

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20070113939 02**

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

RE: NFP Securities, Inc., CRD No. 42046, Respondent

Pursuant to Rule 9216 of FINRA Code of Procedure, Respondent NFP Securities, Inc. (the "Firm" or "NFPSI") 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 the Firm alleging violations based on the same factual findings.

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

NFPSI has been a FINRA member since 1997. The Firm is headquartered in Austin, Texas. NFPSI is a registered broker-dealer and investment advisor, with a network of over 1000 independent registered representatives nationwide. The NFPSI advisors provide a variety of investment and insurance products and services.

OVERVIEW

During the period January 30, 2006, to February 28, 2008 (the "Relevant Period"), the Firm violated NASD Rules 2210(d) and 2110 by approving certain advertising materials that contained misleading statements and did not provide a sound basis for evaluation and/or a complete presentation; NASD Rules 2210(b) and 2110 for failing to document approval of certain advertising materials and failing to maintain records of certain advertising materials that were approved for use by the Firm; and NASD Rules 3010 and 2110 for failing to supervise retail equity-indexed annuity ("EIA") sales activities.

000025158 2011

RELEVANT DISCIPLINARY HISTORY

On March 22, 2004, an AWC (No. CAF040024) was accepted by NASD, whereby NFPSI was censured and fined \$25,000.00 for (1) failing to file advertisements and sales literature with NASD Advertising; (2) using and distributing misleading sales literature; and (3) using and distributing sales literature for variable annuities that failed to present a balanced discussion of the product and omitted information regarding costs and risks, all in violation of NASD Rules 2110, 2210(c), 2210(d)(1)(a), and (b), and IM-2210-2(a).

FACTS AND VIOLATIVE CONDUCT

A. Background

1. Delott's Equity Indexed Annuity Business

During the Relevant Period, NFPSI registered representative Steven Delott ("Delott") was engaged in retail and wholesale EIA sales. As part of his retail EIA business, he conducted free-lunch seminars directed at seniors, which he called "Retirement Planning Workshops" (the "Workshops"). The Workshops focused primarily on EIAs, but also included information concerning managed money accounts through NFPSI, single premium life insurance policies, and reverse mortgage investment strategies. Attendees of the seminars were encouraged to sign-up for one-on-one follow-up meetings, which Delott called "Fact Finders/Sales Presentations" (the "Fact Finders").

In a January 19, 2006 Outside Business Activity Approval Form, Delott disclosed that he was engaged in the "sale of fixed-indexed annuities," which the Firm understood to include both his retail and wholesale EIA sales. In a letter to Delott approving the sale of EIAs as an outside business activity, the Firm stated that Delott could sell only EIAs that were on the Firm's approved list and that the selling of EIAs was contingent upon any related advertising of any type being approved by NFPSI's advertising department.

From January 2006 through April 2006, Delott conducted both his retail and wholesale EIA sales as an outside business activity. In April 2006, NFPSI implemented a policy that required registered representatives to submit retail EIA transactions to NFPSI for review and required compensation from representatives' retail EIA sales to be paid through the Firm. Following implementation of this policy, the Firm began treating Delott's retail EIA sales as Firm business, while the wholesale EIA business remained an outside business activity.

2. Delott Made Statements and Used Materials at the Workshops and Fact Finders that Violated NASD Rules 2210 and 2110

At the Workshops and Fact Finders, Delott made statements that were false, exaggerated, misleading and unwarranted, omitted material facts, and failed to present a fair and balanced discussion of the products and services offered.¹ Delott engaged in other high

¹ On February 17, 2010, an AWC was approved that settled the charges against Delott. Delott consented to a sanction of a \$35,000 fine and a six-month all capacity suspension based on findings

pressure and improper sales practices at the Workshops and Fact Finders and used invitations and disseminated a book that the Firm had prohibited him from using that contained false, misleading and unwarranted statements.

3. The Firm's Supervision of the Workshops and Fact Finders

Delott submitted to the Firm for review some but not all of the materials that he used in his Workshops and Fact Finders and the Firm approved only certain of the submitted materials. In violation of the Firm's requirements that he use only Firm-approved materials in connection with his EIA businesses, Delott used materials that the Firm had denied, as well as materials that he never submitted to the Firm for review.

A principal of the Firm asked Delott for a script for the Workshops on one or more occasions in 2006, but it does not appear that a script was ever provided to the Firm. Nor did anyone from the Firm ever attend a live Workshop.

