13. On February 27, 2009 in Brown County Circuit Court, Case No. 08-CV-2318, the investor obtained a default judgment against Performance for \$32, 605.98 because Performance had not appeared by counsel, while the investor's case against Gospodarek was settled before trial.

Therefore, the staff of the Bureau of Enforcement petitions the Administrator of the Division of Securities for the issuance of the attached Order pursuant to Ch. 551, Wis. Stats.

Dated this 5th day of October, 2010.



Mark E. Dorman
Examiner



Leslie M. Van Buskirk
Attorney Supervisor