

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20060067171-01**

RECEIVED
2006 NOV 24 P 4: 37
REGISTRATION & DISCLOSURE

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

RE: John Gilbert Marshall, Jr., Respondent
General Securities Representative
CRD No. 2219233

Pursuant to NASD Rule 9216 of FINRA's 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 below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against me alleging violations based on the same factual findings described herein.

I.

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 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

Respondent John Gilbert Marshall, Jr. first associated with a member of FINRA on January 27, 1992. He successfully completed the General Securities Representative exam and registered as a General Securities Representative (GS) on August 5, 1992. Marshall registered as a GS with FINRA member firm GBS Financial Corp. (GBS) on November 23, 2005. He voluntarily terminated his registration with GBS and registered with another member firm on August 23, 2006. Marshall does not have any relevant disciplinary history.

OVERVIEW

In February 2006, Marshall, while registered with GBS, participated in a private securities transaction involving an investment of \$1,000,000.00 by a GBS customer after GBS had denied Marshall's request for permission to participate in

000050330 2008

a transaction of that size. This conduct was in violation of NASD Conduct Rules 3040 and 2110.

FACTS AND VIOLATIVE CONDUCT

1. When Marshall moved to GBS in November 2005, one of his clients, MF, transferred a trust account (the Trust) that she controlled to GBS in order to allow Marshall to continue handling the account.
2. Sometime during January or February 2006, Marshall recommended to MF that the Trust invest \$1,000,000 in a hedge fund (Hedge Fund) of which Marshall was a managing partner.
3. On February 3, 2006, Marshall submitted to GBS a written notice of his intention to participate in a private securities transaction with the Trust. The transaction involved investing \$1,000,000 of the Trust's funds into the Hedge Fund.
4. On February 6, 2006, GBS denied authorization of the transaction at the \$1,000,000 investment level because it would concentrate too much of the Trust's assets in a single investment. The maximum amount GBS was willing to approve for the Trust to invest in the Hedge Fund was \$272,533, provided that the Trust account's investment objectives were updated and the updated account form was signed by MF.
5. On February 8, 2006, after receiving GBS's denial of permission to participate in the investment of \$1,000,000 of the Trust's assets into the Hedge Fund, Marshall submitted wire instructions to GBS, requesting that \$1,000,000 be wired from the Trust's GBS account to one of its outside bank accounts. GBS asked Marshall why the Trust was moving \$1,000,000 out of the firm. Marshall represented that MF wanted to move the funds because she felt more comfortable depositing them in the Trust's bank account. Based upon Marshall's explanation, GBS approved the wire transaction.
6. After the \$1,000,000 was transferred to the Trust's bank account, it was invested in the Hedge Fund through Marshall's partner at the Hedge Fund.
7. Marshall was aware when he submitted the wire instructions to GBS that the purpose of the wire was to permit the Trust to invest \$1,000,000 in the Hedge Fund through his partner. By facilitating the wire transfer with knowledge of its purpose, Marshall participated in an unapproved private securities transaction, in violation of NASD Conduct Rules 3040 and 2110.

8. In addition, Marshall's failure to provide an accurate and complete response when asked why the Trust was moving \$1,000,000 out of the firm constitutes a violation of NASD Conduct Rule 2110.

OTHER FACTORS

B. I also consent to the imposition of the following sanctions:

Marshall shall be suspended from associating with any FINRA member for a period of six (6) months, and shall pay a fine in the amount of \$7,500.00.

I agree to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. I have submitted an Election of Payment form showing the method by which I propose to pay the fine imposed.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

I understand that if I am barred or suspended from associating with any FINRA 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 FINRA 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.)

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

II.

WAIVER OF PROCEDURAL RIGHTS

I specifically and voluntarily waive the following rights granted under FINRA'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 National Adjudicatory Council (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 prejudice 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 NASD Rule 9143 or the separation of functions prohibitions of NASD 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

I understand that:

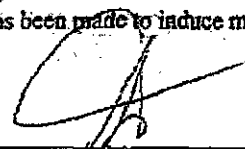
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA), pursuant to NASD Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against me; and
- C. If accepted:
 - 1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about my disciplinary record;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-3; and

4. 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. I 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 my right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

- D. 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 FINRA, nor does it reflect the views of FINRA or its staff.

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; that I have 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 me to submit it.

Date 11/17/08


John Gilbert Marshall, Jr.

Reviewed by:


Alvin L. Fishman, Esq.
Counsel for Respondent
Tester, Sandmann & Fishman
235 Pine Street
Suite 1300
San Francisco, CA 94104
(415) 781-5600

Accepted by FINRA:

November 21, 2008
Date

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

A handwritten signature in black ink, appearing to read "Mark A. Graves", is written over a horizontal line.

Mark A. Graves
Senior Regional Counsel
FINRA Department of Enforcement
One Montgomery Street, Suite 2100
San Francisco, CA 94104
Tel. (415) 217-1100; Fax (202) 721-6505
Mark.Graves@finra.org