

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2012030897101**

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

RE: Capstone Asset Planning Company, Respondent
CRD No. 14970

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Capstone Asset Planning Company ("CAPCO") 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 CAPCO alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A.** CAPCO 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

CAPCO is a broker-dealer with one office in Houston, Texas, and 22 registered representatives. It is a mutual fund underwriter or sponsor and mutual fund retailer, and has been registered since 1984. CAPCO is a subsidiary of Capstone Financial Services, Inc., a Delaware corporation.

OVERVIEW

CAPCO served as the principal underwriter and distributor of shares of the Capstone Church Capital Fund ("Fund"). The Fund's holdings were approximately 87% church mortgage bonds and 13% church mortgage loans. From 2009 to 2012, the Fund's net assets declined significantly as a result of the decrease in the fair value of the assets in the Fund and the large number of repurchases requested by investors, among other factors. The Fund ultimately stopped accepting sales on January 24, 2013.

From 2010 to 2012, as the Fund's performance declined, CAPCO distributed three communications to the public concerning the Fund that failed to account accurately for the change in performance. In addition, the Fund's website contained a misleading statement concerning the Fund's redemption policy, and compared church bonds and loans to corporate bonds without disclosing the material differences between the investments. As a result, CAPCO violated the content standards of NASD Rules 2210(d)(1)(A), 2210(d)(1)(B), and 2210(d)(2)(B). By violating these rules, CAPCO also violated FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

In connection with the Fund, Capstone distributed the following three communications to the public: (1) the "Fund Website," available at www.capstonechurchcapitalfund.com, (2) the "Fund Fact Sheet," a two-page document that described the Fund's objectives, portfolio, expense ratio, advisor, risks, bonds and loans maturity durations, and performance history, among other things, and (3) the "CCCF Holdings Document," a multi-page document that listed the Fund's holdings, including their maturities, coupon rates, par values, and market values. The Fund Website, the Fund Fact Sheet, and the CCCF Holdings Document were each a "communication with the public" pursuant to NASD Rule 2210(a).

From the homepage of the Fund Website, users could download other documents. The downloadable documents changed from time to time. In February 2012, for example, the following documents were available for download: the prospectus, an investment application, the CCCF Holdings Document, a repurchase offer, a Proxy Statement, the Fund Fact Sheet, a ROTH IRA Application, and a Traditional IRA Application. The Fund Fact Sheet was updated quarterly, and the CCCF Holdings Document was updated monthly.

From 2009 to 2012, the Fund's net assets declined significantly as a result of the decrease in the fair value of the assets in the Fund and the large number of repurchases requested by investors, among other factors. The Fund's net assets were \$57,207,337, on September 30, 2009, and declined to \$32,927,615, as of September 30, 2012. In 2010, the Fund also experienced difficulty in obtaining cash to satisfy its quarterly repurchase requests. In November 2010, the Fund therefore changed its policy from allowing its investors to make quarterly repurchase requests to allowing its investors to make annual repurchase requests.

1. NASD Rule 2210(d)(1)(A)

NASD Rule 2210(d)(1)(A) requires that communications be "based on principles of fair dealing and good faith," "fair and balanced," and "provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry, or service."

First, from September 2010 to August 2012, CAPCO violated these requirements of NASD Rule 2210(d)(1)(A) by omitting any details or information about the Fund's distressed holdings in the Fund Website and Fund Fact Sheet. Other disclosures explained the deterioration of the Fund's holding during that time period. For example, according to a Preliminary Proxy Statement filed with the SEC on September 15, 2010: "the Fund has not been successful in raising cash through sales of additional shares. Also, a significant portion (24% of the Fund's net assets as of August 31, 2010) of the Fund's mortgage bond and mortgage loan holdings have missed a coupon payment or are more than 60 days delinquent on their monthly sinking fund payments. Although the default and delinquency rates of these securities appear to be stabilizing, the Fund has not been accumulating cash from payments on its portfolio holdings at anticipated rates. Moreover, the secondary market for church mortgage bonds and loans has become even more illiquid, so the Fund is unable to raise sufficient cash by selling portfolio securities. At the same time, the Fund's holdings of short-term money market instruments have been depleted by previous repurchase offers and have not been replenished sufficiently by new share sales and payments from the Fund's portfolio securities to provide the cash necessary to repurchase 5% of the Fund's shares each quarter." Yet, the Fund Website and Fund Fact Sheet did not provide any similar details or information about the deterioration of the Fund's holdings.

Second, from January 2009 to May 2009, the CCCF Holdings Document failed to identify holdings in the Fund that were non-income producing. At least 18 bonds in the Fund were non-income producing securities during the first quarter of 2009, according to the quarterly unaudited financial statements filed in June 2009. By failing to include this information about the Fund's holdings in the CCCF Holdings Document, CAPCO violated NASD Rule 2210(d)(1)(A).

