

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO: 2005002244101**

TO: Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: Fifth Third Securities, Inc., Respondent
CRD # 628

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Fifth Third Securities, Inc. ("FTS" or "the firm") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against the firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. FTS 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 FINRA, or to which FINRA 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 FINRA:

BACKGROUND

FTS has been a registered broker-dealer with FINRA since 1939. FTS is a subsidiary of Fifth Third Bancorp, and has 1285 active branches with approximately 2028 registered representatives. The firm has no prior relevant disciplinary history.

OVERVIEW

Between January 2004 and December 2006 (the "relevant period"), FTS, through forty-two FTS brokers, many operating out of Fifth Third Bank branches, effected 250 unsuitable variable annuity exchanges or transactions, thereby violating NASD Rule 2310; a single representative was responsible for 118 unsuitable exchanges which cost his customers over \$260,000 in surrender charges. FTS approved each of these transactions and failed to respond adequately to red flags evidencing that these transactions were unsuitable.

The broker responsible for 118 unsuitable exchanges joined FTS in early 2005. Unable to transfer certain variable annuity ("VA") products held by 74 of his customers from his prior

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firm, and not wanting to lose his customers' assets, he engaged in an exchange of those customers' VAs into a VA sold through FTS. He recommended, and all of his customers purchased, the same VA with the same riders. In recommending these transactions, the broker ignored substantial differences in his customers' ages, incomes, investment objectives, and investment sophistication. The customers paid in aggregate at least \$260,000 in surrender charges as a result of these transactions. The firm knew that the broker was engaging in a mass switch of his customers and failed to identify or address reasonably red flags that demonstrated the transactions were unsuitable, such as: (i) the identical nature of these VA transactions (including riders); (ii) the fact that the broker put the same information on the forms for all his customers (including checking off every investment objective for every customer); and (iii) incorrect statements by the broker that the customers would pay no surrender fees. The firm earned gross commissions of nearly \$400,000 from these transactions and because of commissions associated with these transactions the broker won a sales contest, earning him and his manager each a new 42" flat screen television.

Forty-one other FTS brokers recommended 132 unsuitable VA purchases for 123 customers during the relevant period. These customers, many of whom were elderly and/or possessed limited financial sophistication and had conservative investment objectives, were customers of Fifth Third Bank. In certain cases, the FTS brokers solicited them based on information provided by Fifth Third Bank, such as lists of customers with maturing CDs. As a result of these transactions, certain of these customers used liquid assets to purchase an illiquid, long term VA, reinvesting cash held in certificates of deposit and bank accounts into a VA with a surrender period of seven years. These customers all purchased the same VA and all allocated the entire amount of their investments into the fixed subaccount. The transactions were unsuitable given the customers' financial situations, needs, and investment objectives. Despite internal procedures that required heightened scrutiny of these types of transactions, the firm approved each transaction and did not respond adequately to red flags indicating that the transactions were unsuitable. The firm earned gross commissions of nearly \$500,000 on these transactions. The firm earned almost \$900,000 in total commissions on the 250 VA transactions.

As demonstrated by these unsuitable transactions, FTS's systems and procedures were inadequate and not appropriately tailored to its VA business. Although VA sales were a significant part of its business, FTS did not use any VA-specific surveillance tools and approved virtually every VA transaction, including those that had been flagged for heightened review. FTS had ample evidence that its systems and procedures governing VA transactions were deficient. In May 2004 and again in May 2005, internal auditors identified significant weaknesses in the firm's VA supervision systems and procedures, and two compliance audits found similar deficiencies. In each case, the firm failed to take adequate steps to remedy these deficiencies. FTS's failure to maintain an adequate system and procedures to supervise its VA sales violated NASD Rule 3010.

FACTS AND VIOLATIVE CONDUCT

FTS brokers are principally located in Fifth Third Bank branches and rely, in large part, on referrals from Fifth Third Bank employees for new customers. FTS brokers were supervised by principals known as Affiliate Sales Managers (ASMs). ASMs do not approve transactions.

Principal review and approval of transactions, including VA transactions, is delegated to the firm's Principal Review Desk (PRD), which was comprised of approximately four or five registered principals and their supervisor during the relevant period.

