

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
20042000169-01

TO: Department of Market Regulation
NASD

RE: **Vandham Securities Corp.**, Respondent
CRD No. 26258

Pursuant to Rule 9216 of the NASD Code of Procedure, Vandham Securities Corp. ("VNDM" 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 finding 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.

VNDM 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:

VNDM has been a member of NASD since May 23, 1990, and its registration remains in effect. VNDM does not have any prior relevant disciplinary history.

I.

WAIVER OF PROCEDURAL RIGHTS

VNDM 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, VNDM 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.

VNDM 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

In Market Regulation Review 20042000169/MRD200343776, the Department of Market Regulation staff ("the staff") conducted a Trading and Market Making Surveillance Examination of VNDM's compliance with the rules applicable to market making. The on-site portion of the examination was conducted on January 12th through 16th, 2004. The staff conducted a review of:¹

- 25 customer sale transactions, for compliance with NASD Conduct Rules 3110 and 3370 and SEC Rule 10a-1;
- 1 proprietary sale transaction, for compliance with NASD Conduct Rule 3370 and SEC Rule 10a-1;
- 111 customer and proprietary sales in NNM securities, for compliance with NASD Marketplace Rule 6130;
- 1 short sale in an NNM security, for compliance with NASD Conduct Rule 3350;
- 49 limit orders executed as principal, for compliance with NASD Conduct Rules 2110 (and IM-2110-2) and 2320, NASD Marketplace Rules 6440 and 6541 and SEC Rules 11Ac1-1 and 11Ac1-4;
- 60 transactions executed in principal or riskless capacity, for compliance with capacity reporting under NASD Trade Reporting Rules and Nasdaq Market Center (formerly known as ACT) Rules;
- 23 orders for Nasdaq securities in soft dollar accounts and related executions, for compliance with trade reporting rules and the safe harbor limitations of SEC section 28(e);
- 1 trade in an NNM security reported with a .PRP modifier, for compliance with NASD Marketplace Rule 4632 and NASD Conduct Rule 2320;
- 25 orders in securities for which the firm was a market center, for compliance with the order size/type classification requirements of SEC Rule 605 (formerly SEC Rule 11Ac1-5);
- 32 security/size/order data statistics published by the firm's monthly order execution report, for compliance with SEC Rule 605 (formerly SEC Rule 11Ac1-5);
- Data published on the firm's quarterly order routing report, for compliance with SEC Rule 606 (formerly SEC Rule 11Ac1-6);
- 26 customer transactions in OTCBB and OTC equity securities, for compliance with NASD Conduct Rules 2320 and 3110(b);
- 452 order/trade records prepared and maintained in connection with the above samples, for general compliance with NASD Conduct Rule 3110 and SEC Rules 17a-3 and 17a-4;
- 591 trades reported to ACT in connection with the above samples, for general compliance with NASD Trade Reporting and Nasdaq Market Center (formerly known as ACT) Rules;
- 40 customer trade confirmations reviewed in connection with the above samples,

¹ Unless otherwise noted, the reviews are for trade dates November 10th through 21st, 2003.

- for compliance with SEC Rule 10b-10;
- The firm's establishment and implementation of "regular and rigorous" reviews of the execution quality of orders sent to other market centers and internalized, for compliance with NASD Conduct Rules 2320 and 3010; and
- The firm's establishment and implementation of a supervisory system and written supervisory procedures, for compliance with NASD Conduct Rule 3010.

In addition, 20042000169/MRD200343776 includes Market Regulation Review 20050003961/MRD200449996, a TMMS Examination of VNDM's compliance with applicable trade reporting rules and other regulations. The on-site portion of this examination was conducted on January 18th through 20th, 2005. The staff conducted a review of:²

- 29 customer sell orders, for compliance with NASD Conduct Rules 3110 and 3370;
- 9 proprietary sale transaction, for compliance with NASD Conduct Rule 3370;
- 29 customer and proprietary sales in NNM securities, for compliance with NASD Marketplace Rule 6130;
- 42 limit orders executed as principal, for compliance with SEC Rule 10a-1;
- 50 limit and market orders and 51 trades executed in a principal or riskless principal capacity, for compliance with capacity reporting under NASD Trade Reporting and Nasdaq Market Center (formerly known as ACT) Rules;
- 34 orders for Nasdaq securities in soft dollar accounts for compliance with trade reporting rules and the safe harbor limitations of SEC section 28(e);
- 13 orders in securities for which the firm was a market center, for compliance with the order size/type classification requirements of SEC Rule 605 (formerly SEC Rule 11Ac1-5);
- 4 security/size/order data statistics published on the firm's monthly order execution report, for compliance with SEC Rule 605 (formerly SEC Rule 11Ac1-5);
- Data published on the firm's quarterly order routing report, for compliance with SEC Rule 606 (formerly SEC Rule 11Ac1-6);
- 50 orders in NNM or SC securities submitted to OATS, for compliance with NASD Marketplace Rule 6955;
- 4 customer transactions in OTCBB and OTC equity securities, for compliance with NASD Conduct Rules 2320 and 3110(b);
- 9 persons engaged in the firm's trading and market making activities, for compliance with NASD Registration Rules;
- 148 order/trade records prepared and maintained in connection with the above samples, for general compliance with NASD Conduct Rule 3110 and SEC Rules 17a-3 and 17a-4;
- 122 trades reported to Nasdaq Market Center (formerly known as ACT) or TRACS in connection with the above samples, for general compliance with NASD Trade Reporting and Nasdaq Market Center (formerly known as ACT) Rules;
- 85 customer trade confirmations reviewed in connection with the above samples, for compliance with SEC Rule 10b-10;

² Unless otherwise noted, the reviews are for trade dates December 6th through 17th, 2004.