B. Violations of NASD Rules 2210 and 2110

1. The Firm Approved Advertising Materials that Violated NASD Rules 2210 and 2110

NASD Rule 2210 sets forth the standards for members' communications with the retail public. NASD Rule 2210(d)(1) requires that all communications with the public be "fair and balanced" and provide a "sound basis for evaluating the facts" regarding a security and prohibits the use of any false, exaggerated, unwarranted or misleading statements in such communications.

The following three Firm-approved documents that were used by Delott in his retail EIA business violated NASD Rules 2210 and 2110:

- Invitations and mailer for Workshops at CS Restaurant and BI Restaurant (Approved August 21, 2006, August 5, 2006, and May 30, 2007) - These documents contain the following statement that violates NASD Rule 2210(d)(1)(B): "This is an educational workshop with no attempt to sell specific products...or obligation." This statement violated NASD Rule 2210(d) because at the Workshops Delott did discuss investing his clients' money in indexed annuities issued by a specific company.

that he violated NASD Rule 2110 for improper seminar, training, and sales practices; NASD Rule 2210(b)(1) for using seminar, sales, and training materials without getting Firm approval; NASD Rules 2210(d)(1)(A) and (B) and 2110 for making statements at seminars, meetings, conferences, and training and in seminar, sales and training materials that were false, misleading, unwarranted and/or exaggerated and/or failed to provide a fair and balanced discussion; NASD Rules 2210(d)(1)(C) and 2110 for improperly placing information in footnotes; NASD Rules 2210(d)(2)(C) and 2110 for failing to disclose or disclose in a prominent manner the member firm name on sales materials; and NASD Rule 3030 for engaging in outside business activities without Firm approval.

- Mailer for a Workshop at CS Restaurant and Invitation for a Workshop at BI Restaurant (Approved May 30, 2007) – These documents contain the following statement that violated NASD Rule 2210(d)(1)(A): “You will learn how to trade stocks and mutual funds without commissions.” This statement violates NASD Rule 2210(d) because of its misleading implication that the investor will trade for free. The mailer also fails to disclose that the investor will be charged an advisory/wrap fee, which will cover the cost of commissions.

By approving for use these documents, the Firm violated NASD Rules 2210 and 2110.

2. Failure to Maintain Records of Approved Advertising Material in Violation of NASD Rules 2210(b) and 2110

NASD Rule 2210(b) sets forth the requirements concerning the approval of advertising and sales literature and the maintenance of records concerning such materials. NASD Rule 2210(b) requires a registered principal to approve by signature or initial and date each piece of advertising, sales literature or independently prepared reprints. NASD Rule 2210(b) requires member firms to maintain such advertising and sales literature, with the name of the principal who approved and the date of approval, in a separate file for a period of three years from the date of last use.

The Firm failed to document with the signature or initial of a principal its approval of one piece of advertising material used by Delott. Specifically, the invitation for a Workshop at BI Restaurant, which was approved on May 30, 2007, does not contain the signature or initial of the principal who approved it.

The Firm failed to maintain a record of its approval of one piece of Delott’s advertising material. Specifically, the Firm failed to maintain a record that it approved Delott’s invitation to a Workshop at MI Restaurant.

By failing to document approval of a Workshop invitation with a signature or initial of a Firm principal and failing to maintain a record of an approved Workshop invitation, the Firm violated NASD Rules 2210(b) and 2110.

C. Violation of NASD Rules 3010 and 2110 for Failure to Supervise Delott’s Workshops

NASD Rule 3010(a) requires that members “establish and maintain a system to supervise the activities of each registered representative, registered principal, and other associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations and with [NASD Conduct] Rules.”

The Firm violated NASD Rules 3010 and 2110 by not supervising the Workshops. The Firm did not require Delott to produce a copy of the script for the Workshops and did not

attend one or more of the live Workshops to confirm that the contents of the Workshops complied with NASD Rules and that only Firm-approved materials were being used. If the Firm had required Delott to submit a script and had attended one or more live Workshops, it would have discovered that Delott made statements, used materials and engaged in conduct that violated NASD Rules 2210 and 2110 and could have prevented further violations of these Rules.

B. The Firm also consents to the imposition of the following sanctions:

1. a censure; and
2. a fine of \$50,000.

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 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 FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against the Firm;
- B. To be notified of the 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 FINRA Rule 9143 or the separation of functions prohibitions of FINRA 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

The Firm 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 FINRA 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 FINRA Rule 8313; 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 undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands 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.

NFP Securities, Inc.

3/28/2011
Date

By: [Signature]
Its: SVP, CEO

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

[Signature] 4/6/11
Date

Linda S. Riefberg
Vice President
FINRA Department of Enforcement
14 Wall Street, 14th Floor
New York, New York 10005
(646) 315-7395; Fax (646) 315-7441

Attachment: Election of Payment Form