

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2007010577101**

RECEIVED

DEC 19 P 3:21
REGISTRATION & DISCLOSURE

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

RE: Eric Andy Fiszer, Respondent
Investment Company/Variable Contracts Representative
CRD No. 4381776

Pursuant to NASD Rule 9216 of FINRA's Code of Procedure, Eric Andy Fiszer [or Respondent] submits 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 Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent 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

Eric Andy Fiszer (Fiszer) entered the securities industry in April 2001 as an Investment Company/Variable Contracts Representative with a FINRA member. From July 13, 2001 until September 29, 2007, Fiszer was registered in the same capacity with NYLife Securities, Inc., a member of FINRA. Fiszer is not currently registered with a FINRA member and he has no prior disciplinary history.

OVERVIEW

From approximately January 26, 2006 until June 13, 2007, Fiszer sold two Equity Index Annuities to two customers away from NYLife Securities, Inc., for which he received commissions of approximately \$11,680. Fiszer failed to give prompt written notice of his sales

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of annuities to his employing member firm, in violation of Conduct Rules 3030 and 2110. Furthermore, Fiszler sold an Equity Index Annuity 16 months after his employing member firm prohibited the sale of those products.

FACTS AND VIOLATIVE CONDUCT

1. On or about January 26, 2006, Fiszler engaged in an outside business activity by receiving approximately \$7,250 in compensation for selling a \$100,000 Equity Index Annuity through AmerUs to public customer DU. In connection therewith, Fiszler failed to give prompt written notice of his engagement in such activity to NYLife Securities, Inc.
2. On or about June 13, 2007, Fiszler engaged in an outside business activity by receiving approximately \$4,400 in compensation for selling a \$55,000 Equity Index Annuity through AmerUs to public customer RH. In connection therewith, Fiszler failed to give prompt written notice of his engagement in such activity to NYLife Securities, Inc.

The acts practices and conduct described above constitute separate and distinct violation of NASD Conduct Rules 3030 and 2110.

OTHER FACTORS

- B. Respondent also consents to the imposition of a suspension of thirty calendar days in all capacities.

Respondent understands that if he is suspended from associating with any FINRA member, he becomes 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, Respondent may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the suspension. (See NASD Rule 8310 and IM-8310-1.)

Respondent has submitted a sworn financial statement and demonstrated an inability to pay. In light of the financial status of Respondent, no monetary sanctions have been imposed.

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

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

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

Respondent further specifically and voluntarily waives 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

Respondent understands 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 Respondent; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against Respondent;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about Respondent'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-8310-3; and
 - 4. Respondent 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. Respondent 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.

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

12/15/08

Date



Eric Andy Fiszler

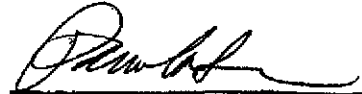
Reviewed by:

Attorney Name
Counsel for Respondent
Firm Name
Address
City/State/Zip
Phone Number
Accepted by FINRA:

December 19, 2008

Date

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



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FINRA Department of Enforcement
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