FTS, Through One Registered Representative, Engaged in Unsuitable Variable Annuity Switches and Failed to Supervise the Broker Who Engaged in the Transactions

Registered representative CK joined FTS in January 2005 from another retail broker-dealer. VA transactions comprised a substantial portion of CK's business at his prior firm, and his customers were primarily invested in a proprietary VA offered by the prior firm. CK initially planned on having his customers transfer their proprietary VAs to FTS; shortly after he arrived, however, FTS's operations and insurance departments determined that he could not transfer the proprietary VAs.

Faced with abandoning substantial customer assets at his prior firm, CK determined to switch 74 of his VA customers into a nonproprietary VA at FTS. Starting in late February 2005, CK began soliciting his customers in person, over the phone, and/or by mail to switch to the new VA.

Over the next four months, CK executed 118 1035 exchanges for each of his 74 VA customers, most in the first two months. He sold the identical VA with identical riders to every one of those customers, not giving due consideration to each customer's specific age, income, and other characteristics, thereby violating NASD Rule 2310.

PRD approved each of CK's exchanges. In approving the transactions, the firm failed to address adequately red flags, failed to document the bases for the approvals, and failed to contact any of the affected customers prior to approving the transactions.

The clearest red flag was CK's "cookie cutter" approach to the transactions – recommending and selling each of his customers the same VA with the same riders, which should have caused the firm to question if CK adequately considered whether the transactions were appropriate for each customer. Moreover, the paperwork submitted by CK in support of the transactions contained other red flags. CK filled out all the paperwork (other than the customers' signatures) personally and the paperwork contained numerous inaccuracies. Among other things, CK:

- checked off every investment objective for every customer and filled out identical risk tolerance data despite the wide variation in customers' ages (from 26 to 85) and investment experience;
- indicated that the customers would not incur surrender charges, when they did, and did not explain why the new product was advantageous to the client as required;
- filled out the same, incorrect surrender period (longer) for the new product;
- for most transactions, indicated that the transactions were unsolicited, when they were not; and
- did not specifically identify the anticipated benefit to the customer as required.

In April and May 2005, after it had approved the majority of CK's switches, the firm conducted an insufficient review of his transactions and took inadequate steps with respect to the transactions. Despite the inaccuracies in CK's paperwork, the firm asked CK to correct only one of the required transaction forms for each customer to indicate that the customer paid a surrender charge and send the modified forms to the customers to initial. No other changes to the forms were made.

The firm also telephoned a relatively small number of CK's customers (only 10), asking them merely:

- "I see that you recently transferred an annuity to Fifth Third Securities. How would you describe the experience?"
- "I noticed that you had a different product previously. What is it about the new product that makes it more attractive?"
- "Is there anything we can do to improve this process for you?"

The firm took no further action with regard to CK's switches. The firm failed to respond adequately to the red flags demonstrating that CK's switches were unsuitable, therefore violating Rule 3010.

CK's exchanges took place in the midst of a three-month long firm-wide sales contest in which the highest producing broker and his or her ASM each would win a 42" plasma TV. Both CK and his ASM knew that the commissions CK earned from his switches would count towards the award. As a result of the commissions from these transactions, CK won the firm's sales contest and he and his ASM each were awarded a 42-inch TV.

FTS earned gross commissions of \$396,203.97 from the 118 switches, while CK's customers paid over \$260,000 in surrender charges to switch out of the proprietary VAs and paid higher fees for the new VA.

FTS, through 41 Other Brokers, Effected 132 Unsuitable Variable Annuity Transactions

From January 2004 through December 2006, the firm, through forty-one other FTS registered representatives recommended 132 unsuitable transactions. In certain of these transactions, brokers used information shared by Fifth Third Bank, such as lists of customers with maturing CDs, to solicit customers to purchase the same VA. In each transaction, the customers used cash to invest in the VAs; all of the customers' premiums were invested in the VA's fixed subaccount and remained there through at least June 2007.

Many of the customers solicited for these transactions were unsophisticated and/or elderly bank customers. While the VA they purchased provided a one-year guaranteed minimum 3% return on the fixed account that was competitive with CD rates, the customers ended up with less liquidity and higher costs, since they traded cash for a product that locked them into a seven-year surrender period and for which many paid fees. The transactions were unsuitable given the customers' financial situations, needs, and investment objectives, thus violating NASD Rule

2310. The firm benefited from the transactions by receiving over \$485,000 in gross commissions on the VA sales.

The firm recognized that potential suitability issues may arise when VA customers placed 100% of the premium in the fixed accounts and required pre-approval of all such transactions. Despite the heightened scrutiny of these transactions, PRD failed to identify or respond adequately to this pattern of unsuitable transactions and approved each of the 132 transactions, thus violating NASD Rule 3010.

