

**NASD
OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

v.

James A. Swanke
CRD No. 2228901

Colin P. Collea
CRD No. 1519299

Respondents.

Disciplinary Proceeding
No. E052000056306
(Formerly C05050026)

Hearing Officer: RSH

**AMENDMENT TO ORDER
ACCEPTING OFFER OF SETTLEMENT
DATED OCTOBER 7, 2005**

Date: November 22, 2005

INTRODUCTION

Disciplinary Proceeding No. C05050026 was filed on May 23, 2005, by the Department of Enforcement of NASD ("Complainant"). Respondent James A. Swanke submitted an Offer of Settlement ("Offer") to Complainant on September 23, 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 Amended Order 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

Respondent James A. Swanke entered the securities industry in March 1992, when he associated with Edward D. Jones & Co., LP ("Jones"). He remained with Jones until January 1994, after which he registered with one other NASD member firm before associating with USBI in February 1995. He remained at USBI until February 2000, when he became registered with Merrill Lynch, Pierce, Fenner & Smith, Incorporated. He left Merrill in May 2002. He subsequently registered with one other NASD member firm before registering with ING Financial Partners, Inc., where he currently serves as a registered representative. During his career in the securities industry, Swanke obtained Series 7, 10 and 63 securities licenses.

FINDINGS AND CONCLUSIONS

The findings herein are pursuant to Respondent Swanke's Offer of Settlement and are not binding on any other person or entity named as a respondent in this or any other proceeding.

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

During the period from approximately April 1998 through March 1999, Swanke offered and sold CCDs to at least thirty-one customers. He made numerous material misrepresentations in connection with those offers and sales.

Specifically, during certain oral sales presentations, Swanke:

- falsely told certain customers that they were purchasing one-year CCDs, when in reality the CCDs were for much longer terms, generally 15 to 20 years;

- falsely told certain customers that the CCDs were a one or two year investment that could be renewed at the same or lower rate in six month or one year intervals;
- falsely told certain customers that the CCDs *would* be called by the issuing bank within a one to two year period of time when, in fact, calling the CCDs was at the sole discretion of the issuing banks;
- falsely told certain customers that they should ignore the maturity date that would be noted on upcoming statements because the CCDs could be redeemed at anytime; and
- falsely assured certain customers that their CCDs were FDIC insured when, in fact, the customers had deposits in excess of \$100,000 with the same institution and FDIC insurance did not apply to amounts in excess of \$100,000.

Upon receiving calls from certain customers concerned about extended maturity dates subsequent to their transactions, Swanke falsely assured the customers that they could receive full value for their CCDs upon redemption and to ignore the maturity date listed on their confirmations.

Upon certain customers' request to redeem their CD approximately one year after purchase, Swanke falsely informed the customers that he had already reinvested their funds for an additional six months at the same or lower rate when, in fact, the customers' funds remained invested in the long-term instrument.

Based on the foregoing, Respondent violated NASD Conduct Rule 2110, as alleged in the First Cause of Complaint.

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

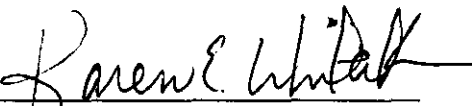
It is ordered that Respondent be assessed a monetary fine in the amount of \$15,000 and be suspended for six months from association with any NASD member in any capacity.

The fine shall be due and payable either immediately upon reassociation with a member firm following the six-month 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. [Order Amended to include this paragraph.]

The sanctions imposed herein shall be effective on a date set by NASD staff. Pursuant to IM-8310-2(f), a bar or expulsion shall become effective upon approval or acceptance of this Order by the NAC.

SO ORDERED.

NASD

By: 
Karen E. Whitaker
Regional Counsel

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