

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT**

NO. 2007009525901

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REGISTRATION & DISCLOSURE

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

RE: Raymond James & Associates, Inc., Respondent  
Member Firm  
(CRD No. 250901)

Pursuant to Rule 9216 of the FINRA Code of Procedure, Respondent Raymond James & Associates, Inc. ("Respondent" or "RJ or the "Firm") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of 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. The Firm 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**

The Firm was established in 1962 and has been a member of the NASD (a/k/a FINRA) since 1964 and a member of the New York Stock Exchange Group, Inc. ("NYSE") since in or about 1973. It is wholly owned by Raymond James Financial, Inc., which is a public company listed on the NYSE. The Firm is a full service carry and clearing broker-dealer, as well as a registered investment advisor.

Kevin Garvey (the "Stock Loan Supervisor") has been the supervisor of the Firm's stock loan department (the "Stock Loan Department") since January 2001. Traders employed on the Firm's stock loan desk during 2004 included, Peter Tartaglione, Sr. ("Tartaglione, Sr."), Michael Hills ("Hills"), and Andrew Sorrentino ("Sorrentino") (collectively, the "Stock Loan Traders").

### **RELEVANT DISCIPLINARY HISTORY**

In Acceptance, Waiver and Consent No. CE320050007, dated April 12, 2005, the Firm consented to findings that it violated NASD Conduct Rules 3010 and 2110 by failing to establish and maintain a supervisory system, including written procedures, specifically designed to review and monitor their fee-based brokerage account business and NASD Conduct Rules 2210(d) and 2110 by marketing a specific type of fee-based brokerage account thru the use of sales literature that failed to comply with NASD's Advertising Rules. Along with an affiliated broker-dealer, the Firm consented to a sanction consisting of a censure, a \$750,000 fine, restitution to customers in the amount of \$138,000 and an undertaking should the Firm choose to continue offering customers fee-based brokerage accounts.

### **BACKGROUND OF STOCK LOAN**

In a typical stock loan transaction, a financial institution that needs to borrow a security communicates that need to other financial institutions known to engage in stock loan transactions. Upon locating the security it needs, the borrowing institution will establish with the lender the three financial terms of the transaction. The first term is the form of the collateral, which can be either cash or securities. The second term is the amount of collateral. For domestic securities the collateral is typically 102% of the market value of the securities being borrowed. The third term is the cost the borrower will pay to borrow the securities, called a lending fee.

The borrower in a stock loan transaction pays the collateral to the lender and the lender delivers the securities to the borrower. The lender invests the cash collateral at short-term (overnight Fed funds) interest rates. The lender retains part of the interest it receives on the cash collateral as its fee for lending the securities, this is known as the *lending fee*. The lender returns the remainder of the interest income on the collateral to the borrower, this is known as the *rebate*.

In a situation where the securities that are the subject of the loan are readily available for loan, the lender keeps only a very small portion of the interest earned on the collateral and returns, or rebates, the majority of the interest to the borrower. Conversely, when the security that is the subject of the stock loan transaction is scarce or otherwise "hard-to-borrow," the lender retains most or all of the interest on the collateral and returns little if any to the borrower of the stock. Supply and demand determines the price the borrower pays to borrow the stock. The less stock there is to borrow and/or the harder it is to locate, the more the borrower pays for the privilege of borrowing it.

In certain circumstances involving "hard-to-borrow" stocks, the interest earned on the cash collateral is not sufficient to cover the entire lending fee and the borrower must make payment to the lender, above and beyond the interest earned on the

cash collateral, for the privilege of borrowing the stock; this is called a negative rebate. In almost all instances, the rebate rate associated with a particular stock loan contract is an indicator of the supply and demand of the subject security.

Finders to stock loan transactions, in exchange for a fee, assist a borrower in locating securities and, less frequently, a lender in finding a borrower for securities it has available to lend. Most finders are not registered broker-dealers and generally act only to locate the security. Electronic mail and facsimile transmission have enabled parties that engage in stock loan activities to inform each other almost instantaneously of the securities they have available to lend or need to borrow, thus eliminating, in many cases, the need for finders. As described above, in situations involving "hard-to-borrow" securities, finders frequently perform real and valuable services. Finder's fees are typically negotiated by the finder with the paying counterparty and calculated based on the nominal value of the stock loan, the period that the loan is open, and the nature and demand for the security.

