

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
20050002661-01

TO: Market Regulation Department
NASD

RE: **Bishop, Rosen & Co., Inc., Respondent**
CRD No. 1248

Pursuant to Rule 9216 of NASD Code of Procedure, Bishop Rosen & Co., Inc. ("BISH 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 BISH alleging violations based on the same factual findings.

BISH 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 Department of Market Regulation and National Adjudicatory Council ("NAC") Review Subcommittee or Office of Disciplinary Affairs, 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 BISH; and
3. If accepted:
 - a. this AWC will become part of firm's permanent disciplinary record and may be considered in any future actions brought by 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.

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

Bishop, Rosen & Co., Inc. has been a member of the NASD since August 8, 1970 and its registration remains in effect. BISH has no relevant disciplinary history.

I.

WAIVER OF PROCEDURAL RIGHTS

BISH 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 BISH;
- 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, BISH 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.

BISH 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 Market Regulation Department staff ("the staff") conducted a review the firm's compliance with trade reporting rules during the period of October 1, 2004 through December 31, 2004 ("the review period").

A. BISH 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:

1. BISH failed to accept or decline in Nasdaq Market Center 486 transactions in eligible securities within twenty minutes after execution, approximately 29 percent of all transactions that the firm had an obligation to accept or decline in Nasdaq Market Center as the OEID during the review period.
2. The conduct described in paragraph one constitutes separate and distinct violations of NASD Marketplace Rule 6130(b) and a violation of NASD Conduct Rule 2110.
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 trade reporting. 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.

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

A censure, a fine of \$12,000 (consisting of a \$7,000 fine for trade reporting violations and a \$5,000 fine for the supervision violation), and an undertaking to revise BISH'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. BISH understands that BISH may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. BISH 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. BISH 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 an Election of Payment form showing the method by which the firm proposes to pay any fine imposed.
- C. BISH specifically and voluntarily waives any right to claim that BISH is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

Date 5/14/06

By: 
Name: ISAAC SCHWESINGER
Title: V.P.

Counsel for Respondent

Date 7/20/06

Signed on behalf of the Director of
ODA, by delegated authority

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