

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. C06050010

TO: Department of Enforcement
NASD

RE: Robert K. Mauss, Respondent
Investment Company & Variable Contracts Products Representative
CRD No. 1054321

Pursuant to Rule 9216 of NASD Code of Procedure, Robert K. Mauss ("Mauss" or "Respondent") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described in Part II below. This AWC is submitted on the condition that, if accepted, NASD will not bring any future actions against Respondent alleging violations based on the same factual findings.

Respondent understands that:

1. *Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by NASD's Department of Enforcement and National Adjudicatory Council ("NAC") Review Subcommittee or Office of Disciplinary Affairs ("ODA"), pursuant to NASD Rule 9216;*
2. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and
3. If accepted:
 - a. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against him;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about Respondent's disciplinary record;
 - c. NASD may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-2; and
 - d. 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 allegation in this AWC or create the impression that the AWC is without factual basis. Nothing in this provision affects Respondent's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

Respondent also understands that his experience in the securities industry and disciplinary history may be factors that will be considered in deciding whether to accept this AWC. That experience and history are as follows:

Robert K. Mauss entered the securities industry in July 1982 as an Investment Company & Variable Contracts Products Representative with an NASD member firm. He subsequently registered with two other member firms before registering with NASD member firm Ameritas Investment Corp. ("Ameritas") in August 1996. He remained with Ameritas until March 10, 1999. He re-registered with Ameritas in September 1999, and remained there until his termination on June 10, 2003. Mauss is not currently registered with any NASD member firm. His disciplinary history consists of the following:

On June 12, 2003, the Texas State Securities Board ("TSSB") issued a Cease and Desist and Revocation Order (No. CDO/REV-1518) against Mauss for not being properly registered to sell viatical settlement contracts in Texas and for selling unregistered securities in the form of viatical settlement contracts to approximately 15 Texas residents. Additionally, the Order found that Mauss sold promissory notes to approximately 16 Texas residents when he was not properly registered in Texas to do so, and used the proceeds to invest in a speculative high-risk online investment program. The Order further found that Mauss failed to disclose or update his Form U-4 to disclose his outside business activities noted above, a federal tax lien, and his filing for Chapter 13 bankruptcy protection. For these violations of the Texas Securities Act, Mauss' Texas registration as an agent with Ameritas was revoked on June 12, 2003.

I.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waive the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against him;
- 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 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 Rule 9143 or the separation of functions prohibitions of 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.

II.

ACCEPTANCE AND CONSENT

A. Respondent hereby accepts and consents, without admitting or denying the allegations or findings, 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, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by NASD:

1. During the period from approximately June 2000 through at least December 2000, Mauss engaged in private securities transactions without providing prior written notice to Ameritas that described in detail the proposed transactions and his role therein, and stating whether he had received or may receive selling compensation in connection with the transactions. Specifically, Mauss offered and sold at least \$104,500 worth of securities in the form of promissory notes to approximately 14 investors. The proceeds from the promissory notes were pooled and used to invest in a speculative, high-risk online investment program. Mauss offered and sold \$39,500 worth of the notes to six customers after the Securities and Exchanges Commission announced that it had filed a federal civil action alleging that the investment program was a fraudulent, unregistered securities offering.

Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2110 and 3040 by Robert K. Mauss.

2. During the period from approximately October 1999 through at least April 2003, Respondent Mauss engaged in outside business activities and received compensation in connection with such activity, without providing prompt written notice to his employing member firm, Ameritas. Specifically, Mauss sold viatical settlement contracts in the amount of \$728,298 to approximately 23 investors.

Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2110 and 3030 by Robert K. Mauss.

3. During the period from approximately October 1999 through at least June 10, 2003, Mauss willfully failed to disclose his above-mentioned outside business activities on his Uniform Application for Securities Industry Registration or Transfer form ("Form U-4"). Additionally, Mauss failed to disclose a federal tax lien filed against him in March 2001, and that he had filed for Chapter 13 bankruptcy protection in October 2001.

In connection with his association with Ameritas, Mauss completed a full Form U-4 on September 1, 1999. Amended Form U-4s were filed on his behalf on September 9, 1999, August 24, 2001, and October 1, 2002.

Such acts, practice and course of conduct constitute violations of Article V, Section 2 (c) of the NASD By-Laws, IM-1000-1 and NASD Conduct Rule 2110 by Robert K. Mauss.

- B. Respondent also consents to the imposition, at a maximum, of the following sanctions:

A bar from association with any NASD member firm in any capacity.

Pursuant to IM-8310-2(f), a bar or expulsion shall become effective upon approval or acceptance of this AWC by the NAC.

III.

OTHER MATTERS

- A. I understand that this settlement includes a finding that during the period from October 1999 through June 2003, I willfully failed to disclose material facts on a Form U-4, and that under Section 15(b)(4)(A) of the Securities Exchange Act of 1934 and Article III, Section 4(f) of the NASD By-Laws, these omissions makes me subject to a statutory disqualification with respect to association with a NASD member.
- B. Respondent understands that if he is barred or suspended from associating with any NASD 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, he may not be associated with any NASD member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension. (See NASD Rule 8310 and IM-8310-1).

I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it, and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce me to submit it.