The insertion of a finder in a transaction where the services of a finder were not required has the effect of unjustifiably increasing the cost of the transaction to the detriment of the borrower and/or depriving the lender of income it might otherwise have received.

### **OVERVIEW**

During the period from January 1, 2002 through February 28, 2005 (the "Relevant Period"), the Firm permitted a non-registered finder to act in the capacity of a registered broker-dealer in the conduct of certain transactions and made profit-based payments to that non-registered finder. In these instances the Firm allowed the non-registered finder to negotiate the terms of stock loan transactions, select counterparties to those transactions, and compensated the non-registered finder based on the profits of related arbitrage transactions engaged in by another firm. In numerous other instances during the Relevant Period, the Stock Loan Traders caused the Firm to make unjustified payments to finders that provided no service in locating securities or had no involvement in the stock loan transaction for which they were paid. The Firm also failed to reasonably supervise the activities of its Stock Loan Department in that it did not have adequate supervisory procedures in place to detect and deter these types of transactions. In addition, the Firm's books and records were inaccurate in that they reflected that finders had participated in stock loan transactions when, in fact, in certain instances they had not performed any function.

## **FACTS**

### **Profit-Based Payments to Unregistered Finders**

Pursuant to Section 15(a)(1) of the Securities Exchange Act of 1934 (the "Exchange Act"), "It shall be unlawful for any broker or dealer . . . to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce the purchase or sale of, any security . . . unless such broker or dealer is registered . . ." The U. S. Securities and Exchange Commission ("SEC") has, by means of no-action letters, defined the parameters within which a finder's actions may require broker-dealer registration. Factors considered in reaching such a determination include, (1) whether the finder was involved in negotiations; (2) whether the finder engaged in solicitation of investors; (3) whether the finder was compensated on a transaction-related basis; and (4) whether the finder was previously involved in the sale of securities and/or was disciplined for prior securities activities. A finder who participates in the activities described by these factors may be deemed to be acting in the capacity of a broker-dealer requiring registration.

Pursuant to NYSE Rule 345(a)(i), no member organization shall permit any natural person to perform regularly the duties customarily performed by a securities lending representative, unless such person shall have been registered with, qualified by and is acceptable to the NYSE. NYSE Rule 345, as interpreted by NYSE Interpretation Handbook, NYSE Rule 345(a)(i)/02, precludes member organizations from paying to non-registered persons compensation based upon the business of customers they direct to member organizations if, among other things: (a) the compensation is formulated as a direct percentage of the commissions or income generated, or (b) payment is other than on an isolated basis, or (c) such person regularly engages in activity which may be reasonably expected to result in the procurement of new customers or orders.

### **Cemex Transactions**

During the Relevant Period, the Stock Loan Traders borrowed ADRs of CEMEX, S.A. de C.V. ("Cemex") from various sources, which they loaned directly to member firm RBC Capital Markets ("RBC") or loaned to other financial institutions with the understanding that the shares would ultimately be loaned to RBC. RBC then used the Cemex shares to conduct an arbitrage transaction and paid the Firm the funds due the finder, which were based on the profits of that arbitrage.

In early 2004, the market anticipated that, as in previous years, Cemex would declare a dividend in May 2004 payable in cash or shares at the election of the holder, with a premium of approximately 20% to holders who elected to receive stock. In February or March 2004, Dennis Palmeri, Sr. ("Palmeri, Sr.") of Shields Institutional ("Shields"), a non-registered finder, contacted Hills of the Stock

Loan Department and requested that he locate shares of Cemex available to borrow for use in a dividend arbitrage transaction. Previously, in February 1994, Palmeri, Sr. had been convicted in federal court of aiding and abetting his employer's violation of certain federal securities laws<sup>1</sup>. In connection with the criminal matter, in 1997 the SEC barred Palmeri, Sr. from association with any broker, dealer, municipal securities dealer, investment advisor or investment company, with the right to reapply for association after two years to the appropriate self-regulatory organization, or if there is none, to the SEC<sup>2</sup>. To date, Palmeri, Sr. remains barred from the securities industry. The SEC's bar did not preclude Palmeri, Sr. from acting as a non-registered finder.

