

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2006004272701

TO: Department of Enforcement
NASD

RE: Francis Bart Bertholic, Jr., Respondent
Investment Company / Variable Contracts Principal
CRD No. 1841812

Pursuant to Rule 9216 of NASD Code of Procedure, I 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:

Francis Bart Bertholic, Jr. entered the securities industry in April 1988 as an associated person of a member of NASD. He became registered as an Investment Company / Variable Contracts Representative in August 1988. From December 2000 until February 2006, he was registered through Centaurus Financial, Inc., initially as an Investment Company / Variable Contracts Principal and Investment Company / Variable Contracts Representative and, beginning in January 2004, as a Direct Participation Programs Representative.

Respondent Bertholic is not currently registered or associated with any NASD member firm. He has not been the subject of prior disciplinary action by NASD, other self-regulatory organizations, the Securities and Exchange Commission, or any state regulator.

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. Private Securities Transactions – Preferred Stock

(a) During the period from on or about June 29, 2004, until on or about June 9, 2005, Francis Bart Bertholic, Jr. engaged in private securities transactions without prior written notice to and approval by his employer firm, Centaurus Financial, Inc., in that he participated in the sale to five customers of non-voting preferred stock issued by First Liberty Financial Services, Inc. ("First Liberty") for a total of \$190,000. First Liberty is engaged in the insurance business and also provides financial planning services. Respondent Bertholic was the sole officer, director and voting shareholder of First Liberty. The purchasers of the preferred stock were entitled to receive interest at rates of 6% to 8% per annum and to repayment of principal in one to approximately three and one-half years. The First Liberty preferred stock was a securities product.

(b) Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 3040 by Francis Bart Bertholic, Jr. Such conduct is further inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of Conduct Rule 2110 by Respondent Bertholic.

2. Private Securities Transactions – Promissory Notes

(a) Note Issued By First Liberty

(i) On or about June 29, 2005, Respondent Bertholic engaged in a private securities transaction without prior written notice to and approval by his employer firm, Centaurus Financial, Inc., in that he participated in the sale to customers DL

and PL, husband and wife, of a promissory note issued by First Liberty in the amount of \$30,000. DL and PL were among the customers who had purchased First Liberty preferred stock in 2004, as discussed more fully in paragraph 1 above. When repayment of their principal was due under the terms of their Stock Certificate, they agreed to invest the amount due in the promissory note. The promissory note was for a term of one year and bore interest at the rate of 6% per annum. Respondent Bertholic executed the promissory note on behalf of First Liberty. The promissory note was a securities product. The proceeds of the promissory note were intended for use in First Liberty's business.

(ii) Such acts, practices and conduct constitute a violation of NASD Conduct Rule 3040 by Francis Bart Bertholic, Jr. Such conduct is further inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of Conduct Rule 2110 by Respondent Bertholic.

(b) Notes Issued By Respondent

(i) During the period from on or about June 28, 2005, until on or about August 1, 2005, Respondent Bertholic engaged in private securities transactions without prior written notice to and approval by his employer firm, Centaurus Financial, Inc., in that he participated in the sale to four customers of four promissory notes issued by Respondent Bertholic as obligor, for a total of \$595,000. The promissory notes were for terms of five to seven years and bore interest at the rate of 8% per annum.

(ii) The promissory notes issued by Respondent Bertholic were securities products. Respondent Bertholic was engaged in a real estate investment business, conducted through eleven limited liability companies, BB&A Properties I through XI, LLC, which held title to the properties he purchased. The promissory notes were issued to raise capital for Respondent Bertholic's real estate investment business, and the purchasers expected that the promissory notes would be secured by deeds of trust against real property. The purchasers of the promissory notes did not receive deeds of trust when the promissory notes were issued. Instead, Respondent Bertholic determined at a later time which notes would be secured by which property and then, on behalf of the limited liability companies, executed deeds of trust granting security interests to the note purchasers.

(iii) Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 3040 by Francis Bart Bertholic, Jr. Such conduct is further inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of Conduct Rule 2110 by Respondent Bertholic.

(c) Notes Issued By "BB&A Properties, LLC"

(i) During the period from on or about January 10, 2006, until on or about January 19, 2006, Respondent Bertholic engaged in private securities transactions without written notice to and approval by his employer firm, Centaurus Financial, Inc., in that he participated in the sale to two customers of two promissory notes for a total of \$46,000. The promissory notes were for a term of one and one-half years and bore interest at rates of 10% to 13% per annum. The purported obligor on the notes was "BB&A Properties, LLC," a nonexistent entity. Respondent Bertholic executed the promissory notes on behalf of "BB&A Properties, LLC."

