

STATE AUDITOR'S OFFICE
SECURITIES DEPARTMENT
HELENA, MONTANA

INS-2007-9

IN THE MATTER OF:) Case No.: 01-21-04-123 I
JOHN HANCOCK PROUD,)
Respondent.) DEFAULT ORDER REVOKING
) RESPONDENT'S PRESENT SALESPERSON
) REGISTRATION AND DENYING
) PENDING SALESPERSON APPLICATION

WHEREAS, the Securities Department of the Montana State Auditors Office has moved for entry of a Default Order Revoking the Respondent's present salesperson registration and denying his pending salesperson application due to the Respondent's failure to respond to the Agency's Notice of Proposed Agency Action To Revoke and Deny Registration and Opportunity For Hearing or to otherwise appear as required, and good cause appearing therein, the Montana State Auditor enters the following:

FINDINGS OF FACT

1. The Montana Department of Securities (Department) issued a Notice of Proposed Agency Action To Revoke and Deny Registration and Opportunity For Hearing on the 8th day of April 2004. The Notice of Proposed Agency Action To Revoke and Deny Registration and Opportunity For Hearing was served upon the Respondent by mailing a true and accurate copy of said document, postage prepaid, on the 8th day of April, 2004.

2. The Notice of Proposed Agency Action To Revoke and Deny Registration and Opportunity For Hearing notified the Respondent of allegations of violations of the Securities Act of Montana, the fact that the Agency proposed to revoke the Respondent's present salesperson registration and deny his pending salesperson application, and the possibility of his default being entered in this action in the event he failed to give notice of his demand for a

hearing within fifteen (15) days from the date of his receipt of the Notice pursuant to ARM 6.2.101 and the Attorney General's Model Rule 10, 1.3.214.

3. The Respondent failed to respond in any form or fashion to the Agency's Notice of Proposed Agency Action To Revoke and Deny Registration and Opportunity For Hearing, and his Default was subsequently entered upon motion by the Department. In a letter dated May 30, 2004 to the Montana State Auditor, the Respondent claimed he never received the Notice of Proposed Agency Action To Revoke and Deny Registration and Opportunity For Hearing, and he requested an opportunity to defend himself in this matter. In response, the Department mailed the Respondent another copy of the Notice of Proposed Agency Action To Revoke and Deny Registration and Opportunity For Hearing, postage prepaid, via registered mail and advised him he had fifteen days in which to respond to the allegations contained in the notice, and of the possibility of a default order being entered against him in the event he failed to respond. Respondent received his second copy of the Notice of Proposed Agency Action To Revoke and Deny Registration and Opportunity For Hearing on the 15th day of June, 2004.

4. Since receiving his second copy of the Notice of Proposed Agency Action To Revoke and Deny Registration and Opportunity For Hearing, Respondent has failed to respond in any form or fashion to the Agency's notice of proposed agency action.

5. The Department mailed its First Discovery Requests to Respondent on the 27th day of July, 2004 which contained a number of Requests For Admissions asking the Respondent to admit to each of the allegations contained in the notice of proposed agency action. The Respondent failed to respond to the discovery requests within the 30-day period allowed for response, thereby admitting to the allegations contained in the notice of proposed agency action.

6. The Respondent advised the undersigned on the 2nd day of September, 2004 that Respondent had no intention to make an appearance in this matter in any way or to contest the

allegations contained in the Notice of Proposed Agency Action To Revoke and Deny Registration and Opportunity For Hearing.

7. On or about December 7, 2001, Lewis P. Zimmer, Vice President of Marketing for Farm Bureau Financial Services (hereinafter referred to as "Farm Bureau"), accused the Respondent of illegally using \$3,400.00 in office administrative funds for personal uses. The Respondent admitted Zimmer's accusation, and was permitted to voluntarily resign his position as Agency Manager with Farm Bureau after admitting the allegation.