Notwithstanding that Palmeri, Sr. was not a registered person and had been barred by the SEC as noted above, the Stock Loan Supervisor, entered into an arrangement with Palmeri, Sr. permitting the latter to dictate the counterparties and terms of a series of transactions involving Cemex and effected by RJ. Specifically, in April 2004, Palmeri, Sr. spoke directly with the Stock Loan Supervisor about the potential arbitrage transactions. Palmeri, Sr. proposed and the Stock Loan Supervisor agreed that RJ would borrow Cemex shares at Palmeri, Sr.'s direction from various lenders and loan those shares directly and indirectly<sup>3</sup> to RBC. RBC was to effect a dividend arbitrage transaction on the borrowed shares and had agreed to pay Shields, Palmeri, Sr.'s finder firm, a portion of the profit on the arbitrage transaction. Palmeri, Sr. arranged for RBC to pay his portion of the profits to RJ and, with the Stock Loan Supervisor's approval, for RJ to receive this payment, deduct the costs associated with the transactions, retain a small percentage of the balance for itself and pay Shields, Palmeri, Sr.'s finder firm, the remaining majority of the profits.

Based on this arrangement, RJ borrowed shares from eight lenders at Palmeri, Sr.'s direction. Palmeri, Sr., not RJ, determined the counterparty from whom the shares were to be borrowed, the number of shares to be borrowed from each lender, the premium to be paid to each lender for shares that elected cash, and the

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<sup>1</sup> The conduct consisted of, among other things, locating a source of securities that his employer borrowed in order unlawfully to elect dividend reinvestment options and filing a false tax return. Palmeri, Sr. was sentenced to two years probation and ordered to perform 400 hours of community service and pay a \$100,000 fine. See Dennis T. Palmeri, Sr., Exchange Act Release No. 38497, 1997 SEC LEXIS 780 (April 10, 1997)

<sup>2</sup> Shields is a non-registered finder firm, not a broker, dealer, municipal securities dealer, investment advisor or investment company. Accordingly, the bar imposed by the SEC did not prohibit Palmeri, Sr. from associating with Shields. Additionally, the term "person associated with a broker or dealer" is defined in Section 3 (18) of the Securities Exchange Act of 1934 to mean any partner, officer, director or branch manager of a broker or dealer (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such broker or dealer, or any employee of such broker or dealer. Thus, the SEC bar did not preclude Palmeri, Sr. from doing business with RJ in the capacity of a legitimate finder.

<sup>3</sup> RJ could not loan all the shares directly to RBC because the size of the transaction exceeded available credit between the parties.

rebate rate it would receive in connection with the borrows. RJ permitted Palmeri, Sr. to establish all of the terms of each Cemex borrow transaction. Similarly, RJ did not determine the counterparty to whom the shares were to be loaned, the number of shares to be loaned to each borrower, and the rebate rate it would pay in connection with the loans. RJ permitted Palmeri, Sr. to establish all of the terms of each Cemex loan transaction.

RBC realized a profit on the Cemex arbitrage transaction. Pursuant to its arrangement to pay a portion of the profit to Shields, RBC forwarded a payment of \$300,000 to RJ representing Shields' share of the profit on the Cemex arbitrage transaction. RJ deducted costs of the stock loan transactions, primarily the premium payments to lenders which Palmeri, Sr. had negotiated, and retained \$40,000 of the remaining balance, representing approximately 15% of Shield's net profit on the transaction. RJ paid Shields the remaining \$222,269 representing 85% of the net profit on the transaction.

The functions performed by Palmeri, Sr. in connection with the Cemex arbitrage transactions went well beyond those performed by legitimate finders. By allowing Palmeri, Sr. to select the counterparties with whom RJ would conduct stock loans and borrows and to negotiate the terms of those transactions including, among other things, the number of shares borrowed or loaned and the rebate to be paid or received, RJ effectively permitted Palmeri, Sr., a non-registered individual, to perform functions which require registration under Section 15(a) of the Exchange Act and NYSE Rule 345. RJ also paid Shields, Palmeri, Sr.'s finder firm, transaction-based compensation on the Cemex transactions in violation of the aforementioned rules and NASD Rules 2420 and 2110.

