

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. ##
20050035967-01

TO: Department of Market Regulation
NASD

RE: vFinance Investments, Inc., Respondent
Broker-Dealer
CRD No. 44962

Pursuant to Rule 9216 of NASD Code of Procedure, vFinance Investments, Inc. ("VFIN" 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 in Part II below. This AWC is submitted on the condition that, if accepted, NASD will not bring any future actions against VFIN alleging violations based on the same factual findings.

VFIN 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 Market Regulation and National Adjudicatory Council ("NAC") Review Subcommittee or Office of Disciplinary Affairs, 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 VFIN; and
3. If accepted:
 - a. this AWC will become part of VFIN's permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against VFIN;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about VFIN'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. VFIN 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 VFIN's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

VFIN also understands that its 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:

vFinance Investments, Inc. has been a member of NASD since September 9, 1998, and its registration remains in effect. On July 23, 2003, NASD accepted an AWC (CMS030177) which censured and fined VFIN \$17,500 (\$5,000 for NASD Marketplace Rule 6130, \$2,500 for NASD Conduct Rule 3370, \$2,500 for NASD Conduct Rule 3350, \$5,000 for Supervision).

I.

WAIVER OF PROCEDURAL RIGHTS

VFIN 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 VFIN;
- 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, VFIN 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.

VFIN 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 its acceptance or rejection.

II.

ACCEPTANCE AND CONSENT

The Department of Market Regulation conducted Trading and Market Making Examinations ("TMMS") for VFIN for 2004 (matter ID 20050035967) and 2005 (matter ID 20050003016). The violations contained herein were identified during the course of these two TMMS Exams.

- A. VFIN 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:

Matter ID 20050035967 (2004 TMMS Exam):

1. During the 2004 TMMS Exam review period, VFIN's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and the NASD Rules, concerning SEC Rule 11Ac1-5 (n/k/a Reg. NMS 605), SEC Rule 11Ac1-6 (n/k/a Reg. NMS 606), Regular and Rigorous Reviews, Riskless Principal Trade Reporting, and OATS. Specifically, the firm's supervisory system did not include written supervisory procedures providing for one or more of the following: (1) identification of the person(s) responsible for supervision with respect to the applicable rules; (2) a statement of the supervisory step(s) to be taken by the identified person(s); (3) a statement as to how often such person(s) should take such step(s); and (4) a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented. Additionally, during the 2004 TMMS Exam review period, VFIN failed to enforce its WSPs in effect with respect to Customer Short Sales Reporting and OATS.
2. The conduct described in paragraph one above constitutes a violation of NASD Conduct Rule 3010.
3. During the 2004 TMMS Exam review period, VFIN failed in 16 instances to submit the correct route order ID number to OATS. This represented 72 percent of the instances reviewed.
4. The conduct described in paragraph three above constitutes separate and distinct violations of NASD Marketplace Rule 6955(A).

5. For the month of December 2003, VFIN made available a report on the covered orders in national market system securities that it received for execution from any person. This report included material, inaccurate order execution statistics in four categories reviewed. This represented 100 percent (4 of 4) of the categories reviewed.
6. The conduct described in paragraph five above constitutes separate and distinct violations of SEC Rule 11Ac1-5, n/k/a Reg. NMS 605.

Matter ID 20050003016 (2005 TMMS Exam):

7. During the 2005 TMMS Exam review period, VFIN's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and the NASD Rules, concerning Supervisory System, Procedures and Qualification, SEC Rule 11Ac1-5 (n/k/a Reg. NMS 605), NASD Conduct Rule 2320 (Best Execution), Riskless Principal Trade Reporting, Trading Rules regarding Activity During Trading Halts, and OATS. Specifically, the firm's supervisory system did not include written supervisory procedures providing for one or more of the following: (1) identification of the person(s) responsible for supervision with respect to the applicable rules; (2) a statement of the supervisory step(s) to be taken by the identified person(s); (3) a statement as to how often such person(s) should take such step(s); and (4) a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented.
8. The conduct described in paragraph seven above constitutes a violation of NASD Conduct Rule 3010.
9. During the 2005 TMMS Exam review period, VFIN failed in ten instances to submit the correct route order ID number to OATS. This represented 32 percent of the instances reviewed.
10. The conduct described in paragraph nine above constitutes separate and distinct violations of NASD Marketplace Rule 6955(A).
11. For the month of November 2004, VFIN made available a report on the covered orders in national market system securities that it received for execution from any person. This report included material, inaccurate order execution statistics in four categories reviewed. This represented 100 percent (4 of 4) of the categories reviewed.
12. The conduct described in paragraph eleven above constitutes separate and distinct violations of SEC Rule 11Ac1-5, n/k/a Reg. NMS 605.

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

A censure and a fine of \$55,000, consisting of \$7,500 for the supervision violations in 20050035967, \$7,500 for the supervision violations in 20050003016, \$7,500 for the OATS violations in 20050035967, \$7,500 for the OATS violations in 20050003016, \$10,000 for the SEC Rule 11Ac1-5, n/k/a Reg. NMS 605, violations in 20050035967, \$15,000 for the SEC Rule 11Ac1-5, n/k/a Reg. NMS 605, violations in 20050003016, and an undertaking to revise the firm's written supervisory procedures with respect to the areas described in paragraphs one and seven above.

Within 30 business days of acceptance of this AWC by the NAC, a registered principal of the Respondent shall submit to the **COMPLIANCE ASSISTANT, LEGAL SECTION, MARKET REGULATION DEPARTMENT, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850**, a signed, dated letter, providing the following information: (1) a reference to this matter; (2) a representation that the firm has revised its written supervisory procedures to address the deficiencies described in paragraph one and two above; and, (3) the date the revised procedures were implemented.

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

III.

OTHER MATTERS

- A. VFIN understands that VFIN may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. VFIN understands that VFIN 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. VFIN agrees to pay any monetary sanctions imposed on VFIN upon notice that this AWC has been accepted and that such payments are due and payable and has attached an Election of Payment form showing the method by which VFIN proposes to pay any fine imposed.
- C. VFIN specifically and voluntarily waives any right to claim that VFIN is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

Date 8/24/2006

By: 
Name: RICHARD CAMPANILE
Title: President of COE

1/9/07
Date

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