

NASD OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Hoyit Allen Bacon,
CRD No. 1974347

Respondent.

Disciplinary Proceeding
No. C05050010

Hearing Officer DRP

ORDER ACCEPTING OFFER OF SETTLEMENT

Date: June 27, 2005

INTRODUCTION

Disciplinary Proceeding No. C05050010 was filed on March 23, 2005, by the Department of Enforcement of NASD ("Complainant"). Respondent Hoyit Allen Bacon submitted an Offer of Settlement ("Offer") to Complainant on June 13, 2005. Pursuant to Code of Procedure Rule 9270(e), the Complainant and the National Adjudicatory Council ("NAC") Review Subcommittee or the Office of Disciplinary Affairs ("ODA") have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to Code of Procedure Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of NASD, or to which NASD is a party, to the entry of findings and violations consistent with the allegations of the Complaint, and to the imposition of

the sanctions set forth below, and fully understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by NASD.

BACKGROUND

Hoyit Allen Bacon entered the securities industry in 1989 and has been associated with the following NASD member firms:

American Express Financial Advisors, Inc.	October 1989-August 1992
IDS Life Insurance Company	October 1989-August 1992
Andrews, Hentges & Associates, Inc.	August 1992-January 1993
Investacorp, Inc.	January 1993-August 1996
Wilbanks Securities, Inc.	August 1997-March 2003
Aaron Wilbanks & Associates	August 1997-March 2003

Bacon was terminated from his member firm on March 28, 2003 and his NASD registration was terminated on the same date. Bacon is not currently registered with an NASD member.

Bacon does not have any relevant disciplinary history.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

Bacon engaged in outside business activities without providing written notice to his member firm. Bacon violated standards of commercial honor and just and equitable principles of trade by billing one client for the same advisory services under both an agreement with his member firm and through his outside business.

Based on the foregoing, Respondent violated NASD Conduct Rules 2110 and 3030.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and

represent a proper discharge by NASD, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be

Censured, fined in the amount of \$5,000, suspended for one year and ordered to pay customer MW restitution in the amount of \$11,793.59.

Deferred Fine:

The fine shall be due and payable either immediately upon reassociation with a member firm following the one-year suspension noted above, or prior to any application or request for relief from any statutory disqualification resulting from *this or any other event or proceeding, whichever is earlier.*

Deferred Restitution:

An order to pay restitution to MW in the total amount of \$11,793.59, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from January 1, 2000, until the date of payment. Restitution amounts ordered, pursuant to this disciplinary action, are due and payable immediately upon reassociation with a member firm following the suspension noted above, or prior to any application or request for relief from any statutory disqualification resulting from *this or any other event or proceeding, whichever is earlier.* The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies. If for any reason Respondent cannot locate MW after reasonable and documented efforts within such period, or such additional period agreed to by the staff, Respondent shall forward any

undistributed restitution and interest to the appropriate escheat, unclaimed property, or abandoned property fund for the state in which the customer is last known to have resided.

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

SO ORDERED.

NASD

By: 

Mitch C. Atkins

District Director

on behalf of the Director of ODA, pursuant to delegated authority