

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. C07050024

TO: Department of Enforcement
NASD

RE: Sterling Financial Investment Group, Inc.
CRD No. 41506

Bernard L. Golembe
CRD No. 864450

Pursuant to Rule 9216 of NASD Code of Procedure, Sterling Financial Investment Group ("SFIG") and Bernard L. Golembe (collectively, "Respondents") submit 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 us alleging violations based on the same factual findings.

Respondents understand 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 Respondents; and
3. If accepted:
 - a. this AWC will become part of Respondents' permanent disciplinary records and may be considered in any future actions brought by NASD or any other regulator against Respondents;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about Respondents' disciplinary records;
 - 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. Respondents 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 Respondents' testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

Respondents also understand that their 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:

SFIG. SFIG is headquartered in Boca Raton, Florida, and became an NASD member in November 1996. SFIG is currently an NASD member.

SFIG Relevant Disciplinary History. In April 2004, pursuant to a Letter of Acceptance, Waiver and Consent, SFIG was censured and fined \$7,500 by NASD for: (1) failing to amend a registered representative's Form U-4 to disclose criminal charges within 30 days, as required by Article V, Section 2(c) of the NASD By-laws, in violation of NASD Rules 2110 and IM-1000-1; and (2) failing to report the resulting criminal indictment within 10 days, in violation of NASD Rules 2110 and 3070. (NASD Disc. Proc. No. C07040044).

In February 2004, pursuant to a Letter of Acceptance, Waiver and Consent, SFIG was censured and fined \$12,500 by NASD for various supervisory procedures and recordkeeping violations. (NASD Disc. Proc. No. C07040018).

In January 2003, pursuant to a Letter of Acceptance, Waiver and Consent, SFIG was censured and fined \$131,000 by NASD for: failing to disclose material facts in connection with a private placement of securities and various supervisory procedures, in violation of Sections 10(b) and 15(c) of the Exchange Act, Rules 10b-5, 10b-9, 11(a)(C)1-4, 15(c)2-4 thereunder, and NASD Rules 1021, 2110, 2120, and 3010. SFIG also was required to engage an outside consultant to review and make recommendations relating to the firm's underwriting and investment banking practices. (NASD Disc. Proc. No. C07030004).

In October 2002, pursuant to a Letter of Acceptance, Waiver and Consent, SFIG was censured and fined \$40,000 by NASD for failing to establish, maintain, and enforce adequate written supervisory procedures related to its research department and research analysts, in violation of NASD Rules 1120, 2210, and 3010. SFIG also was required to engage an outside consultant to review and make recommendations relating to the firm's research department and research analysts. (NASD Disc. Proc. No. CAF020046).

Bernard Golembe. Bernard Golembe first became registered, as a general securities representative, with NASD member ~~Bear, Stearns & Co. Inc.~~ ^{Prudential} in December 1980. He became registered with Bear Stearns as an options principal in June 1987 and as a general securities sales supervisor in June 1989. He was employed by NASD member SFIG from March 2000 until July 2003, during which time he was registered as a general securities representative, general securities principal, and options principal. He currently is employed by NASD member Summit Brokerage Services, Inc., where he is registered as a general securities representative, general securities principal and options principal. Golembe has no relevant disciplinary history. AG

I.
WAIVER OF PROCEDURAL RIGHTS

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

- A. To have a Formal Complaint issued specifying the allegations against Respondents;
- 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, Respondents specifically and voluntarily waive 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.

Respondents further specifically and voluntarily waive 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. Respondents hereby accept and consent, 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. Beginning in or about April 2001, Sterling Financial Investment Group, Inc. ("SFIG"), acting through Bernard Golembe, failed to specify a cycle for the inspection of branch offices in its written supervisory procedures ("WSPs"), as required by NASD Conduct Rule 3010(c), in violation of NASD Conduct Rules 2110 and 3010(c).
 - 2. In 2001, SFIG, acting through Bernard Golembe: (1) failed to conduct internal inspections of its Scottsdale, Arizona and Bensalem, Pennsylvania, Offices of Supervisory Jurisdiction ("OSJ"); and (2) failed to conduct internal inspections of 12 of its branch offices, as required by SFIG's supervisory system, in violation of NASD Conduct Rules 2110 and 3010(c).
 - 3. SFIG, acting through Bernard Golembe, failed to conduct annual compliance meetings: (1) for 24 registered persons in 2001; and (2) for 28 registered persons in 2002, as

required by NASD Conduct Rule 3010(a)(7), in violation of NASD Conduct Rules 2110 and 3010.