#### Other Improper Arbitrage Transactions with Shields

Pursuant to an unwritten agreement in place between RJ and Palmeri, Sr. during the Relevant Period, RJ engaged in profit-sharing transactions with Shields related to arbitrage transactions on at least five other occasions. In each instance, RBC conducted the arbitrage transaction.

The terms of this agreement between RJ and Palmeri, Sr. called for RJ to receive payment from RBC based upon a portion of the profits of the arbitrage transaction. RJ then deducted the costs associated with the transaction from the profit-based payment, retained 20% of the balance and paid the remaining 80% to Shields. In connection with these other arbitrage transactions during the Relevant Period, RJ paid Shields approximately \$136,618 and retained approximately \$27,325.

### **Improper Payments to Finders**

During the Relevant Period, the Firm did not enter into written agreements with finders defining the services to be provided by the finders or the fees to be paid for those services, nor was it specifically required to do so. Nonetheless, during the Relevant Period, the Stock Loan Department paid approximately 12 finders a total in excess of \$4.39 million in connection with stock loan transactions. In certain of these transactions, there was no apparent justification for the finder payments, and the Firm's books and records do not include evidence of specific information reflecting that finders had in fact provided any services. The unwarranted payments to finders took place in different manners as set forth below.

#### **Cut-Ins**

The Stock Loan Department regularly received from counterparties lists of securities they were seeking to borrow. The Stock Loan Traders did not wish to expend resources to locate securities in instances where the transactions were small in size and/or would generate little revenue for the Firm. Wishing to maintain relationships with these counterparties with the expectation of participating in more profitable transactions in the future, the Firm provided these lists of securities to broker-dealers and/or finders to locate.

RJ paid the finders a rebate in connection with any resulting transactions. However, since the transactions were small, the rebate paid to the finders was also small and, in a few instances, non-existent. The Stock Loan Traders, with the Stock Loan Supervisor's approval, determined that the amount of compensation paid to the finders in connection with these transactions was insufficient for the services provided including maintaining relationships with counterparties on smaller transactions. Consequently, the Stock Loan Traders decided to provide these finders with additional compensation. The Stock Loan Traders did this by adding the finders to larger transactions with certain counterparties in which the finder had provided no service.

The decision of which larger transactions on which to place a finder and the amount of the finder's additional compensation was subjectively made by the Stock Loan Traders on a transaction by transaction basis. In every instance, due to the Firm's failure to adequately supervise the Stock Loan Traders, the additional compensation paid to the finder on the larger transaction reduced the profits due the Firm on the transaction.

#### **Examples of Improper Cut-In Transactions**

A review of stock loan transactions conducted on four days in March and April 2004, identified 11 transactions in which a trader, Tartaglione, Sr., improperly inserted two finders, including one finder firm where his son was an employee. A

review of the electronic communications related to each transaction revealed that the finder did not provide a service or otherwise participate in the transactions. In five of the above-referenced 11 transactions, the fee paid to the finder was greater than the rebate paid to the counterparty on the transaction.

Tartaglione, Sr. acknowledged having periodically placed finders, including the finder firm employing his son, on stock loan transactions in which there was no finder involvement. The Stock Loan Supervisor and the Stock Loan Traders each acknowledged this practice as one routinely engaged in by the Firm's Stock Loan Department.

#### Conduit Transactions

In certain circumstances, such as when proposed counterparties did not have a lending agreement with each other, had insufficient credit lines with each other to effect a proposed transaction, or when RJ was asked to act as a conduit by the counterparties, the Firm acted as a conduit using its lending agreements and credit lines with the counterparties to effect a trade. In these instances, the Firm borrowed the security from one party and loaned it to the other. The difference between the rates at which the Firm borrowed the securities, and the rates at which the Firm loaned out the same securities, represents the Firm's gross revenues on these transactions.

