

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
20042000061-01

TO: Department of Market Regulation
NASD

RE: vFinance Investments, Inc., Respondent
CRD No. 44962

Pursuant to Rule 9216 of the NASD Code of Procedure, vFinance Investments, Inc. ("VFIN" or "the firm"), submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described in Part II below. This AWC is submitted on the condition that, if accepted, NASD will not bring any future actions against the firm alleging violations based on the same factual findings.

The firm understands that:

1. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by NASD's Market Regulation Department and National Adjudicatory Council ("NAC") Review Subcommittee or Office of Disciplinary Affairs ("ODA"), pursuant to NASD Rule 9216;
2. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the firm; and
3. If accepted:
 - a. this AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by the NASD or any other regulator against the firm;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about the firm's disciplinary record;
 - c. NASD may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-2; and
 - d. the firm may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying,

directly or indirectly, any allegation in this AWC or create the impression that the AWC is without factual basis. Nothing in this provision affects the firm's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

VFIN also understands that the firm's experience in the securities industry and the firm's disciplinary history may be factors that will be considered in deciding whether to accept this AWC. That experience and history are as follows:

VFIN has been a member of NASD since September 9, 1998, and its registration remains in effect. VFIN has no prior relevant disciplinary history.

I.

WAIVER OF PROCEDURAL RIGHTS

VFIN specifically and voluntarily waives the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the firm;
- B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the NAC and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, VFIN specifically and voluntarily waives any right to claim bias or prejudgment of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance, or rejection of this AWC.

VFIN further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

II.

ACCEPTANCE AND CONSENT

The staff of NASD's Department of Market Regulation ("the staff") conducted a review, No. 20042000061 (formerly known as MRD200340018), of VFIN's compliance with SEC Rule 11Ac1-4 during the period October 1, 2002 through December 31, 2002 ("the review period").

- A. VFIN hereby accepts and consents, without admitting or denying the allegations or findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of NASD, or to which NASD is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by NASD:
1. On 61 occasions during the review period, VFIN failed to display immediately 61 customer limit orders in Nasdaq securities in its public quotation, when each such order was at a price that would have improved VFIN's bid or offer in each such security, or when the order was priced equal to VFIN's bid or offer and the national best bid or offer for each such security and the size of the order represented more than a *de minimis* change in relation to the size associated with VFIN's bid or offer in each security.
 2. The conduct described in paragraph one constitutes separate and distinct violations of SEC Rule 11Ac1-4.
 3. The firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and the Rules of NASD, concerning SEC Rule 11Ac1-4. Specifically, the firm's supervisory system did not include written supervisory procedures providing for: (1) identification of the person(s) responsible for supervision with respect to the applicable rules; (2) a statement of the supervisory step(s) to be taken by the identified person(s); (3) a statement as to how often such person(s) should take such step(s); and (4) a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented.
 4. The conduct described in paragraph three constitutes a violation of NASD Conduct Rules 2110 and 3010.
 5. During the review period VFIN transmitted to the Order Audit Trail System ("OATS") ten reports that contained inaccurate, incomplete, or improperly formatted data. Specifically, the reports contained inaccurate timestamps.

6. VFIN failed to report to OATS route reports for 16 Reportable Order Events ("ROEs").
 7. The conduct described in paragraphs five and six constitutes separate and distinct violations of NASD Marketplace Rule 6955(a) and a violation of Conduct Rule 2110.
- B. VFIN also consents to the imposition, at a maximum, of the following sanctions:

A censure, a \$17,500 fine (a \$7,500 fine for the Limit Order Display violations, a \$5,000 fine for the supervision violation, and a \$5,000 fine for the OATS violations); and an undertaking to revise the firm's written supervisory procedures with respect to the areas described in paragraph three. Within 30 business days of acceptance of this AWC by the NAC, a registered principal of the Respondent shall submit to the COMPLIANCE ASSISTANT, LEGAL SECTION, MARKET REGULATION DEPARTMENT, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850, a signed, dated letter, providing the following information: (1) a reference to this matter; (2) a representation that the firm has revised its written supervisory procedures to address the deficiencies described in paragraph three; and, (3) the date the revised procedures were implemented.

The sanctions imposed herein shall be effective on a date set by NASD staff.

III.

OTHER MATTERS

- A. VFIN understands that it may attach a Corrective Action Statement to this AWC which is a statement of demonstrable corrective steps taken to prevent future misconduct. VFIN understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by NASD nor does it reflect the views of NASD or its staff.
- B. VFIN agrees to pay any monetary sanctions imposed on it upon notice that this AWC has been accepted and that such payments are due and payable, and has attached the Election of Payment form showing the method by which the firm proposes to pay any fine imposed.
- C. VFIN specifically and voluntarily waives any right to claim that VFIN is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

11/2/2001
Date

By: Richard Caniglia
Name: Richard Caniglia
Title: COO

Date 2/6/06