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Attorneys for the CSI

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

IN THE MATTER OF:)	CASE NO. SEC-2014-188
)	
WILLIAM HORBATUK,)	CONSENT AGREEMENT AND FINAL
)	ORDER
Individually and in his capacity as a)	
salesperson,)	
)	
Respondent.)	
)	
)	
)	
)	

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

RECITALS

WHEREAS, after conducting an investigation into the affairs of PHX Financial Service, Inc., (PHX), the CSI filed a Notice of Agency Action against Respondent on October 28, 2014;

WHEREAS, the CSI's investigation revealed excessive trading and excessive commissions in certain Montana PHX accounts;

WHEREAS, Respondent charged and received commissions on these accounts, and conducted unauthorized trading in these accounts; and

WHEREAS, the CSI's Notice of Agency Action alleged that Respondent violated Mont. Code Ann. §§30-10-201(13)(g) and 30-10-301(1)(b, c), and Admin. R. Mont. 6.10.401(1)(b, c, d, e, k) and (2)(g).

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

NOW, THEREFORE, in consideration of the following mutual undertakings, the CSI and Respondent enter into the following:

STIPULATIONS AND CONSENTS

1. Without admitting or denying any of the CSI's allegations, Respondent stipulates and agrees to the following:
 - A. Within thirty days from the execution of this Agreement, Respondent shall pay a fine of \$10,000.00. The fine must be made payable to the State of Montana and sent to the Office of the Commissioner of Securities and Insurance, Montana State Auditor, c/o Lisa Monroe, Legal Assistant, 840 Helena Avenue, Helena, MT 59601.
 - B. Respondent's securities salesperson license application is denied;
 - C. Respondent is permanently barred from any future attempt to apply for securities licensing or registration in Montana.
 - D. With respect to the Recitals, Respondent specifically and affirmatively waives a contested case hearing and his right to appeal under the Montana Administrative Procedures Act, including Title 2, chapter 4, part 7, and elects to resolve this matter on the terms and conditions set forth therein.

- E. Respondent fully and forever releases and discharges the CSI from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or not asserted, known or unknown, foreseen or unforeseen, arising out of the Recitals.
 - F. Respondent acknowledges that it and/or its authorized representative have read and understand each term of this Agreement and that they enter into this Agreement voluntarily and without reservation.
2. Both parties to this Agreement stipulate and agree as follows:
- A. Respondent has fully cooperated with the CSI.
 - B. Respondent and the CSI agree that this Agreement resolves the alleged violations set forth in the October 28, 2014, Notice of Agency Action.
 - C. The CSI warrants and represents that so long as Respondent adheres to 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 specific to any Montana PHX account.
 - D. 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.
 - E. This Agreement may not be modified orally, and any subsequent modifications to this Agreement must be mutually agreed upon in writing to be effective.

- F. This Agreement shall be incorporated into and made part of the attached Final Order issued by the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner) herein.
- G. Upon the signing of the Final Order by the Commissioner, this Agreement and Final Order will be an order of the CSI. The CSI has jurisdiction over the enforcement of the Final Order, and failure to comply with it may constitute separate violations of the Act, as provided in Mont. Code Ann. § 30-10-305, and may result in subsequent legal action by the CSI.
- H. This Agreement shall be effective upon signing of the Final Order, at which time the October 28, 2014 Notice of Agency Action against this Respondent will be dismissed.
- I. This Agreement and Final Order are public records under Montana law and as such may not be sealed or otherwise withheld from the public.

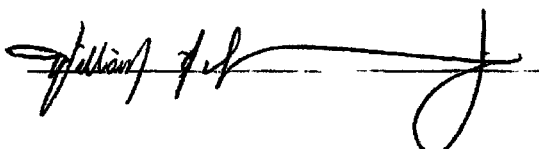
DATED this 28th day of April, 2015

OFFICE OF THE COMMISSIONER OF
SECURITIES AND INSURANCE

By: 
BRETT O'NEIL

DATED this 24th day of April, 2015

WILLIAM HORBATUK

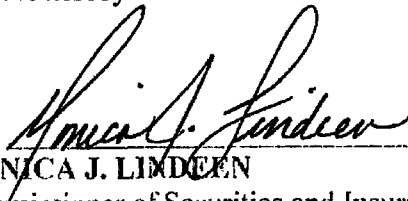


FINAL ORDER

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 Office of the Commissioner of Securities and Insurance, Montana State Auditor, and the Respondent, William Horbatuk, is adopted as set forth fully herein. Furthermore, the October 28, 2014, Notice of Agency Action against this Respondent is hereby dismissed.

DATED this 28th day of April, 2015.



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