

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2005000731601

TO: Department of Enforcement
NASD

RE: John J. Fratello, Respondent
(CRD No. 213241)

Pursuant to Rule 9216 of NASD Code of Procedure, I, John J. Fratello ("Fratello" or "Respondent") submit 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 me alleging violations based on the same factual findings.

I understand 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 Enforcement 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 me; and
3. If accepted:
 - a. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against me;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about my 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. I 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 my testimonial

obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

I also understand that my 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:

I was registered with NASD as a General Securities Representative ("GSR") and Investment Company Products/Variable Contracts Representative ("IR") through MetLife Securities, Inc. (BD No. 14251) and Metropolitan Life Insurance Company (BD No. 4095) (collectively "MetLife") from October 18, 1971, through March 16, 2005. I first became registered with NASD through my association with MetLife.

On March 22, 2005, MetLife filed a Uniform Termination Notice for Securities Industry Registration ("Form U-5") terminating my registration.

I am not currently registered with any NASD member firm. However, I remain subject to NASD's jurisdiction pursuant to Article V, Section 4 of its By-Laws.

I have no prior disciplinary history with NASD or any other self-regulatory organization, the Securities & Exchange Commission, or any state securities regulator.

I.

WAIVER OF PROCEDURAL RIGHTS

I specifically and voluntarily waive the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against me;
- 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, I specifically and voluntarily waive 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.

I further specifically and voluntarily waive 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

A. I hereby accept and consent, 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. By letter dated April 7, 2005, sent pursuant to and in accordance with NASD Procedural Rule 8210, the staff of NASD's District No. 10 office (the "Staff") requested that Fratello provide a written statement responding to the Staff's questions concerning allegations by one of Fratello's customers. On April 22, 2005, Fratello called the Staff and informed the Staff that he would not provide the requested information on the advice of his attorney.

By letter to the Staff dated April 22, 2005, Fratello reiterated that, on the advice of his attorney, he would not provide the written statement requested in the Staff's April 7, 2005, request for information.

Fratello eventually provided the information requested in the Staff's April 7, 2005, letter. Specifically, in his response to a Wells Notice that was issued on September 1, 2005, Fratello provided a written response, dated October 3, 2005, that included responses to the Staff's earlier questions. In addition, in November 2005, Fratello responded to a subsequent request for information and therein provided additional detail with regard to the information initially requested in the Staff's April 7, 2005, request for information.

By failing to respond to NASD inquiries in a timely manner, Fratello violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

B. I also consent to the imposition, at a maximum, of the following sanctions:

- a three-month suspension from associating with any NASD member firm in any capacity; and
- a \$7,500 fine.

The fine shall be due and payable either immediately upon reassociation with a member firm following the three-month suspension noted above, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

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

III.

OTHER MATTERS

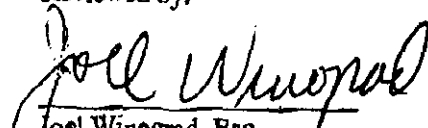
- A. I understand that I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by NASD, nor does it reflect the views of NASD or its staff.
- B. I agree to pay any monetary sanctions imposed on me upon re-entry as noted above.
- C. I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.
- D. I understand that if I am barred or suspended from associating with any NASD member, I become subject to a statutory disqualification as that term is defined in Section 3(a)(39) of the Securities Exchange Act of 1934, as amended. Accordingly, I may not be associated with any NASD member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension. (See NASD Rule 8310 and IM-8310-1.)

I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it, and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce me to submit it.

9/20/06
Date


John J. Frutkin, Respondent
(CRD No. 213241)

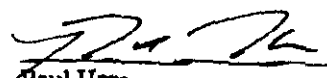
Reviewed by:


Joel Winograd, Esq.
Counsel for Respondent

Accepted by NASD:

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

October 6, 2006
Date


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