

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20050017487

TO: Department of Enforcement
NASD

RE: David M. Garrity, Respondent
General Securities Representative and General Securities Principal
CRD No. 1905680

Pursuant to Rule 9216 of NASD Code of Procedure, I, David M. Garrity ("Garrity"), 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:

Garrity became registered with NASD as a General Securities Representative (Series 7) in 1989 and General Securities Principal (Series 24) in 2004. From September 3, 2002 through January 31, 2004, Garrity was associated with NASD member American Technology Research Inc. ("ATR") as a General Securities Representative. From on or about January 27, 2004 through May 31, 2005, Garrity was associated with NASD member Caris & Company ("Caris") as a General Securities Representative, General Securities Principal, and Research Analyst. Garrity is presently associated with another NASD member firm. He has not been the subject of prior disciplinary action with the Securities Exchange Commission, NASD or state regulators.

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. NASD Conduct Rule 2711(g)(2) prohibits a research analyst from purchasing or selling any securities issued by companies followed by the research analyst for a period beginning 30 calendar days before and ending five calendar days after the publication of a research report concerning the company. Between July 7, 2004 and May 23, 2005, on nine occasions, Garrity purchased and/or sold securities of companies that he was covering within the prescribed time period.

The aforementioned conduct constitutes a violation of Rule 2711(g)(2) and 2110 by Garrity.

2. NASD Conduct Rule 2711(h)(1) requires a research analyst to disclose in a research report whether he has a financial interest in the securities of the subject company and the nature of his financial interest. In two research reports published on July 8, 2004, and May 23, 2005, Garrity failed to disclose that he had a financial interest in the securities of the subject company.

The aforementioned conduct constitutes a violation of Rule 2711(h)(1) and 2110 by Garrity.

3. Prior to his association with member firms ATR and Caris, Garrity maintained securities accounts at two other member firms. Upon becoming associated with ATR and Caris, Garrity failed to notify them promptly, and in writing, that he had opened accounts at two other member firms and he likewise failed to

notify the two other member firms when he became associated with ATR and Caris.

The aforementioned conduct constitutes a violation of Rule 3050(c) and 2110 by Garrity.

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

1. A fine in the amount of \$10,000.
2. A suspension from associating with any NASD member firm, in all capacities, for a period of forty five (45) days.

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 notice that this AWC has been accepted and that such payments are due and payable and have attached an Election of Payment form showing the method by which I propose to pay any fine imposed.
- 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 us to submit it.

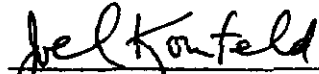
8/9/06
Date


David M. Garrity

Accepted by NASD:

8/28/06
Date

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


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