(ii) The promissory notes purportedly issued by "BB&A Properties, LLC" were securities products. The promissory notes were issued to raise capital for Respondent Bertholic's real estate investment business, as more fully discussed in paragraph 2(b) above, and the purchasers expected that the promissory notes would be secured by deeds of trust against real property. The purchasers of the promissory notes purportedly issued by "BB&A Properties, LLC" received deeds of trust executed contemporaneously with the promissory notes. "BB&A Properties, LLC" was the grantor on one of those deeds of trust. The grantor on the other deed of trust was BB&A Properties VIII, LLC. Because the promissory notes and one of the deeds of trust were issued or granted by "BB&A Properties, LLC," a nonexistent entity, there was a risk that the deeds of trust might not be enforceable in the event of a default, or that the purchasers might be required to bring legal actions to reform the deeds of trust in order to enforce them.

(iii) Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 3040 by Francis Bart Bertholic, Jr. Such conduct is further inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of Conduct Rule 2110 by Respondent Bertholic.

3. Improper Use of Funds

(a) On or about July 25, 2005, IS and HMS, husband and wife, purchased a promissory note issued by Respondent Bertholic in the amount of \$435,000, which was one of the promissory notes discussed in paragraph 2(b) above. IS and HMS were not customers of Centaurus Financial, Inc. The promissory note was for a term of seven years and bore interest at the rate of 8% per annum. Respondent Bertholic has made timely payments of interest pursuant to the terms of the promissory note.

(b) Respondent Bertholic told IS and HMS that he would invest the proceeds of the promissory note in real property, or would use them to maintain and improve real property, and he did not inform them that he would use the funds for any other purposes. There was no written agreement governing Respondent

Bertholic's use of the funds invested by IS and HMS.

(c) The funds received from IS and HMS were deposited in a bank account in Respondent Bertholic's name. During the period from on or about August 8, 2005, until on or about August 23, 2005, Respondent Bertholic withdrew funds from the bank account and used them for his personal benefit. The withdrawals included \$146.57 to pay expenses for his daughter's wedding, \$5,000 for a wedding gift, and \$24,950 for an engagement ring. Respondent Bertholic thereby made improper use of IS and HMS's funds.

(d) Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2110 by Respondent Bertholic.

4. Communications with the Public

a. Newspaper Advertisements and Flyer

(i) During the period from November 2005 until January 2006, Respondent Bertholic published advertisements in *USA Today* and in a daily newspaper published in Spokane, Washington. Respondent Bertholic also published and distributed a two-page flyer. The advertisements and the flyer solicited investors to purchase promissory notes secured by real property. As discussed more fully in paragraph 2(b)(ii) and 2(c)(ii) above, the promissory notes sold by Respondent Bertholic were securities products.

(ii) The newspaper advertisements and flyer did not disclose the name of Respondent Bertholic's employer member firm, Centaurus Financial, Inc., and they were not approved by a registered principal of Centaurus Financial, Inc. before they were used.

(iii) Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2210(b)(1) and 2210(d)(2)(C) by Francis Bart Bertholic, Jr. Such conduct is further inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of Conduct Rule 2110 by Respondent Bertholic.

b. Website Presentation

(i) On or about October 21, 2005, Respondent Bertholic purchased an Internet marketing system, designed for use by real estate investment businesses, from a commercial provider. The system included templates for various web pages designed to generate business from real estate buyers and sellers as well as investors.

(ii) During the period from on or about October 21, 2005, until on or about January 31, 2006, when the State of Washington Department of Financial Institutions, Securities Division, contacted Respondent Bertholic and expressed concern about his website, he used the web page templates in his website, which described the opportunity to invest in real estate as a secured lender and compared Respondent Bertholic's program to mortgage loans issued by banks.

(iii) The website did not provide a balanced discussion of the risks involved in real estate lending. It overstated the safety of real estate loans, stating that investors would receive a higher rate of interest than those charged by banks, but without incurring a greater risk. In fact, investors in Respondent Bertholic's promissory notes took significantly greater risks than those normally taken by banks in real estate loans. As discussed more fully in paragraph 2(c)(ii) above, there was a risk that some of the security interests granted to the purchasers might be unenforceable or that legal action would be necessary to enforce them. Moreover, the purchasers did not receive title insurance or appraisals to document the value of their purported security interests.

(iv) The website did not disclose the risk that the actual value of the properties might be less than the values estimated by Respondent Bertholic. His estimated values were consistently and significantly higher than the purchase prices of the properties, even though they had been purchased recently. The website also failed to disclose the risk that property values would decline during the term of the loans, the risk of any undisclosed senior encumbrances, or the costs and delays that might be incurred in the foreclosure process.

(v) Certain statements in the website were false, exaggerated, unwarranted and/or misleading. For example, the website stated, "You get to learn about the property you'll be loaning on. You are given all the facts about the property's value, comparable properties in the area, the proposed use of the loan proceeds, etc." In fact, Respondent Bertholic did not provide investors with appraisals and they did not know specifically how the proceeds of their loans would be used.

(vi) The website stated, "You make a loan on one specific property at a time." In fact, at the time of investment, most of the purchasers of Respondent Bertholic's promissory notes did not know what property would secure their loans.