In certain instances during the Relevant Period, the Firm retained a portion of these gross revenues and paid significant portions of these gross profits to purported finders, who in reality had no relationship to those stock loan transactions. In connection with some of these transactions, the Firm paid finders the entire spread on the transactions or more than was retained by the Firm, when normally finders would receive a smaller portion of the spread than the conduit firm.

#### *Examples of Improper Conduit Transactions*

On April 19, 2004, RJ acted as a conduit for the loan of 95,000 shares of American Dental from PFPC Trust Company ("PFPC") to Ramius. Relevant telephone conversations reveal that Shields did not participate in that transaction. Nonetheless, one of the Stock Loan Traders inserted Shields as a finder on the transaction and paid Shields a rebate of .125 %.

Similarly, on April 7, 2004, RJ acted as a conduit for the loan of 50,000 shares of Telecommunications Systems Inc. from PFPC to Ramius. Relevant telephone conversations reveal that Shields did not participate in that transaction. One of the Stock Loan Traders inserted Shields as a finder on the transaction and paid Shields a rebate of .125 %.

### Other Improper Payments to Finders

In some instances, the Stock Loan Traders were directed by a counterparty to pay a finder that had not performed any service in connection with the transaction. The revenues on these transactions was generally split 70/30 with the majority going to the finder.

Certain employees of the Stock Loan Department acknowledged that they were instructed by stock loan personnel at member firm A.G. Edwards & Sons, Inc. ("A.G. Edwards") to make finder payments to DPM Enterprises ("DPM") on all stock loans transactions with A.G. Edwards, unless otherwise agreed. The instructions to pay DPM were received from Nicholas Caporicci and Michael McCormack ("McCormack") of A.G. Edwards. McCormack also instructed certain Stock Loan Traders to make similar payments to finder Autumn Skye. The Stock Loan Traders complied with these instructions. The investigative record revealed that, in certain instances, the designated finder did not participate in the transaction.

The Stock Loan Traders also acknowledged that they were directed by Ramius to make payments to Shields on transactions with Ramius whether or not Shields had performed a service in connection with the transaction. That direction was received from Dennis Palmeri, Jr., a Ramius employee and the son of Palmeri, Sr. The Stock Loan Traders complied with this direction. In most instances, Shields did not participate in the transaction. The Stock Loan Traders further acknowledged that on certain occasions, without having been directed by Ramius, they compensated Shields in connection with transactions with which Shields performed no service.

At the direction of Frank Ferraro, a stock loan employee of Commerce Bank, the Stock Loan Traders also made certain payments to finder First Securities in connection with transactions with which First Securities performed no service.

The Stock Loan Supervisor acknowledged his awareness that finders were paid on certain transactions in connection with which they had not performed services as described above.

### RJ Failed to Supervise Its Stock Loan Activities

The Stock Loan Supervisor and the Stock Loan Department were located in New Jersey, from 2001 through the present. The Stock Loan Supervisor's direct supervisor (the "Senior Manager"), was located in Florida and visited the stock loan department once or twice per year for a day at a time. The Stock Loan Supervisor had frequent telephone conversations with the Senior Manager but did not discuss the day-to-day operations of the Stock Loan Department with him. The Senior Manager did not perform a reasonable supervisory review of the Stock Loan Department during the Relevant Period.

The compensation/bonus structure of the Firm's stock loan department gave the Stock Loan Supervisor a significant economic interest in the operations of the department. Twenty percent of the stock loan department's net income was allocated to employee bonuses, which the Stock Loan Supervisor determined, including his own. Thus, the Stock Loan Supervisor had a conflict of interest with respect to preventing the Stock Loan Department from engaging in profitable but violative business.

Supervisory review of the activity of the Stock Loan Department, including the Stock Loan Supervisor's activities, by the Senior Manager, would have mitigated this conflict. However, despite payments being made to finders of nearly \$4.4 million during the Relevant Period, the Senior Manager did not perform a reasonable supervisory review of the Stock Loan Department during this time.