4. In 2001, SFIG, acting through Bernard Golembe, failed to conduct a review of all of the businesses in which it engages to assist in detecting and preventing violations of and achieving compliance with applicable securities laws and regulations, and NASD rules, in violation of NASD Conduct Rules 2110 and 3010(c). Specifically, the firm's investment banking business, trading desk, research department, and the overall supervisory system were not reviewed during 2001.
5. From April 26, 2002 through May 24, 2002, SFIG failed to immediately display six customer limit orders and failed to maintain the quote for two other customer limit orders, in violation of Securities Exchange Act ("SEA") Rule 11Ac1-4 and NASD Conduct Rule 2110.
6. In connection with a private placement offering of convertible notes of PainCare, Inc., SFIG utilized an offering memorandum that materially misrepresented the total compensation received or to be received by SFIG, in violation of NASD Conduct Rules 2110.
7. SFIG failed to notify NASD prior to the employment of an electronic storage media for maintaining firm records, including, among other things, its general ledger and e-mail correspondence, as required by SEA Rule 17a-4(f), in violation of NASD Conduct Rules 2110 and 3110.
8. During 2002 and 2003, SFIG failed to determine the true beneficial owners of certain Panamanian accounts carried by the firm, and failed to review the activity in those accounts, in violation of NASD Conduct Rules 2110 and 3011.
9. From about June 1, 2001 until about May 31, 2002, SFIG failed to file one customer complaint and filed one complaint late pursuant to NASD Rule 3070(c), in violation of NASD Conduct Rules 2110 and 3070.

From about July 1, 2002 until about June 30, 2003, SFIG failed to file four customer complaints and filed one complaint late pursuant to NASD Rule 3070(c); and failed to make two reports pursuant to NASD Rule 3070(a)(4) within 10 days of two registered representatives being suspended, in violation of NASD Conduct Rules 2110 and 3070.

10. During 2002 and 2003, SFIG failed to update the Form U-4 applications for three registered representatives to report customer arbitration claims; failed to file timely amendments to the Form U-4s of two other registered representatives to report customer complaints; and failed to amend Form U-5 termination notices for four representatives to report customer arbitration claims, in violation of NASD Conduct Rule 2110 and Article V, Sections 2 and 3 of the NASD By-Laws.

- B. Respondents also consent to the imposition, at a maximum, of the following sanctions:

Respondent SFIG: a censure and a \$90,000 fine, \$37,500 of which is joint and several with Respondent Golembe.

Respondent Golembe: a \$37,500 fine, joint and several with Respondent SFIG, and a 60 day suspension from association with any NASD member in all capacities.

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

III. OTHER MATTERS

- A. Respondents understand that they may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondents understand that they 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 NASD, nor does it reflect the views of NASD or its staff.
- B. Respondents agree to pay any monetary sanctions imposed upon notice that this AWC has been accepted and that such payments are due and payable, and have attached an Election of Payment form showing the method by which Respondents propose to pay any fine imposed.
- C. Respondents specifically and voluntarily waive any right to claim that they are unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.
- D. Respondent Golembe understands that if he is suspended from association 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 the capacity in which he is suspended during the period of the suspension. (See NASD Rule 8310 and IM-8310-1.)

Respondents certify that they 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 them to submit it.

3/29/05
Date

Bernard L. Golembe

Bernard L. Golembe
Respondent

Sterling Financial Investment
Group, Inc., Respondent

By: [Signature]

Name: C. Robert Abrams
Title: General Counsel

Reviewed by:

Michael Basile
Michael Basile, Esq.
Counsel for Respondents

Accepted by NASD:

4/5/05
Date

D.J. Stefek
Daniel J. Stefek, District Director

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