FTS Had Inadequate Systems and Procedures to Supervise VA Sales and Switches

Broker-dealers are required to have systems and procedures in place that are appropriately tailored to their business and adequate to provide them reasonable assurance that they are complying with applicable securities laws and FINRA rules.

The firm's systems and procedures governing VA sales were neither robust nor appropriately tailored to the firm's VA business. VA sales were a significant part of FTS's business, but the firm generally relied upon a transaction-by-transaction review of VA transactions by the PRD. It did not have in place a systematic analysis to identify possible unsuitable transactions and, even when it identified potential suitability issues with respect to VA transactions, it ultimately approved each without exception.

FTS had ample warning about the deficiencies in its VA supervisory systems and procedures. In two annual audits, for 2004 and 2005, the firm's internal audit department gave PRD a "needs improvement" rating. The May 2004 audit found that:

- PRD did not employ any trend analysis of the transaction exceptions and other questionable conduct.
- PRD approved almost all transactions that required heightened PRD review and approval, including sales of VAs to customers 80 years or older, customers who were investing 50% or more of their net worth, and transactions in which 100% of the sub-account investment was allocated to the fixed account.
- PRD reviewed exchanges after processing rather than before.

In response to the audit, PRD indicated that it would implement trend analysis and address the issues relating to 1035s and exception approval. PRD failed to take these steps during the relevant period.

The May 2005 internal audit found that many of the same deficiencies remained because the firm had not improved its supervisory systems. PRD was cited for the same issues raised in the May 2004 audit. The report also noted that 58% of all transactions during the review period were VAs in qualified accounts, and that despite the firm policy requiring preapproval prior to recommending a VA in a qualified account, no such approvals were documented. PRD responded that it would work to create trend reports, hire additional PRD staff, and maintain written rationale for exceptions and implement electronic exception tracking—all by June 30, 2005. PRD did not respond adequately to the internal audit findings, implementing some

changes in 2005 but waiting for almost two years, until the next audit in March 2007, to upgrade reasonably its procedures.

In March 2005 and March 2006, FTS compliance conducted its own audits of the firm's VA approval process and also found problems with the high rate of exception approvals. Compliance audits in July and October 2006 found similar deficiencies.

FTS violated NASD Rule 3010 by failing to maintain an adequate supervisory system or procedures with regard to the firm's sales of VAs. The firm created the PRD to supervise all transactions, including VA transactions, through review and approval, yet it failed to prevent unsuitable VA transactions or identify or respond adequately to patterns of potentially unsuitable VA transactions. In addition, the firm's Written Supervisory Procedures were inadequate with specific regard to variable annuities. During the relevant period, the firm had no exception reports relating specifically to VAs. The firm knew of the supervisory system and procedures shortcomings through the audits of the VA sales and approval processes, but the firm failed to address promptly or reasonably the problems raised.

FTS Brokers Registered as Series 6 Took Orders and Improperly Entered Equity and Bond Transactions

Brokers registered pursuant to Series 6 cannot take and execute equity and bond transactions for customers. The firm violated NASD Rule 1031 by allowing at least 22 brokers registered as Series 6 to take orders and execute at least 66 equity and bond transactions for customers. In some of the cases, the Series 6 brokers had the same titles as Series 7 brokers, and in all cases, the Series 6 brokers earned commissions on those transactions.

The firm violated NASD Rule 3010 by failing to maintain an adequate system and procedures to supervise the licensing of the firm's registered representatives. The firm's order entry system included a trading restriction based on position title, not based on securities registrations. The firm did not have an adequate surveillance system in place to provide reasonable assurance that appropriately registered personnel were accepting and executing equity and bond transactions.

FTS Allowed a Bank Manager to Park His License

The firm violated NASD Rules 1031 and 1032 by allowing at least one Fifth Third Bank employee to be registered pursuant to a Series 7 license between June 2002 and July 2007 without performing any work for the firm as a registered representative. The firm had a policy prohibiting the parking of licenses and license parking had been identified as a particular deficiency in a 2003 NASD member regulation exam. Nevertheless, the firm did not have adequate systems and procedures in place to identify and prevent persons from parking their licenses, thereby violating NASD Rule 3010.

