

NICK MAZANEC
Office of the Montana State Auditor,
Commissioner of Securities and Insurance (CSI)
840 Helena Avenue
Helena, MT 59601
(406) 444-2040

Attorney for the CSI

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE,
OFFICE OF THE MONTANA STATE AUDITOR**

IN THE MATTER OF:)	CASE NO. SEC-2014-157
)	
FOUR POINTS)	CONSENT AGREEMENT AND
CAPITAL PARTNERS LLC,)	FINAL ORDER
)	
Respondent.)	

This Consent Agreement (Agreement) is entered into by the Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI), acting pursuant to the authority of the Securities Act of Montana, Mont. Code Ann. § 30-10-101 et seq. (Act), and Four Points Capital Partners LLC (Respondent). The corresponding Final Order (Order) is issued by the authority of the Commissioner of Securities and Insurance, Office of the Montana State Auditor (Commissioner).

RECITALS

WHEREAS, Respondent is and was at all times relevant to this Agreement a registered broker-dealer firm with the CSI;

WHEREAS, on May 3, 2013, Respondent agreed to implement a heightened supervision plan with respect to salesperson Zachary Berkey due to the number and nature of disclosure items associated with Berkey on the Financial Industry Regulatory Authority's Central Registration Depository (CRD);

Consent Agreement and Final Order
In re: Four Points Capital Partners LLC

WHEREAS, in that heightened supervision plan, Respondent agreed to the following:

- a. A principal of Respondent would contact Berkey's Montana clients every 90 days to ensure his compliance with Montana law and the firm's policies; and
- b. The firm would notify the CSI within one business day of a complaint or investigation initiated against Berkey.

WHEREAS, Respondent did not perform the all of the agreed-upon client contacts and reviews;

WHEREAS, Respondent did not timely report a complaint filed against Berkey and reported on the CRD;

WHEREAS, on January 27, 2016, the CSI filed an administrative action against Berkey, alleging he engaged in excessive trading and accumulated excessive commissions in a Montana Four Points account, resulting in substantial investor losses;

WHEREAS, the CSI alleges that Respondent violated Mont. Code Ann. § 30-10-201(13)(k) by failing to have adequate written supervisory policies/procedures in effect to supervise Berkey to ensure adherence to the heightened supervision plan and failing to have adequate written supervisory policies/procedures in effect to monitor Berkey for alleged excessive trading during the supervision period;

WHEREAS, the CSI alleges that Respondent violated Mont. Code Ann. § 30-10-201(13)(i) by failing to have adequate written supervisory policies/procedures in effect to ensure adherence to the Berkey heightened supervision plan;

WHEREAS, the CSI and Respondent agree that the interests of the public would be best served by entering into this Agreement.

NOW, THEREFORE, in consideration of the mutual undertakings contained in this Agreement, the CSI and Respondent hereby agree to settle this matter pursuant to the following terms and conditions:

STIPULATIONS AND CONSENTS

I. Without admitting or denying the allegations contained in the Recitals, or otherwise herein, Respondent stipulates and consents to the following:

A. No later than October 31, 2016, Respondent shall pay a fine of \$5,000.00. The fine must be made payable to the State of Montana and sent to the Office of the Montana State Auditor, Commissioner of Securities and Insurance, c/o Lisa Monroe, Legal Assistant, 840 Helena Avenue, Helena, MT 59601.

B. Within ten days of the execution of this Agreement, Respondent shall forward a check made payable to the State of Montana in the amount of \$61,348.13 to the Office of the Montana State Auditor, Commissioner of Securities and Insurance, c/o Lisa Monroe, Legal Assistant, 840 Helena Avenue, Helena, MT 59601 for the purpose of paying restitution in the amount of \$46,162.34 to Montana investor M.L.; \$488.96 to Montana investor R.R.; \$2,115.52 to Montana investor G.W.; and \$12,581.31 to Montana investor R.S.

C. Within ten days following payment of the fine and restitution under Section I.A and B, whichever comes later, Respondent shall withdraw its registration in Montana. Respondent shall not be permitted to withdraw its registration prior to that time.

D. Respondent fully and forever releases and discharges the CSI, its employees, and its agents from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this Agreement.

E. Respondent specifically and affirmatively waives a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act, Mont. Code Ann. § 2-4-101 et seq, and elects to resolve this matter on the terms and conditions set forth herein.

F. Respondent acknowledges that it was advised of the right to be represented by legal counsel and if represented by legal counsel, that such legal representation was satisfactory.

G. Respondent acknowledges that it enters into this Agreement voluntarily and without reservation.

II. All parties to this Agreement stipulate and consent as follows:

A. The CSI has jurisdiction over the subject matter of this Agreement.

B. This Agreement is entered without adjudication of any issue, law, or fact. It is entered solely for the purpose of resolving the CSI's investigation and allegations, and is not intended to be used for any other purpose.

C. The CSI warrants and represents that so long as Respondent complies with the terms of this Agreement, the CSI will not bring any further action against Respondent arising from facts known to the CSI as of the date of the Agreement relating to the Recitals.

D. The applicable statute of limitations is tolled for two years from the date of execution of this Agreement with regard to the allegations set forth above. In the event Respondent violates the terms of this Agreement at any time before the applicable statute of limitations has run, the CSI reserves the right to seek any additional administrative penalties or further regulatory action against Respondent.

E. If Respondent fails to comply with Sections I.A through I.C of this Agreement, Respondent consents to immediate revocation of its registration in Montana.

F. This Agreement constitutes the entire agreement between the parties and no other promises or agreements, either express or implied, have been made by the CSI or by any member, officer, agent, or representative of the CSI to induce Respondent to enter into this Agreement.

G. This Agreement may not be modified orally, and any subsequent modifications to this Agreement must be mutually agreed upon in writing to be effective.

H. This Agreement shall be incorporated into and made part of the attached Order issued by the Commissioner.

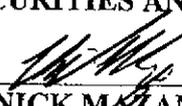
I. The Order will be an order of the Commissioner and is effective upon signing. The CSI has jurisdiction over the enforcement of the Order, and failure to comply with it may constitute a separate violation of the Act, pursuant to § 30-10-305, and may result in subsequent legal action by the CSI.

J. This Agreement shall be effective upon signing of the Order.

K. This Agreement and Order are public records under Montana law and as such may not be sealed or otherwise withheld from the public.

DATED this 7th day of September, 2016.

**OFFICE OF THE MONTANA STATE
AUDITOR, COMMISSIONER OF
SECURITIES AND INSURANCE**

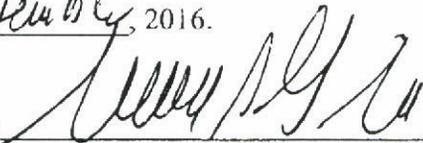
By: 
NICK MAZANEC
Attorney for the CSI

DATED this 6th day of September, 2016.

**FOUR POINTS
CAPITAL PARTNERS LLC**

By: 
Title: CEO

APPROVED AS TO FORM this 7th day of September, 2016.

By: 
MICHAEL P. GUILMORE
Attorney for Respondent

FINAL ORDER

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and § 30-10-101 et seq., and upon review of the foregoing Consent Agreement, and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the CSI and Respondent Four Points Capital Partners is adopted as if set forth fully herein.

DATED this 7th day of September, 2016.

MONICA J. LINDEEN
Commissioner of Securities and Insurance,
Office of the Montana State Auditor

By: 
LYNNE EGAN
Deputy Securities Commissioner