2. NASD Rule 2210(d)(1)(B)

NASD Rule 2210(d)(1)(B) prohibits members from making any "false, exaggerated, unwarranted or misleading statement or claim in connection with any communication." The three communications contained the following false, exaggerated, unwarranted, and/or misleading statements.

First, from September 2010 to August 2012, the Fund's Website stated that it was an interval fund and "[u]nlike other types of closed-end funds, an interval fund periodically offers to buy back a stated portion of its shares from shareholders." This statement was misleading, exaggerated and/or unwarranted because it

omitted an explanation of (1) the Fund's difficulty in 2010 in obtaining cash to satisfy its quarterly repurchase requests (that ultimately led to a change in November 2010 from a quarterly to annual opportunity for the Fund to repurchase a portion of outstanding shares), and (2) the potential that an investor may not be able to sell his shares even pursuant to the annual repurchase policy.

In proposing the change from a quarterly to an annual repurchase policy, the September 15, 2010 Preliminary Proxy Statement stated that "the Fund is experiencing greater difficulty in obtaining the cash necessary to satisfy quarterly repurchase offers." It further stated, that, "a[t] this point, Fund management believes the Fund could soon become unable to honor requests for repurchase of 5% of its outstanding shares each quarter. In particular, the Fund expects that, following the September 2010 quarterly repurchase offer, the Fund will face significant difficulties in conducting subsequent quarterly repurchase offers. If the Fund is unable to comply with its fundamental policy to provide quarterly repurchase offers, it may have to dissolve."

However, even after the change to an annual repurchase policy, an investor's shares may not have been repurchased. According to the Fund's January 24, 2011 Prospectus: "Although the Fund, as a fundamental policy, will make repurchase offers annually, applicable law permits the Fund's Board to suspend or postpone a repurchase offer if the offer would cause the Fund to lose its status as a registered investment company or in other limited circumstances. During any period in which the Fund's Board of Trustees suspends or postpones the Fund's repurchases of its Shares, you may not be able to sell your Shares. Even when the Fund does make repurchases, there is no guarantee that you will be able to resell to the Fund all of the Shares that you desire to sell at any particular time." For these reasons, the Fund Website's statement that the Fund "periodically offers to buy back a portion of its shares" was misleading, exaggerated and/or unwarranted in violation of NASD Rule 2210(d)(1)(B).

Second, from September 2010 to August 2012, the Fund's Website stated that the Fund was "for investors seeking the opportunity for ... high quality secured church mortgage bonds & church mortgage loans." Similarly, the Fund Fact Sheet stated that the "Capstone Church Capital Fund is for investors seeking the opportunity for: ... Investment consisting primarily of high quality secured church mortgage bonds and church mortgage loans." In light of the deterioration in value of the Fund's holdings, the description of the church mortgage bonds and church mortgage loans as "high quality" is false, exaggerated, unwarranted and/or misleading in violation of NASD Rule 2210(d)(1)(B).

3. NASD Rule 2210(d)(2)(B)

From September 2010 to August 2012, the Fund Website stated, in the "About the Fund" section, that the Fund's investment objective is to provide a high level of current income through investment in church mortgage bonds and church mortgage loans." It then describes "church mortgage bonds and church mortgage loans" by stating: "[b]ecause church mortgage bonds and loans do not have an active secondary market and are illiquid, they are typically issued with yields that are higher than those of corporate bonds of similar credit quality and maturity."

NASD Rule 2210(d)(2)(B) requires that: "[a]ny comparison in advertisements or sales literature between investments or services must disclose all material differences between them, including (as applicable) investment objectives, costs and expenses, liquidity, safety, guarantees or insurance, fluctuation of principal or return, and tax features." The Fund Website's comparison of church mortgage bonds and loans, in which it invested, to "corporate bonds of similar credit quality and maturity" violated NASD Rule 2210(d)(2)(B) because it did not disclose the material differences between corporate bonds and church mortgage bonds and church mortgage loans, including but not limited to differences in their credit quality.

B. CAPCO also consents to the imposition of the following sanctions:

- a censure; and
- a fine in the amount of \$20,000.

CAPCO agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. CAPCO has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

CAPCO 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

CAPCO specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against it;**
- 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, CAPCO 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.

CAPCO 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

CAPCO 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 CAPCO; and**

C. If accepted:

- 1. this AWC will become part of CAPCO's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against CAPCO;**
- 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about CAPCO'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. CAPCO 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. CAPCO 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 CAPCO's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.**

D. CAPCO may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I 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 CAPCO, 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 CAPCO 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 CAPCO to submit it.

8-12-13
Date (mm/dd/yyyy)

Edmund L. Jacobs
Capstone Asset Planning Company

By: PRESIDENT

Reviewed by:

Elliot R. Curzon
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Accepted by FINRA:

08/23/2013
Date (mm/dd/yyyy)

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

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