The Firm had no written supervisory policies regarding its stock loan business, including but not limited to, the use of and payment to finders. Throughout the Relevant Period, the Stock Loan Supervisor was aware that finders were paid on transactions in connection with which they had not performed services and did little to curtail this practice.

#### **RJ Failed to Create and Maintain Complete and Accurate Books and Records Concerning its Stock Loan Activities**

During the Relevant Period the books and records of the Stock Loan Department, such as its automated records of transactions, were inaccurate in that they reflected that finders had participated in stock loan transactions when, in fact, they had not performed any function. These false entries in turn were transferred to the Firm's accounting records, which inaccurately indicated that payments were made to finders on the basis of services rendered, when, in fact, no services had been rendered to justify the payments. The Firm's books and records also were inaccurate in that they failed to adequately reflect that the payments to Shields related to the arbitrage transactions were based on the profits of arbitrage transactions.

#### **VIOLATIVE CONDUCT BY THE RESPONDENT**

1. The Firm aided and abetted a violation of Section 15(a)(1) of the Securities Exchange Act of 1934 and violated NASD Rule 2110 in that, on one or more occasions, it permitted a person or entity not registered as a broker-dealer in accordance with federal securities laws and who had been barred from the securities industry to perform duties that require registration;

2. The Firm violated NYSE Rule 345(a) in that it permitted a person who was not registered with, qualified by or acceptable to the Exchange to perform regularly the duties customarily performed by a securities lending representative;
  3. The Firm violated NASD Rule 2110 by failing to observe high standards of commercial honor and just and equitable principles of trade in that, on one or more occasions, it compensated alleged finders in connection with stock loan transactions when those finders had not performed any services in connection with those transactions;
  4. The Firm violated NASD Rules 2420 and 2110 in that it transmitted transaction-based compensation to an unregistered person or entity operating as an unregistered broker-dealer;
  5. The Firm violated NASD Rules 3010 and in that it failed to reasonably supervise or control certain of its business activities; provide for appropriate procedures of supervision and control; and establish a separate system of follow-up and review to determine that delegated authority and responsibility was being properly exercised, in that it:
    - a. failed to detect and prevent its payment of profit-based compensation to an unregistered person who had been barred from the securities industry;
    - b. failed to detect and prevent that it compensated alleged finders in connection with stock loan transactions when those finders had not performed any services in connection with those transactions;
    - c. failed to detect and prevent that it permitted a person who was not registered with, qualified by or acceptable to the NYSE to perform regularly the duties customarily performed by a securities lending representative; and
  5. The Firm violated Section 17(a) of the Securities Exchange Act of 1934 and Rules 17a-3 and 17a-4 thereunder and NASD Rules 3110 and 2110 in that it failed to make and keep accurate records reflecting its stock loan activities.
- B. The Firm also consents to the imposition of the following sanctions:
- a. Censure; and
  - b. Fine in the amount of \$1,000,000

The Firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. The Firm has submitted

an Election of Payment form showing the method by which it proposes to pay the fine imposed.

The Firm specifically and voluntarily waives any right to claim that it is 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**

The Firm specifically and voluntarily waives the following rights granted under the FINRA Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the Firm;
- 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, the Firm 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.

The Firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of NASD Rule 9143 under the FINRA Code of Procedure or the separation of functions prohibitions of NASD Rule 9144 under the FINRA Code of Procedure, 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

The Firm understands that:

- A. *Submission of the 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 the Firm; and*
- C. *If accepted:*
  - 1. *This AWC will become part of the Firm'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 the Firm's 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-8310-2; and*
  - 4. *The Firm 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. The Firm 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.

The Firm certifies that it has read and understand all of the provisions of this AWC and  
has been given a full opportunity to ask questions about it; that it 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 the Firm to submit it.

July 16, 2008  
Date

Raymond James & Associates, Inc.  
Raymond James & Associates, Inc.

Reviewed by:

By: Thomas R. Tremaine  
Thomas R. Tremaine  
Executive Vice President  
Raymond James & Associates, Inc.  
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Accepted by FINRA:

September 22, 2008  
Date

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

Linda S. Riefberg  
Linda S. Riefberg  
Vice President  
FINRA Department of Enforcement  
14 Wall Street  
New York, NY 10005