

STATE OF NORTH DAKOTA

BEFORE THE

COUNTY OF BURLEIGH

SECURITIES COMMISSIONER

In the Matter of Baxter, Banks & Smith,)
Ltd. and Francis M. McDermott)
Respondents)

CONSENT ORDER

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The North Dakota Securities Commissioner has advised the respondents, Baxter, Banks & Smith, Ltd., and Francis M. McDermott A/K/A Martin McDermott, that the Commissioner has initiated formal action pursuant to North Dakota Century Code Chapter 10-04 because he has determined as follows:

1. Respondent, Baxter, Banks & Smith, LTD. (Baxter) was, for all times relevant to this matter, a securities broker/dealer firm headquartered in the state of Florida. Baxter (CRD # 40771) has recently withdrawn its registration with the NASD, and is no longer registered as a broker/dealer in any jurisdiction. Baxter is not now and has never been registered as a broker/dealer in North Dakota and has never applied to be registered as a broker/dealer in North Dakota.

2. Respondent, Francis M. McDermott A/K/A Martin McDermott (McDermott) was, for all times relevant to this matter, the majority owner and Chief Executive Officer of Baxter. McDermott (CRD # 1013320) is not currently registered as an agent in the state of North Dakota, nor has he ever applied to be registered as an agent in North Dakota with Baxter or with any other firm.

3. Rod and Tim Nordick are North Dakota residents who, in a joint securities account, were sold securities through Baxter. On April 30, 1999, Rod Nordick complained about the activities of Baxter in that account. Rod Nordick claimed

losses in excess of \$12,000 as a result of the activities of Baxter and his agent. Based on his Complaint, the North Dakota Securities Commissioner initiated an investigation into Baxter, Banks & Smith.

4. On August 16, 1999, the North Dakota Securities Commissioner issued a Cease and Desist Order against Baxter as well as other persons who are not parties to this Consent Order. The respondents were provided notice that they could request a hearing on the Cease and Desist Order, but none of the respondents requested a hearing regarding the Cease and Desist Order.

5. This Cease and Desist Order was issued because Baxter, though several of its agents, sold securities in North Dakota and to residents of North Dakota. Baxter and McDermott failed to properly supervise Baxter's agents as required by North Dakota law. All of the Commissioner's statements in that Cease and Desist Order are reaffirmed in this Consent Order.

6. On November 1, 1999, the North Dakota Securities Commissioner issued an Administrative Complaint against several persons, including Baxter and McDermott. The respondents were provided notice that they could request a hearing on the Administrative Complaint, and Baxter and McDermott did request a hearing on the Administrative Complaint. None of the other respondents to that Administrative Complaint requested a hearing.

7. The Administrative Complaint was based on several apparent violations of North Dakota law including violations of the Commissioner's Cease and Desist Order dated August 16, 1999. All of the Commissioner's statements in that Administrative Complaint are reaffirmed in this Consent Order.

8. In the Administrative Complaint, the Commissioner proposed that Baxter and McDermott be assessed civil penalties in the amount of \$92,000, joint and several with other respondents.

9. Pursuant to section 10-04-16 N.D.C.C., when it shall appear to the Commissioner that any person has engaged in, or is engaging in, or is about to engage in any act or practice which is declared illegal in this chapter, the Commissioner may, in his discretion, issue any order and collect civil penalties against any person found in an administrative action to have violated any provision of the chapter in an amount not to exceed \$10,000 for each violation.

10. The violations described above, in the Cease and Desist Order, and in the Administrative Complaint, if proven, are sufficient grounds for the Commissioner to assess civil penalties against respondent pursuant to section 10-04-16 N.D.C.C., and the civil penalties proposed in the Administrative Complaint are not excessive in light of these violations.

11. McDermott has attested that his debts far exceed his assets, and that he is unable to pay the civil penalties proposed by the Commissioner. McDermott has represented that the extent of his ability to pay civil penalties and/or rescission to Mr. Nordick is limited to \$5,000. Additionally, McDermott has stated that Baxter is insolvent.

