

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2007007422001**

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

RE: Johnson Rice & Company, L.L.C.  
CRD No. 19524

Edward D. Johnson, Jr.  
General Securities Principal  
CRD No 259293

Pursuant to NASD Rule 9216 of FINRA's Code of Procedure, Johnson Rice & Company, L.L.C. ("JRC") and Edward D. Johnson, Jr. ("Johnson") (referred to collectively as "Respondents"), 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 Respondents alleging violations based on the same factual findings described herein.

**I.**

**ACCEPTANCE AND CONSENT**

- A. Respondents 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**

JRC has been a member of FINRA (f/k/a National Association of Securities Dealers or NASD) since June 5, 1987. JRC conducts a general securities business, publishes research reports, and provides investment banking services. Nearly all of the firm's customers are institutional investors. During all periods mentioned herein, JRC employed 42 registered representatives and maintained five registered branch offices, including the firm's main office in New Orleans.

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Johnson entered the securities industry in December 1967 as a General Securities Principal of FINRA member Howard, Weil, Labouisse, Friedrichs Incorporated. In March 1987, Johnson became registered with JRC as a General Securities Principal, Financial and Operations Principal, and General Securities Representative. During all periods mentioned herein, Johnson served as JRC's Manager, Chief Compliance Officer, and Director of Research and was registered with FINRA as a General Securities Principal, Financial and Operations Principal, and General Securities Representative of JRC, which registrations remain currently in effect. Johnson is currently associated with JRC.

### **RELEVANT PRIOR DISCIPLINARY HISTORY**

On April 7, 2006, a Letter of Acceptance, Waiver and Consent (E052005004702) was accepted whereby JRC was found to have violated NASD Conduct Rule 2711(h)(10), for failing to indicate on front page of research reports the specific page which contained required disclosure and failing to use proper font regarding the location of disclosure; Rule 2711(h)(8), for failing to disclose that the firm made a market in the subject company's securities; Rule 2711(h)(1)(A)(ii)(c), for failing to disclose the firm's expectation to receive compensation for investment banking services from subject company; Rule 2711(h)(1)(A), for failing to disclose a financial interest in a subject company by a member of the research analyst's household; Rule 2711(f)(5), for failing to issue a final research report when terminating coverage; and Rule 2711(c)(2)(A) and (B), for violating restrictions on communications with a subject company. JRC was censured and fined \$30,000.

### **OVERVIEW**

A cycle examination of Respondent JRC revealed that the firm had: (i) issued 776 equity research reports in which the required-disclosures section was not prominently titled and the front page did not reference the specific page number where the required-disclosure section appeared; (ii) failed to establish and implement written supervisory procedures that were reasonably designed to ensure compliance with NASD Conduct Rule 2711(g)(6); (iii) failed to preserve email communications in compliance with Section 17(a) of the Exchange Act and SEC Rule 17a-4; and (iv) failed, along with Respondent Johnson, to adequately supervise the participation of two of its associated persons in hedge fund-related private securities transactions that the firm had approved.

### **FACTS AND VIOLATIVE CONDUCT**

1. NASD Conduct Rule 2711(h)(10) provides that all disclosures mandated by Rule 2711(h) must be presented on the front page of the research report, or the front page must refer to the page on which disclosures are found. Additionally, Notice to Members 04-18, which discusses and supplements Rule 2711, requires that the disclosures be made in a clearly labeled disclosure section set apart from the rest of the report and in a larger font size than the rest of the report. Between February 4, 2005 and March 2, 2007, Respondent JRC issued 776 equity research reports where the front page did not identify the specific page(s) on which required disclosures appeared and the required-disclosures section was not prominently titled.

Such acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rules 2711(h)(10) and 2110 by Respondent JRC.

2. During the period from February 4, 2005 through March 2, 2007, Respondent JRC failed to adopt and implement written supervisory procedures that were reasonably designed to ensure that the firm and its employees comply with the provisions of NASD Conduct Rule 2711(g)(6), which mandates the pre-approval of all transactions of persons who oversee research analysts to the extent such transactions involve equity securities of subject companies covered by the research analysts they oversee.

Such acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rules 2711(i) and 2110 by Respondent JRC.

3. Between February 2005 and June 2006, Respondent JRC failed to preserve all electronic communications in compliance with Section 17(a) of the Exchange Act and SEC Rule 17a-4. Although during that period JRC had in place a system for the preservation of electronic communications, the system was not effective at preserving all electronic communications. Additionally, the firm had no procedures requiring periodic retrospective reviews or "spot-checks" of the system to determine whether the system was preserving communications in compliance with Rule 17a-4.

Such acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rules 3110 and 2110 by Respondent JRC.

4. During the period from February 4, 2005 through March 2, 2007, Respondent JRC, acting through Respondent Johnson, failed to adequately supervise the participation of two of the firm's associated persons in hedge fund-related private

securities transactions that the firm had authorized. Specifically, JRC, acting through Johnson, authorized two associated persons to each operate and manage his own hedge fund, but failed to adequately supervise the hedge-fund related activities of those associated persons. In addition, JRC, acting through Johnson, failed to establish and implement written supervisory procedures relating to supervision of private securities transactions approved by the firm.

Such acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rules 3040(c), 3010(b), and 2110 by Respondents JRC and Johnson.

- B. Respondents also consent to the imposition of the following sanctions:
- (i) a censure and a monetary fine in the amount of \$65,000 against Respondent JRC, \$5000 of which is imposed jointly and severally against Respondent Johnson, and
  - (ii) a 10-business day suspension of Respondent Johnson from acting as a General Securities Principal (Series 24).

Respondents agree to pay the monetary sanctions upon notice that this AWC has been accepted and that such payment is due and payable. Respondents have each submitted an Election of Payment form showing the method by which each proposes to pay the fine imposed.

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

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

## II.

### WAIVER OF PROCEDURAL RIGHTS

Respondents, individually and collectively, 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 us;

- 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.

Respondents, individually and collectively, 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.

Respondents, individually and collectively, 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

Respondents 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 Respondents.
- C. If accepted:
  - 1. this AWC will become part of Respondents' respective permanent disciplinary records and may be considered in any future actions brought

- by FINRA or any other regulator against Respondents, individually or collectively;
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. Respondents may not, either individually or collectively, 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. Respondents may not, either individually or collectively, 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. Respondents may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondents understand that they 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.

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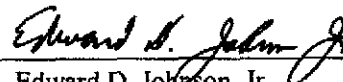
Respondents certify that they have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that they have agreed to the provisions of this AWC voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms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

Johnson Rice & Company, L.L.C.

6/24/08  
Date

By:   
(Signature)  
**Mark Sheridan**  
(Print Name)  
**Manager**  
(Title)

24 Jul '08  
Date

  
Edward D. Johnson, Jr.  
General Securities Principal

Reviewed by:

  
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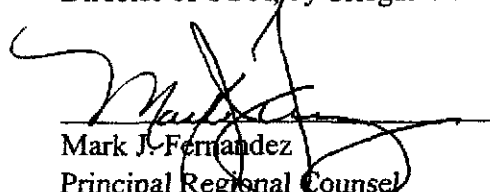
Counsel for Respondents,  
Johnson Rice & Company, L.L.C. and  
Edward D. Johnson, Jr.

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Accepted by FINRA:

August 8, 2008  
Date

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

A handwritten signature in black ink, appearing to read 'Mark J. Fernandez', is written over a horizontal line.

Mark J. Fernandez  
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FINRA Department of Enforcement  
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