

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. # 20050010905-01

TO: Department of Enforcement
NASD

RE: David G. Rincon ("Rincon")
(CRD No. 4598476)

Pursuant to Rule 9216 of NASD Code of Procedure, David G. Rincon ("Rincon") 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 Rincon alleging violations based on the same factual findings.

Rincon 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 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, his submission will not be used as evidence to prove any of the allegations against Rincon; and
3. If accepted:
 - a. this AWC will become part of Rincon's permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against Rincon;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about Rincon'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. Rincon 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 Rincon's

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

Rincon also understands that his 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:

Rincon first became registered with a former NASD member firm in April 2003 as a General Securities Representative. He was then registered with NASD member firm GunnAllen Financial Inc. ("GunnAllen") (BD No. 17609) from October 6, 2003 through July 29, 2005. Rincon does not have any disciplinary history with NASD or any other self-regulatory organization, the U.S. Securities and Exchange Commission, or any state securities regulator.

I.

WAIVER OF PROCEDURAL RIGHTS

Rincon 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 Rincon;
- 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, Rincon 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.

Rincon 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 his acceptance or rejection.

II.

ACCEPTANCE AND CONSENT

- A. Rincon 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) Rincon provided JC, a prospective customer of GunnAllen, with a document that contained misleading statements pursuant to NASD Conduct Rule 2210. The document suggested that GunnAllen was part of, or affiliated with Wachovia Bank ("Wachovia"). In fact, Wachovia's subsidiary, First Clearing, LLC, was GunnAllen's clearing firm. The document, a letter, contained the following inaccurate statements: 1) that having an account at GunnAllen means that JC would be working with the "Third Largest brokerage resource in the country"; 2) that GunnAllen has an "in house research department"; and 3) GunnAllen employs "nationally recognized Chief Investment Strategist Rod Smyth." Rincon also furnished JC with a Wachovia Economic Outlook 2004 brochure and a Wachovia Nortel Research Report. By reason of the foregoing Rincon violated NASD Conduct Rules 2210(d)(1)(B) and 2110.

(2) Rincon failed to enter stop loss orders for two positions in the account of customer JC despite JC's request that he do so. By reason of the foregoing, Rincon violated NASD Conduct Rule 2110.

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

- A suspension from associating with any member firm in any capacity for sixty (60) calendar days; and
- A fine of \$7,500.

The fine shall be due and payable either immediately upon reassociation with a member firm following the 60 day 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.

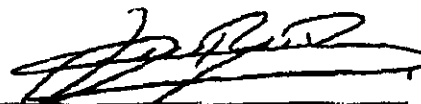
III.

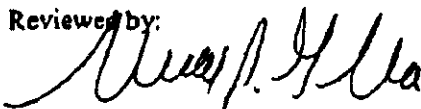
OTHER MATTERS

- A. Respondent understands that he may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that he 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. Rincon understands that if he is barred or suspended from associating with any NASD member, he becomes 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, he 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.)
- C. Respondent agrees to pay any monetary sanctions imposed on him upon re-entry as noted above.
- D. Respondent specifically and voluntarily waives any right to claim that he is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

Rincon certifies that he has read and understands all of the provisions of this AWC and has 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 Rincon to submit this AWC.

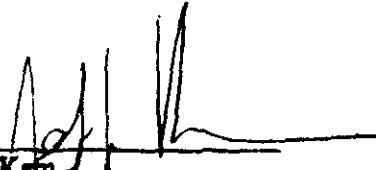
9/8/06
Date


David G. Rincon

Reviewed by:

Counsel for David G. Rincon

Accepted by NASD:

September 23, 2006
Date


Jeff Kam
Regional Counsel
NASD-District 10
Department of Enforcement

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

NASD Deputy District Director
Patricia Cappeto
NASD, District 10 (Long Island)
Two Jericho Plaza
Jericho, New York 11753