FTS Failed to Maintain Books and Records Relating to VA Sales and CK's Switch Transactions

FTS violated NASD Rule 3110 and SEC Rules 17a-3 and 17a-4 by failing to retain certain required books and records. The firm failed to retain correspondence that CK sent to his 74 customers. Moreover, the information retained by the firm relating to CK's VA switch transactions was inaccurate and incomplete, and the firm's books and records did not accurately reflect the broker of record on certain VA transactions. The firm failed reasonably to remedy these deficiencies. The firm also failed to retain records of rejected VA transactions.

B. The firm consents to the imposition of the following sanctions:

1. Censure.
2. A fine of \$1,750,000.
3. In addition, FTS shall comply with the following undertakings within the time periods specified (unless otherwise extended by FINRA staff):
 - a. FTS shall pay restitution to the affected CK customers identified in Attachment A to this AWC, totaling the amount of charges incurred for surrendering their VA held at CK's prior firm to exchange into the VAs at FTS as described above, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from the date of the violative conduct, until the date this AWC is accepted by FINRA. Satisfactory proof of payment of the restitution or of reasonable and documented efforts undertaken to effect restitution shall be provided to FINRA staff no later than 120 days after acceptance of this AWC. If for any reason FTS cannot locate any customer after reasonable and documented efforts within such period, or such additional period agreed to by the staff, FTS shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed property, or abandoned property fund for the state in which the customer is last known to have resided. Upon written request showing good cause, FINRA staff may extend any of the procedural dates set forth above.
 - b. FTS further shall undertake to allow each of the customers identified in Attachment B to rescind the purchase of each of the VAs identified in Attachment B and to rebate to each of the affected customers the purchase price of his or her original investment, interest from the date of purchase until the effective date of this AWC, and any applicable surrender charges charged to the customer (except to the extent such

surrender charges already have been paid by FTS), less the amount of any income received on or withdrawals from the VAs. In order to effectuate this undertaking, FTS shall:

- i. Within 90 days of the acceptance of the AWC, provide written notice, in plain English, to each customer of the variable annuities identified in Attachment B of this AWC, explaining his or her right to rescind his or her VA purchase pursuant to this AWC and how to exercise that right. The written notice must make clear that the right to rescind is offered pursuant to a settlement with FINRA and as a term of this AWC. The written notice shall not be unacceptable to FINRA staff;
- ii. Provide the customers with a toll-free number to call in order to receive assistance with the surrender process. FTS shall ensure that calls to the toll-free number will be answered by appropriately licensed customer service personnel trained to assist the customers identified in Attachment B with the process of rescinding their VA purchases. FTS shall monitor the process to ensure that the applicable customers are permitted to surrender their VAs at no charge;
- iii. At the same time it sends the customer the letter described in Section B(3)(b)(i) above, provide a surrender form to the customers with instructions for completing it and a cover letter explaining that no surrender charges will be charged to the customer on the contract. Both the surrender form and the cover letter must be not unacceptable to FINRA staff. Customers shall have 60 days from the receipt of the letters (mailing date plus three business days) to accept the offer and advise FTS of their decision to accept;
- iv. Notify the carrier of the customer's intent to surrender the product, once the customer has elected such an option in order to allow the carrier to notify FTS as soon as the surrender has been effected. FTS will reimburse the customer promptly, but in no case more than 45 days after it received notification that the surrender has been effected, for the cost of any surrender charge imposed by the issuer; and
- v. FTS will offer each customer identified on Attachment B the ability to rescind his or her relevant VA purchase. Should a customer elect to rescind, FTS will repurchase his or her VA for cash equal to the consideration paid, interest from the date of purchase until the date this AWC is accepted by FINRA, and any surrender charges imposed by the carrier (except to the extent such surrender charges already have been paid by FTS),

less the amount of any income received on or withdrawals from the VA. Interest shall be paid at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from the date of the purchase of the subject VAs to the date FTS rescinds the VA purchase.

