

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
	)	
ZACHARY BERKEY,	)	CONSENT AGREEMENT AND
	)	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 Zachary Berkey (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, at all times relevant to these Recitals, Respondent was employed as a securities salesperson at Four Points Capital Partners LLC (Four Points);

WHEREAS, after conducting an investigation into the affairs of Four Points, the CSI filed an enforcement action against Respondent on January 27, 2016;

WHEREAS, the CSI's investigation revealed excessive trading and excessive commissions in certain Montana Four Points accounts serviced by Respondent,

WHEREAS, the CSI has alleged that Respondent violated Mont. Code Ann. § 30-10-301,

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 any of the CSI's allegations, Respondent stipulates and consents to the following:

A. Respondent's securities license, CRD # 2884767, is revoked.

B. 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.

C. 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.

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

E. Respondent acknowledges that he 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. 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.

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

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

H. 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.

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

JB
9/8/16

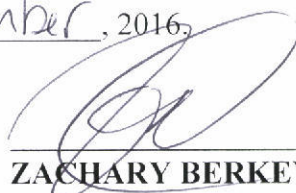
J. This Agreement and Order are public records under Montana law and as such may not be sealed or otherwise withheld from the public.

DATED this 15th day of September, 2016.

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

By: 
NICK MAZANEC
Attorney for the CSI

DATED this 8 day of September, 2016.


ZACHARY BERKEY


9/2/16

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 Zachary Berkey is adopted as if set forth fully herein.

IT IS FURTHER ORDERED that the agency action in this matter is DISMISSED.

DATED this 15th day of September, 2016.

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

By: 
LYNNE EGAN
Deputy Securities Commissioner