

**NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20050010765**

**TO: Department of Enforcement
NASD**

**RE: Charles E. Fleming, Respondent
General Securities Representative
[CRD No. 1447158]**

Pursuant to Rule 9216 of the NASD Code of Procedure, Respondent submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violation 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 the 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 allegation 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 the 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:

Charles E. Fleming entered the securities industry in October 1986 as a registered representative with PFS Investments Inc., a member of NASD, where he was employed through October 1996. Thereafter, Respondent Fleming was employed at the following member firms as a general securities representative:

Dominion Capital Corporation	10/96-11/98
Northstar Securities, Inc.	06/98-03/01
Rushmore Securities Corporation	01/01-08/02
Empire Financial Group, Inc.	08/02-06/05

At all times during the period mentioned herein, Respondent Fleming was registered with NASD under Article V of its By-Laws. At present, Respondent Fleming is not employed in the securities industry, and has not previously been the subject of formal disciplinary action by any regulatory body.

I.

WAIVER OF PROCEDURAL RIGHTS

I specifically and voluntarily waive the following rights granted under the 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 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:

On or about September 2, 2004, Respondent Charles E. Fleming serviced the joint account of a husband and wife, and recommended that they transfer \$30,000—approximately half the value of their account—from mutual funds to equity index annuities.

On that date, Respondent Fleming completed the necessary documentation to effect the transfer and signed the customers' names on the "Authorization to Transfer Funds" form. As a result of the transaction, Respondent Fleming received a \$5,400 commission.

Such acts, practices, and conduct constitute a violation of NASD Conduct Rule 2110 by Respondent Fleming.

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

A monetary fine in the amount of \$5,000 against Respondent Fleming. In addition, Respondent Fleming will be suspended from association with any member of NASD for a period of 30 days from the date of the acceptance of this AWC.

The sanctions imposed herein shall be effective on a date set by the NASD staff. Pursuant to IM-8310-2(f), a bar or expulsion shall become effective upon approval or acceptance of this AWC by the NAC.

III.

OTHER MATTERS

- A. 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 understand that if I am barred or suspended from association 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.

12-24-2005

Date



Charles E. Fleming, General
Securities Representative

Accepted by NASD:

1/11/06

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



Nancy B. Goldstein
Senior Regional Attorney
NASD Department of
Enforcement
2500 N. Military Trail, Ste. 302
Boca Raton, FL 33431
(561) 443-8120

NASD District Director
Mitchell Atkins
NASD, Florida District
2500 N. Military Trail, Ste. 302
Boca Raton, FL 33431
(561) 443-8000