- vi. If any customer identified on Attachment B elects not to rescind, then FTS shall have no further obligation to compensate that customer pursuant to this AWC.

c. FTS shall:

- i. Retain, within 90 days of the date of Notice of Acceptance of this AWC, an Independent Consultant, not unacceptable to FINRA staff, to conduct a comprehensive review of the adequacy of the firm's policies, systems and procedures (written and otherwise) and training relating to:
 - The firm's supervision of variable annuities transactions, including its systems and procedures for reviewing such transactions;
 - The firm's supervision of brokers' sales of VAs in bank branches;
 - The firm's supervision of registration, including appropriate licensing of registered representatives for effecting securities business and parking of licenses.
- ii. Exclusively bear all costs, including compensation and expenses, associated with the retention of the Independent Consultant.
- iii. Cooperate with the Independent Consultant in all respects, including by providing staff support. FTS shall place no restrictions on the Independent Consultant's communications with FINRA staff and, upon request, shall make available to FINRA staff any and all communications between the Independent Consultant and the firm and documents reviewed by Independent Consultant in connection with its engagement. Once retained, FTS shall not terminate the relationship with the Independent Consultant without the FINRA staff's written approval. FTS shall not be in and shall not have an attorney-client relationship with the Independent Consultant and shall not seek to invoke the attorney-client privilege or other doctrine or privilege to prevent the Independent Consultant from transmitting any information, reports, or documents to FINRA.

- iv. At the conclusion of the review, which shall be no more than 150 days after the date of Notice of Acceptance of this AWC, require the Independent Consultant to submit to the firm and FINRA staff a Written Report. The Written Report shall address, at a minimum: (i) the adequacy of the Firm's policies, systems, procedures and training relating to VA sales and switches; (ii) the firm's VA switches and VA sales in bank branches, including relevant surveillance or exception reporting; (iii) relevant hiring, registration, and supervisory procedures, including policies and procedures designed to detect and prevent sales activities by representatives not possessing appropriate licenses and parking of licenses; (iv) a description of the review performed and the conclusions reached, and (v) the Independent Consultant's recommendations for modifications, and additions to the firm's policies, systems, procedures and training; and
- v. Require the Independent Consultant to enter into a written agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any other employment, consultant, attorney-client, auditing or other professional relationship with FTS, or any of its present or former affiliates, directors, officers, employees or agents acting in their capacity as such. Any firm with which the Independent Consultant is affiliated in performing his or her duties pursuant to this AWC shall not, without prior written consent of the FINRA staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with FTS or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.
- vi. Within 30 days after delivery of the Written Report, FTS shall adopt and implement the recommendations of the Independent Consultant or, if it determines that a recommendation is unduly burdensome or impractical, propose an alternative procedure to the Independent Consultant designed to achieve the same objective. The firm shall submit such proposed alternatives in writing simultaneously to the Independent Consultant and FINRA staff. Within 30 days of receipt of any proposed alternate procedure, the Independent Consultant shall: (i) reasonably evaluate the alternative procedure and determine whether it will achieve the same objective as the Consultant's original recommendation; and (ii) provide the firm with a written decision reflecting his or her determination. The firm

will abide by the Consultant's ultimate determination with respect to any proposed alternative procedure and must adopt and implement all recommendations deemed appropriate by the Independent Consultant.

- vii. Within 30 days after the issuance of the later of the Consultant's Written Report or written determination regarding alternative procedures (if any), FTS shall provide FINRA staff with a written implementation report, certified by an Officer of FTS, attesting to, containing documentation of, and setting forth the details of the firm's implementation of the Independent Consultant's recommendations.
- d. FTS further consents, agrees and undertakes to cooperate fully with FINRA in any and all investigations, litigation or other proceedings that concern, relate or arise from the matters described in this AWC. In connection with such cooperation, FTS agrees:
 - i. to produce promptly any and all documents and other non-privileged information requested by FINRA's staff in FTS's possession, custody or control;
 - ii. to use its best efforts to ensure that its officers, managers, principals, employees, representatives, and associated persons also cooperate fully with FINRA, including by (i) being interviewed by FINRA staff at such times as FINRA staff reasonably may request; and (ii) appearing and testifying truthfully and completely in such investigations or hearings as FINRA staff may reasonably request. FTS agrees that in connection with any request pursuant to this paragraph that notice may be served by regular mail on its attorneys, as follows: Stephen G. Topetzes, K&L Gates LLP, 1601 K St., N.W., Washington, D.C. 20006-1600.
- e. Upon written request showing good cause, FINRA staff may extend any of the procedural dates set forth above.