12. Respondents acknowledge their right to a hearing on this matter and waive their right to a hearing in this matter and to present arguments to the Commissioner.

13. Respondents agree to resolve this matter, including all matters discussed in the Cease and Desist Order and the Administrative Complaint, with the Securities Commissioner by this Consent Order. Acceptance of this matter is evidenced by Respondents' signatures on the Consent to Entry of Order, attached hereto. The parties agree that this Consent Order, and the facts described herein, may not be used by the Commissioner as the sole basis for any future action against any of the Respondents. The Commissioner expressly reserves the right to pursue any other administrative or judicial action or remedy should facts or information be developed or disclosed which would warrant such action or remedy. Furthermore, the Commissioner, in determining the severity of the sanction in any future administrative or judicial proceeding, may consider the instant matter as an aggravating factor.

14. The following Order is necessary and appropriate in the public interest.

NOW, THEREFORE, IT IS ORDERED, THAT:

1. Respondent, Baxter, shall not transact any securities business with any person in North Dakota unless respondent is registered as a dealer or properly exempted under Chapter 10-04 N.D.C.C.
2. Respondent, McDermott, shall not transact any securities business with any person in North Dakota unless respondent is registered as an agent or properly exempted under Chapter 10-04 N.D.C.C.
3. Respondent, McDermott, is permanently barred from acting as an Officer, Director, Control Person, Branch Manager, or in any other supervisory capacity

with any broker/dealer or investment advisory firm registered to transact business in North Dakota.

4. Respondent, McDermott, shall not apply to be registered as a securities salesman or investment advisor representative in North Dakota for a period of five (5) years from the date of the issuance of this order.

5. Respondents shall, contemporaneous with the execution of this Consent Order, pay \$5,000 to Rod and Tim Nordick in partial rescission of the losses they suffered as a result of the violations of North Dakota law. (Though the payment is only in partial rescission of the losses, the Commissioner recognizes the agreement between the Nordicks and the Respondents that the \$5,000 payment required herein is also in full satisfaction of the debts owed to the Nordicks.)

6. Respondents are released from their duties and restrictions under the Cease and Desist Order and the Administrative Complaint, and the Commissioner vacates both documents with respect to Baxter and McDermott. The Commissioner does not, herein, vacate these orders, or either of these orders, with respect to any person who is not a party to this Consent Order.

7. This Order shall be effective upon signature of the Commissioner.

Signed and Sealed this 16th day of June, 2000.



Syver Vinje

Syver Vinje, Securities Commissioner
Office of the Securities Commissioner
State Capitol-5th Floor
600 East Boulevard Ave.
Bismarck, ND 58505-0510
(701) 328-2910

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**CONSENT TO ENTRY
OF ORDER**

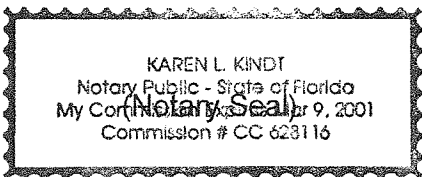
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The undersigned person, Francis M. McDermott, acting in his personal capacity and on behalf of Baxter, Banks & Smith, Ltd., states that he has read the foregoing Consent Order and that he knows and fully understands its contents and effects. He further states that he is authorized to execute this Consent to Entry of Order. He acknowledges that respondents have waived their rights to a hearing with respect to this matter, and consent to entry of the Consent Order by the Securities Commissioner without admitting or denying the findings of fact and conclusions of law contained therein.

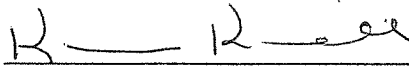
It is further expressly understood that the Consent Order constitutes the entire settlement agreement between the parties hereto, there being no other promises or agreements, either expressed or implied.

Dated this 6th day of June, 2000.


Francis M. McDermott, personally and on behalf of Baxter, Banks & Smith, Ltd.
309 Fifth Avenue N.
St. Petersburg, FL 33701

Subscribed and Sworn before me this 6th day of June, 2000.




Notary Public
State: FL County: Pinellas
My Commission Expires: March 9, 2001