

**NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2005001759801**

**TO: Department of Enforcement
NASD**

**RE: James C. McCauley, Respondent
General Securities Principal and
General Securities Representative
[CRD No. 1830591]**

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 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 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 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 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:

James C. McCauley entered the securities industry on May 3, 1988 as an Investment Company and Variable Contracts Products Representative of Marketing One Securities, Inc., a member of NASD. James C. McCauley, during all periods mentioned herein, was associated with the following member firms: PrimeVest Financial Services, Inc., from August 2004 through May 2005; Citigroup Global Markets Inc., from August 2002 to August 2004; and Morgan Stanley DW Inc., from September 2000 through August 2002. McCauley was registered with NASD under Article V of the By-Laws as a General Securities Principal and General Securities Representative. James C. McCauley is not currently associated with any member firm and has not previously been the subject of a 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 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:

During the period from June 2001 through November 2004, James C. McCauley received from public customer TC 27 checks in the total amount of \$74,665.90 for the purchase of securities. McCauley neglected to purchase the securities and instead converted the funds to his own use and benefit.

Such acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rule 2110 by James C. McCauley.

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

A bar of James C. McCauley from association with any member of NASD in any capacity.¹

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 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).

¹ Although no monetary sanctions have been imposed in this disciplinary action, this does not preclude the customers from pursuing their own actions to effect such remedies.

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.


James C. McCauley, General Securities
Principal and General Securities
Representative

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