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

II.

WAIVER OF PROCEDURAL RIGHTS

FTS specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against FTS;
- 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 National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, FTS 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.

FTS further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA 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.

III.

OTHER MATTERS

FTS understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against FTS; and

C. If accepted:

1. this AWC will become part of FTS's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against the firm;
2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about FTS's disciplinary record;
3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
4. FTS 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. FTS may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

D. The firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The firm understands that it 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 FINRA, nor does it reflect the views of FINRA or its staff.

February 3, 2009

By:

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FTS certifies that it has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that FTS has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce FTS to submit it.

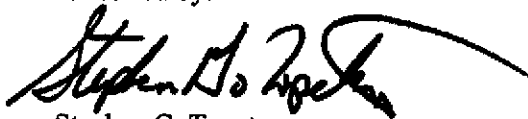
Date

Fifth Third Securities, Inc.
Respondent

By: _____

Richard W. Holmes, Jr.
Chief Legal Officer

Reviewed by:



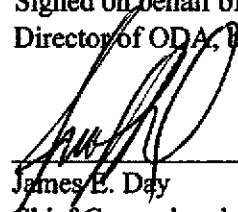
Stephen G. Topetzes
Counsel for Respondent
K&L Gates LLP
1601 K St. NW
Washington, DC 20006
202-778-9238

Accepted by FINRA:

4/14/07

Date

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



James E. Day
Chief Counsel and Associate Vice President
FINRA Department of Enforcement
1801 K St., N.W., Suite 800
Washington, D.C. 20006
202-974-2917

Attachment A- No. 2005002244101

Customer (Initials)	Contract Date	Contract Number
MB	05/24/05	
BAB	04/04/05	
DB	04/12/05	
RB	04/04/05	
DB	04/04/05	
SBF LP	04/18/05	
TDB	05/24/05	
DGBN	04/12/05	
DTB	05/31/05	
RAB	05/31/05	
RAB	05/31/05	
KB	05/24/05	
FHC	06/30/05	
LMC	05/31/05	
LMC	06/30/05	
DJC	05/24/05	
DJC	06/22/05	
DJC	06/22/05	
JAC	04/11/05	
JAC	04/13/05	
TC	05/25/05	
DLD	04/05/05	
JPD	04/06/05	
JPD	04/11/05	
JVE	04/25/05	
JGE	04/14/05	
WEE	04/11/05	
DF	04/18/05	
DF	04/28/05	
JF	04/18/05	
JF	04/21/05	
DMP	06/09/05	
CRF	04/15/05	
JLG	04/18/05	
JLG	05/19/05	
JLG	06/20/05	
JG	04/21/05	
CAG	04/04/05	
DG	04/04/05	
DG	04/04/05	
DG	04/05/05	
MAH	04/18/05	
SH	04/04/05	
SH	04/04/05	
SH	04/05/05	
JLH	04/18/05	
JLH	07/01/05	
MJH	04/14/05	
GRH	04/05/05	
GRH	04/11/05	
ALH	04/11/05	

Customer (Initials)	Contract Date	Contract Number
HVH	04/23/05	
KAH	04/22/05	
KAH	04/22/05	
KAH	04/22/05	
PJ	04/04/05	
PJ	04/04/05	
PJ	04/04/05	
PJ	04/04/05	
PJ	04/11/05	
DPM	04/12/05	
JLM	04/04/05	
JLM	04/04/05	
JLM	04/04/05	
EGM	04/04/05	
RCM	04/18/05	
SSM	04/22/05	
MAM	04/19/05	
CAM	04/18/05	
BJN	04/18/05	
BJN	04/18/05	
DJN	04/12/05	
GCP	04/11/05	
GCP	04/11/05	
GCP	04/14/05	
GCP	04/14/05	
RJP	06/06/05	
WFP	04/18/05	
MKR	05/11/05	
MKR	05/11/05	
MKR	05/13/05	
MCR	04/04/05	
MCR	04/04/05	
MCR	04/04/05	
MCR	05/02/05	
PRR	04/04/05	
PRR	04/21/05	
BKR	06/02/05	
JGS	04/18/05	
JGS	04/18/05	
LAS	04/21/05	
LAS	04/22/05	
JAS	07/27/05	
ABSRLT	05/17/05	
JHS	04/18/05	
JRS	04/14/05	
AES	05/20/05	
AES	05/20/05	
AES	05/20/05	
DLS	05/17/05	
ELT	05/17/05	
ELT	04/04/05	

