

**BEFORE THE DIVISION OF SECURITIES  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH**

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In the Matter of	:	<b>NOTICE OF ENTRY OF DEFAULT</b>
<b>Thomas M. Couch</b>	:	<b>AND RECOMMENDED ORDER</b>
<b>CRD #1271694</b>	:	Case No. SD-01-0128

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**Appearances:**

Jeffrey S. Buckner for the Division of Securities

No appearance by or on behalf of Respondent

**By the Administrative Law Judge:**

Pursuant to a September 23, 2003 notice, an October 27, 2003 hearing was scheduled to be conducted in this proceeding. The September 23, 2003 notice also recites Respondent was granted leave until October 6, 2003 to submit witness and exhibit lists to the Division and, if Respondent failed to submit those lists by that date, the Court would entertain a motion to enter Respondent's default. The September 23, 2003 notice further recites that, if Respondent's witness and exhibit lists were submitted by October 6, 2003, but Respondent failed to appear for the October 27, 2003 hearing, the Court would entertain a motion to enter Respondent's default at that time.

The September 23, 2003 notice was sent by regular mail to Pete W. Weston, counsel for Respondent. The Division filed an October 7, 2003 motion for sanctions against Respondent for his failure to have complied with the orders of this Court regarding discovery and duly participate in this proceeding. The Division thus requested that Respondent's answer be stricken and that default judgment be entered against Respondent. The Division further requested that the October

27, 2003 hearing be vacated.

The Division's motion was sent by regular mail to Mr. Weston. Respondent has not filed any witness and exhibit lists nor a response to the October 7, 2003 motion. Respondent has made no contact with either the Division or the Court prior to the October 27, 2003 hearing. Respondent did not appear for that hearing, either personally or by authorized representative.

The Court provided due notice to Respondent of the October 27, 2003 hearing. U.C.A. §63-46b-11(1)(b) provides an order of default may enter against a party who fails to attend a properly scheduled hearing after receiving proper notice. The Court thus entered Respondent's default. The Court also ordered that Respondent's November 22, 2001 response be stricken.

After the issuance of a default order, §63-46b-11(4)(a) provides further proceedings may be conducted as necessary to complete the adjudicative proceeding without the participation of the party in default and a determination shall be made of all issues in the adjudicative proceeding. The Division then made a proffer of evidence in support of the allegations set forth in the October 24, 2001 Petition.

Based thereon, the Court now enters its Findings of Fact, Conclusions of Law and submits the following Recommended Order for review and action by the Division and the Securities Advisory Board:

#### **FINDINGS OF FACT**

Paragraphs 1-7 of the October 24, 2001 Petition set forth the Division's factual allegations in this proceeding. Those allegations are thus incorporated herein by reference and the Court adopts those allegations as its Findings of Fact.

#### **CONCLUSIONS OF LAW**

The Court adopts Paragraphs 8-20 of the October 24, 2001 Petition as its Findings of Fact

and Conclusions of Law. The Court thus finds and concludes a proper factual and legal basis exists to enter the relief sought by the Division. Absent any matters offered in defense or mitigation, the Court concludes the following Recommended Order is warranted:

**RECOMMENDED ORDER**

WHEREFORE, IT IS ORDERED that Respondent's broker-dealer agent license be revoked and that Respondent shall be barred from subsequent licensure as a broker-dealer agent in this state.

It is further ordered that Respondent shall be fined \$30,000. That fine shall be payable upon adoption of this Recommended Order by the Division and the Securities Advisory Board.

I hereby certify the foregoing Notice of Entry of Default, Findings of Fact, Conclusions of Laws and Recommended Order was submitted to S. Anthony Taggart, Director of the Division of Securities, on the 4<sup>th</sup> day of November, 2003, for his review and action.

  
J. Steven Eklund  
Administrative Law Judge

**BEFORE THE DIVISION OF SECURITIES  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH**

In the Matter of :  
Thomas M. Couch :  
CRD #1271694 :

**ORDER**  
Case No. SD-01-0129

**By the Division:**

The foregoing Findings of Fact, Conclusions of Law and Recommended Order is hereby adopted by the Division of Securities.

Dated this 6<sup>th</sup> day of November, 2003.

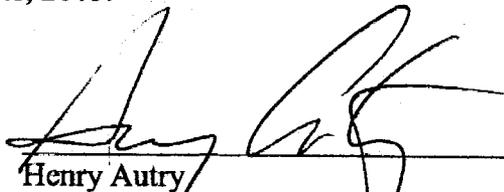
  
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S. Anthony Taggart, Director

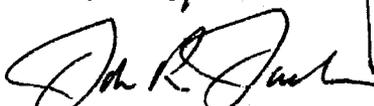


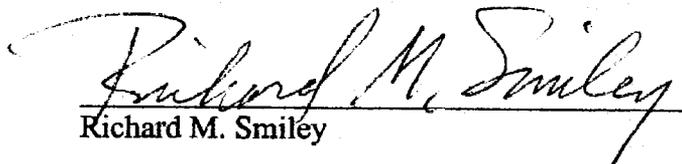
**By the Securities Advisory Board:**

The foregoing Order is hereby accepted, confirmed and approved by the Utah Securities Advisory Board.

Dated this 16<sup>th</sup> day of ~~November~~ <sup>DECEMBER</sup>, 2003.

  
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Henry Autry

  
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John R. Jackson

  
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Richard M. Smiley

W. Rex Thornton  
W. Rex Thornton

A. Robert Thorup  
A. Robert Thorup

Pursuant to §63-46b-11(3), Respondent may seek to set aside the Default Order entered in this proceeding by filing such a request with the Division consistent with the procedures outlined in the Utah Rules of Civil Procedure.

**Certificate of Mailing**

I hereby certify that on the 19<sup>TH</sup> day of November 2003, a copy of the foregoing Notice of Entry of Default, Recommended Order and Order was sent, by certified mail, postage prepaid, to: Pete W. Weston, 3100 Wesleyan, Suite 250, Houston, TX 77027. A copy was also hand delivered to Jeffrey S. Buckner, Assistant Attorney General, 160 E. 300 So., 5th Flr., Salt Lake City, UT 84114-0872.

Pamala Radzinski  
Pamala Radzinski  
Executive Secretary