

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. E0220020922-01

TO: Department of Enforcement
NASD

RE: Gregory J. Smith, Respondent
Investment Company/Variable Contracts Representative
CRD No. 1342428

Pursuant to Rule 9216 of NASD Code of Procedure, I 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 me alleging violations based on the same factual findings.

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

I also understand that my 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:

Gregory J. Smith ("Smith") entered the securities industry in 1985 as a Direct Participation Programs Representative. He became registered as an Investment Company/Variable Products Representative in 1993. From October 31, 2001, through September 4, 2002, he was associated with NASD member Sicor Securities, Inc. ("SSI"). He presently is not registered with an NASD member. Smith has been the subject of the following disciplinary action:

On or about October 23, 2000, the California Department of Corporations issued to Smith a Cease and Desist Order to desist and refrain from the offer or sale of investment contracts in the form of pay telephone sales and management programs unless and until qualification has been made under California Corporations Code § 25019.

I.

WAIVER OF PROCEDURAL RIGHTS

I 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 me;
- 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, I 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.

I 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. I 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:

On or about October 23, 2000, the California Department of Corporations issued to Smith a Cease and Desist Order to desist and refrain from the offer or sale of investment contracts in the form of pay telephone sales and management programs unless and until qualification has been made under California Corporations Code § 25019.

On or about October 26, 2001, Smith submitted to SSI a Uniform Application For Securities Industry Registration or Transfer – Form U-4 on which Smith willfully failed to disclose the foregoing state regulatory order, in response to Form U-4 Question 23D(4) ("Has any ... state regulatory agency ... ever (4) entered an order against you in connection with investment-related activity?").

The foregoing acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rules 2110 and NASD Interpretative Material 1000-1 by Smith.

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

Suspension from association with any NASD member in any capacity for a period of ninety (90) days.¹

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

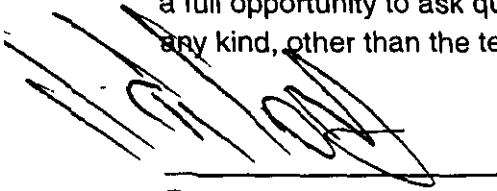
¹ No monetary sanctions have been imposed due to Smith's Chapter 13 bankruptcy filing, filed on August 14, 2003, in the United States Bankruptcy Court, Middle District of Florida.

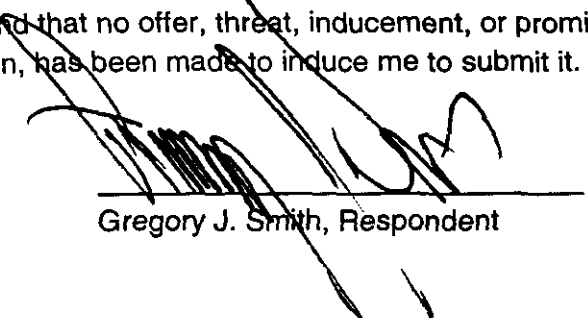
III.

OTHER MATTERS

- A. I understand that I 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 NASD, nor does it reflect the views of NASD or its staff.
- B. I understand that if I am barred or suspended from associating with any NASD member, I become 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, I 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.


Date


Gregory J. Smith, Respondent

Accepted by NASD:

9/21/05

Date


Lani M. Sen Woltmann, District Director
Signed on behalf of the Director of ODA,
by delegated authority