Customer (Initials)	Contract Date	Contract Number
FLT	04/11/05	
PST	04/04/05	
PST	04/04/05	
PST	04/11/05	
JT	06/28/05	
DRW	04/06/05	
LJW	04/06/05	
LAW	04/21/05	
KKW	05/10/05	
KKW	05/10/05	
RWW	04/18/05	
RWW	05/24/05	
CWW	04/11/05	
JRW	04/18/05	
LAW	04/18/05	
SKZ	05/27/05	

Contract Date	Customer (Initials)	Contract Number
11/19/2004	CPJ	
7/1/2004	DKM	
1/22/2004	CAR	
1/29/2004	SKM	
3/4/2004	CAJ	
12/9/2004	HS	
7/26/2005	LOQ	
8/1/2005	BHC	
2/13/2006	HLS	
6/14/2004	TLE	
5/24/2004	VLS	
5/27/2004	VLS	
5/27/2004	JHB	
5/27/2004	JHB	
5/27/2004	JHB	
5/27/2004	IVF	
7/14/2005	DAM	
3/25/2004	MAB	
5/10/2004	DAA	
6/9/2004	MRP	
6/23/2004	LEL	
6/28/2004	PMK	
7/20/2004	HRS	
7/30/2004	HCW	
8/10/2004	MVC	
6/9/2004	WSW	
8/1/2005	RS	
8/25/2004	EAAC	
11/29/2004	BJB	
6/23/2005	EO	
1/14/2005	NOR	
5/23/2005	RLH	
4/5/2004	EAM	
8/23/2004	JDM	
4/1/2004	GRQ	
7/30/2004	JTR	
8/24/2004	MMH	
3/25/2004	NTS	
4/28/2004	JVH	
6/14/2004	ELP	
9/8/2004	PAG	
1/25/2005	JHD	
4/23/2005	CAP	
7/25/2005	GLD	
8/9/2005	AFD	
6/1/2004	JAS	
5/1/2004	PJC	

Contract Date	Customer (Initials)	Contract Number
5/24/2004	PJC	
5/26/2004	BJM	
8/19/2004	DMS	
7/3/2006	RAW	
3/26/2004	CBW	
6/28/2004	REB	
9/20/2004	TMR	
10/25/2004	SEG	
12/30/2004	PCR	
3/1/2006	MP	
1/22/2004	CL	
1/22/2004	CL	
4/12/2004	DEC	
4/14/2004	CS	
5/26/2004	SA	
5/28/2004	JWS	
5/28/2004	MD	
5/28/2004	MD	
6/18/2004	OLA	
7/28/2004	BLV	
7/30/2004	AMB	
8/3/2004	LAA	
8/10/2004	NR	
8/19/2004	GFS	
9/14/2004	WMB	
9/20/2004	DLT	
9/20/2004	PLM	
11/22/2004	JP	
12/2/2004	JHK	
12/9/2004	JHC	
4/21/2005	TRY	
9/23/2005	MCL	
10/6/2004	DLR	
1/24/2005	CDK	
10/25/2005	MER	
5/26/2004	RC	
5/26/2004	MC	
5/27/2004	PRB	
6/2/2004	TKT	
7/9/2004	JEM	
7/26/2004	BLK	
7/30/2004	MRS	
8/17/2004	TSN	
7/8/2004	PJL	
8/17/2004	DLN	
11/29/2005	JS	
9/13/2005	DGI	