(vii) The website stated, "We are professional real estate investors with experience spanning millions of dollars in closed transactions. We have been buying, selling and lending on properties professionally for over a decade!" In fact, only one real estate investor, Respondent Bertholic, was involved in his real estate investment business. At that time, he had not closed transactions worth

millions of dollars and had been engaged in the real estate investment business for less than one year.

(viii) The website presented testimonials from four purported customers who purportedly described a successful experience investing through Respondent Bertholic. In fact Respondent Bertholic had never transacted any business with any of the customers quoted in the website. Their names and purported testimonials were taken from the templates that Respondent Bertholic had purchased.

(ix) The website did not disclose the name of Respondent Bertholic's employer member firm, Centaurus Financial, Inc., and it was not approved by a registered principal of Centaurus Financial, Inc. before it was used.

(x) Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2210(b)(1), 2210(d)(1)(A), 2210(d)(1)(B) and 2210(d)(2)(C) by Francis Bart Bertholic, Jr. Such conduct is further inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of Conduct Rule 2110 by Respondent Bertholic.

c. Brochure

(i) During the period from November 2005 until January 2006, Respondent Bertholic sent prospective investors a seven-page brochure describing the opportunity to invest in real property as a secured lender. The brochure was based on a document that Respondent Bertholic had obtained through the Internet. He modified the document by adding his contact information and changing the description of the interest rates offered.

(ii) Like the website, the brochure did not provide a balanced discussion of the risks involved in real estate lending. It emphasized the high returns to be achieved, overstated the safety and liquidity of real estate loans, and failed to disclose the risks incurred by the purchasers of promissory notes.

(iii) Certain statements in the brochure were false, exaggerated, unwarranted and/or misleading. The brochure stated, "[M]y office support includes Mortgage Brokers, Realtors, Appraisers and Contractors." In fact Respondent Bertholic did not have such persons working in his office.

(iv) The brochure stated, "This is a very safe investment by nature that produces high yields while at the same time provides security and liquidity." In fact the promissory notes were illiquid investments.

(v) The brochure stated, "The banks make loans at 85%, 90% or even 100% loan-to-value. . . . You, as a lender, won't lend more than 50% to 80% LTV regardless." This suggested that investors would incur less risk than banks take in making real estate loans. In fact Respondent Bertholic's investors incurred risks greater than those incurred by banks because his estimates of property values were not supported by professional appraisals and because the investors obtained no title insurance.

(vi) The brochure stated, "I have made loans as small as \$25,000." In fact Respondent Bertholic was a borrower and did not make real estate loans.

(vii) The brochure stated, "What if I want to liquidate? If you want out, it will take from two weeks to a month in most cases." In fact there was no assurance that an investor could recover his or her principal before the loan matured.

(viii) A section of the brochure was entitled, "What are my options if the investor doesn't pay?" It stated, "Call us and we will send your money back, often, in less than a month but usually not more than 45 days." This statement provided investors with a false assurance of repayment within a short period of time. In fact, if Respondent Bertholic or one of his limited liability companies were to default in making payments, there could be no assurance that the investor could be repaid in such a short time frame, or that the investor would recover his or her principal.

(ix) That section of the brochure also discussed the possibility of foreclosure. It stated:

Foreclosure isn't the evil, time consuming, costly legal process that most people think it is. It's as simple as sending your note to an attorney and saying 'do it'. All you have to do then is sit back and wait. Nine times out of ten, before foreclosure is complete, someone will be calling your attorney's office with a payoff letter, and your loan will get paid off. When this happens, you will collect all accrued interest, your principal balance, and all attorney's fees, court costs, and other expenses you have incurred in connection with your loan.

(x) In fact, foreclosure of a deed of trust may be a costly process that may involve substantial delay, costs and fees. The brochure did not disclose the risks that property values would not be sufficient to cover principal, interest, fees and costs; that the investor might need to satisfy any senior liens; that the borrower might assert defenses to foreclosure; or that recovery of principal and interest might be delayed by a bankruptcy filing.

(xi) The brochure did not disclose the name of Respondent Bertholic's employer member firm, Centaurus Financial, Inc., and it was not approved by a registered principal of Centaurus Financial, Inc. before it was used.

(xii) Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2210(b)(1), 2210(d)(1)(A), 2210(d)(1)(B) and 2210(d)(2)(C) by Francis Bart Bertholic, Jr. Such conduct is further inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of Conduct Rule 2110 by Respondent Bertholic.

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

Francis Bart Bertholic, Jr. shall be barred from associating with any member of NASD in any capacity.

The sanctions imposed herein shall be effective on a date set by 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 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 me to submit it.

4/2/2007
Date


Francis Bart Bertholic, Jr.
Respondent

Reviewed by:

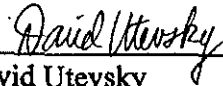


Christopher B. Wells
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Lane Powell PC
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Accepted by NASD:

April 13, 2007
Date

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



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