8. On January 30, 2002, the Respondent signed a Promissory Note wherein he agreed to pay the sum of \$1,540.30 to Mountain West Farm Mutual Insurance Company. This figure represented the remaining funds owed to Farm Bureau from the amount the Respondent admittedly illegally used for his personal use. The Respondent failed to repay the amount pursuant to the terms of the Promissory Note, and Farm Bureau subsequently filed Civil Case No. V1-2002-464 in the Ravalli County Justice Court to collect the unpaid amount. On the 11th day of November, 2002, The Respondent entered into a Stipulation and Confession of Judgment in the civil action wherein judgment was entered against him in the amount of \$2,121.00. The judgment remains unpaid to date.

9. The Respondent failed to update his current U-4 filing as required following the occurrence of the above-described facts.

10. On or about October 18, 2002, Montana State Auditor Investigator Michael McKee (hereinafter referred to as "McKee") interviewed the Respondent regarding the Mountain West Allegations. During this interview, McKee advised the Respondent verbally and in writing that he (the Respondent) was the subject of an investigation by the Department regarding the Mountain West allegations.

11. On or about March 22, 2004, the Department received a Form U-5 filing from Intersecurities, Inc. requesting the termination of the Respondent's registration due to the voluntary termination of his employment with the broker-dealer.

12. On or about March 19, 2004, the Respondent submitted an updated Form U-4 to the Department through the National Association of Securities Dealers Central Registration Depository (CRD) as part of an application to become a salesperson for Allstate Financial Services, LLC. In filing his updated Form U-4, the Respondent misrepresented that he had never voluntarily resigned, been discharged or permitted to resign after allegations were made that accused him of fraud or the wrongful taking of property, that he did not have any unsatisfied judgments against him and that he had never been notified in writing that he was, at that time, the subject of any investigation that could result in finding he had made a false statement or omission or been dishonest, unfair or unethical.

Based upon the foregoing Findings of Fact, the Montana State Auditor enters the following:

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter by reason of the Respondent's application for salesperson registration in Montana. §§30-10-107, 30-10-201, MCA.

2. The Respondent has filed an application for registration that, as of its effective date, was incomplete in material respects as described in the above Findings of Fact. § 30-10-201(13)(a), MCA.

3. The Respondent failed to update material changes in his application for registration that is on file with the Department within 30 days after the changes as hereinabove described occurred. § 30-10-201, MCA and ARM 60.10.124(5).

4. It is in the public's interest to revoke the Respondent's present registration and to

deny his pending registration application. § 30-10-201(13), MCA.

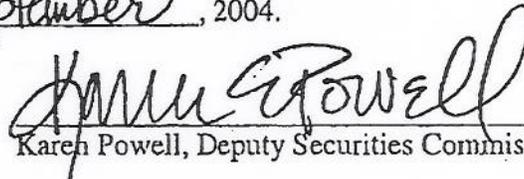
Based upon the foregoing Findings of Fact and Conclusions of Law, the Montana State Auditor enters the following:

ORDER

1. The Respondent's present securities salesperson registration is hereby REVOKED.
2. The Respondent's pending securities salesperson application is hereby DENIED.

Any person aggrieved by a final order of the commissioner may obtain a review of the order in any court of competent jurisdiction, pursuant to § 30-10-308, MCA.

DATED this 3rd day of September, 2004.


Karen Powell, Deputy Securities Commissioner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE MONTANA STATE AUDITOR
AND COMMISSIONER OF INSURANCE
HELENA, MONTANA

IN THE MATTER OF:) Case No. INS-2007-09
)
THE LICENSURE OF) ORDER
JOHN HANCOCK PROUD,) (RE: MOTION AND SUPPORTING
) BRIEF FOR MOTION TO
Respondent.) DISMISS)
)

Pursuant to a February 5, 2008, "Motion and Supporting
Brief for Motion to Dismiss" the hearing request of the
Respondent, received in this matter from the attorney for the
State Auditor and Commissioner of Insurance (Department), and
a December 12, 2007, letter of the Respondent, John Hancock
Proud, requesting cancellation of his license denial appeal,
and upon good cause appearing:

IT IS HEREBY ORDERED that this administrative action
against the Respondent is hereby dismissed.

Dated this 11th day of February, 2008.



Michael J. Rieley
Hearing Examiner