Contract Date	Customer Name (Initials)	Contract Number
10/19/2005	PWC	
3/14/2005	MNE	
3/15/2005	JSW	
3/24/2005	AEB	
3/30/2005	CJM	
3/30/2005	AM	
11/14/2005	SPC	
4/18/2005	RWS	
6/7/2005	NDG	
7/12/2005	IRM	
8/19/2004	CSM	
8/19/2004	CSM	
11/18/2004	DT	
11/18/2004	DT	
3/26/2004	BM	
3/30/2004	RAF	
4/1/2004	RVR	
4/5/2004	MEC	
6/14/2004	DMB	
6/16/2004	PTD	
6/21/2004	CRJ	
7/15/2004	MR	
7/26/2004	CLW	
7/30/2004	RH	
7/30/2004	LSG	
9/21/2004	IPD	
3/2/2005	IDG	
3/2/2005	DG	
3/31/2005	LC	
4/7/2005	VED	
4/25/2005	KLW	
5/10/2005	VAD	
6/20/2005	RMP	
6/21/2005	RSS	
6/27/2005	CPH	
4/15/2005	KDS	
4/15/2005	SDS	
6/29/2005	HS	
4/4/2005	DG	
4/4/2005	DG	
4/5/2005	DG	
4/18/2005	MAH	
4/4/2005	SH	
4/4/2005	SH	
4/5/2005	SH	
4/18/2005	ILH	

Contract Date	Customer Name (Initials)	Contract Number
5/24/2005	MB	
4/4/2005	BAH	
4/12/2005	DB	
4/4/2005	RB	
4/4/2005	DB	
4/18/2005	SBF LP	
5/24/2005	IDB	
4/12/2005	DGBN	
5/31/2005	DTB	
5/31/2005	RAB	
5/31/2005	RAB	
5/24/2005	KB	
6/30/2005	EHC	
5/31/2005	LMC	
6/30/2005	LMC	
5/24/2005	DJC	
6/22/2005	DJC	
6/22/2005	DJC	
4/11/2005	JAC	
4/13/2005	JAC	
5/25/2005	TC	
4/5/2005	DLD	
4/6/2005	JPD	
4/11/2005	JPD	
4/25/2005	JVE	
4/14/2005	JGE	
4/11/2005	WEE	
4/18/2005	DF	
4/28/2005	DF	
4/18/2005	JF	
4/21/2005	JF	
6/9/2005	DMF	
4/15/2005	CRF	
4/18/2005	JLG	
5/9/2005	JLG	
6/20/2005	JLG	
4/21/2005	JG	
4/4/2005	CAG	
7/1/2005	JLH	
4/14/2005	MJH	
4/5/2005	GRH	
4/11/2005	GRH	
4/11/2005	ALH	
4/21/2005	HVH	
4/22/2005	KAH	
4/22/2005	KAH	

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Customer (Initials)	Contract Date	Contract Number
4/22/2005	KAH	
4/4/2005	PJ	
4/4/2005	PJ	
4/4/2005	PJ	
4/4/2005	PJ	
4/11/2005	PJ	
4/12/2005	DPM	
4/4/2005	JLM	
4/4/2005	JLM	
4/4/2005	JLM	
4/4/2005	EGM	
4/18/2005	RCM	
4/22/2005	SSM	
4/19/2005	MAM	
4/18/2005	CAM	
4/18/2005	BJN	
4/18/2005	BJN	
4/12/2005	DIN	
4/11/2005	GCP	
4/11/2005	GCP	
4/14/2005	GCP	
4/14/2005	GCP	
6/6/2005	RJP	
4/18/2005	WFP	
5/11/2005	MKR	
5/11/2005	MKR	
5/13/2005	MKR	
4/4/2005	MCR	
4/4/2005	MCR	
4/4/2005	MCR	
5/2/2005	MCR	
4/4/2005	PRR	
4/21/2005	PRR	
6/2/2005	BKR	
4/18/2005	JGS	
4/18/2005	JGS	
4/21/2005	LAS	
4/22/2005	LAS	
7/27/2005	JAS	
5/17/2005	ABSRLT	
4/18/2005	JHS	
4/14/2005	JRS	
5/20/2005	AES	
5/20/2005	AES	
5/20/2005	AES	

Contract Date	Customer Name (Initials)	Contract Number
4/11/2005	ELT	
4/4/2005	PST	
4/4/2005	PST	
4/11/2005	PST	
6/28/2005	JT	
4/6/2005	DRW	
4/6/2005	LJW	
4/21/2005	LAW	
5/10/2005	KKW	
5/10/2005	KKW	
4/18/2005	RWW	
5/24/2005	RWW	
4/11/2005	CWW	
4/18/2005	JRW	
4/18/2005	LAW	
5/27/2005	SKZ	
5/17/2005	DLS	
5/17/2005	ELT	
4/4/2005	ELT	