- The firm's establishment and implementation of "regular and rigorous" reviews of the execution quality of orders sent to other market centers and internalized, for compliance with NASD Conduct Rules 2320 and 3010; and
- The firm's establishment and implementation of a supervisory system and written supervisory procedures, for compliance with NASD Conduct Rule 3010.

A. VNDM hereby accepts and consents, without admitting or denying the 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:

In connection with 20042000169/MRD200343776

1. VNDM failed to correctly report riskless principal transactions through the Nasdaq Market Center (formerly known as ACT) in eight last sale reports of transactions in eligible securities.
2. VNDM failed to report the correct symbol indicating whether VNDM executed 245 transactions in eligible securities in a principal or agency capacity.
3. The conduct described in paragraphs one and two above constitute separate and distinct violations of NASD Marketplace Rule 4632.
4. VNDM failed to report to the Nasdaq Market Center (formerly known as ACT) the correct symbol indicating whether VNDM executed 18 transactions in eligible securities in a principal or agency capacity.
5. The conduct described in paragraph four constitutes separate and distinct violations of NASD Marketplace Rule 6130(d).
6. VNDM failed to correctly report to the Nasdaq Market Center (formerly known as ACT) as media reported transactions on seven principal transactions in eligible securities.
7. VNDM failed to report to the Nasdaq Market Center (formerly known as ACT) the correct symbol indicating whether VNDM executed 23 transactions in OTCBB and OTC equity securities in a principal or agency capacity.
8. The conduct described in paragraph six and seven constitute separate and distinct violations of NASD Marketplace Rule 6620.
9. VNDM failed on ten occasions to provide written notification disclosing to its customer the markup or markdown.

10. VNDM failed on one occasion to provide written notification disclosing to its customer its correct capacity in the transaction.
11. The conduct described in paragraphs nine and 10 above constitute separate and distinct violations of SEC Rule 10b-10.

In connection with 20050003961/MRD200449996

12. VNDM failed to correctly report riskless principal transactions through the Nasdaq Market Center (formerly known as ACT) in 29 last sale reports in eligible securities.
13. VNDM reported one transaction through the Nasdaq Market Center (formerly known as ACT) with the incorrect modifier.
14. The conduct described in paragraphs 12 and 13 constitute separate and distinct violations of NASD Marketplace Rule 4632.
15. VNDM failed to report to the Nasdaq Market Center (formerly known as ACT) the correct symbol indicating whether VNDM executed one transaction in eligible securities in a principal or agency capacity.
16. VNDM failed to report to the Nasdaq Market Center (formerly known as ACT) the cancellation of one transaction in eligible securities.
17. VNDM failed to report to the Nasdaq Market Center (formerly known as ACT) the correct short sale indicator in four transactions in eligible securities.
18. The conduct described in paragraphs 15 through 17 constitutes separate and distinct violations of NASD Marketplace Rule 6130.
19. During the review period, VNDM failed in 25 instances to submit execution reports to OATS.
20. During the review period, VNDM transmitted to OATS three reports that contained inaccurate, incomplete or improperly formatted data. Specifically, the reports contained inaccurate timestamps, inaccurate Account Type Codes or inaccurate share volume.
21. The conduct described in paragraphs 19 and 20 above constitute separate and distinct violations of NASD Marketplace Rule 6955(a).
22. VNDM failed on 17 occasions to provide written notification disclosing to its customer that the transaction was executed at an average price.

23. VNDM failed on one occasion to provide written notification disclosing to its customer its correct capacity in the transaction.
24. VNDM, on one occasion when it acted as principal for its own account, failed to provide written notification disclosing to its customer the correct reported trade price.
25. The conduct described in paragraphs 22 through 24 above constitutes separate and distinct violations of SEC Rule 10b-10.
26. VNDM failed to make publicly available for the fourth calendar quarter of 2004 a report on its routing of non-directed orders in covered securities during that quarter.
27. The conduct described in paragraph 26 constitutes a violation of SEC Rule 606 (formerly SEC Rule 11Ac1-6).
28. VNDM failed to show the correct order receipt time on the memorandum of six brokerage orders.
29. VNDM failed to show the correct time of execution on the memorandum of one brokerage order.
30. VNDM failed to show the terms and conditions on the memorandum of 22 brokerage orders.
31. VNDM failed to show the correct price of execution on the memorandum of 22 brokerage orders.
32. The conduct described in paragraphs 28 through 31 constitutes separate and distinct violations of SEC Rule 17a-3 and NASD Conduct Rule 3110.
33. VNDM failed to preserve for a period of not less than three years, the first two in an accessible place, the memorandum of three brokerage orders.
34. The conduct described in paragraph 33 constitutes a violation of SEC Rule 17a-4 and NASD Conduct Rule 3110.
35. 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 Disclosure of Order Routing Information, Riskless Principal Trade Reporting, Trade Reporting of Sales Transactions, Soft Dollar

Accounts and Trading, and Books and Records requirements. 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.

36. The conduct described in paragraph 35 constitutes a violation of NASD Conduct Rules 2110 and 3010.

- B. VNDM also consents to the imposition, at a maximum, of the following sanctions:

A censure, a fine of \$30,000 (consisting of a \$10,000 fine for trade reporting violations, a \$5,000 fine for recordkeeping violations, a \$5,000 fine for OATS violations, a \$5,000 fine for failure to disclose order routing information, and a \$5,000 fine for supervision violations) and an undertaking to revise the firm's written supervisory procedures with respect to the areas described in paragraph 35. 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 35; 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. VNDM 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. VNDM 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. VNDM 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. VNDM specifically and voluntarily waives any right to claim that VNDM is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter

2-28-07

Respondent

By: Frank R. Carter

Title: PRESIDENT & CEO

Counsel for Respondent

Date _____

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