

**NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. E052004025802**

Department of Enforcement
NASD

AmSouth Investment Services, Inc., Respondent
[CRD No. 15692]

Pursuant to Rule 9216 of NASD Code of Procedure, AmSouth Investment Services, Inc. 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 us alleging violations based on the same factual findings.

We 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 us; and*
3. If accepted:
 - a. this AWC will become part of our permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against us;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about our 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. We 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. Nothing in this provision affects our testimonial obligations or right to take legal or factual positions in litigation or other proceedings in which NASD is not a party.

We also understand that our 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:

AmSouth Investment Services, Inc. has been a member of NASD since November 1, 1984. During all periods mentioned herein, AmSouth Investment Services, Inc., Inc. was a registered broker-dealer with the United States Securities and Exchange Commission and a member of NASD. AmSouth Investment Services, Inc. has been the subject of the following relevant formal disciplinary action:

On March 16, 2004, AmSouth Investment Services, Inc., without admitting or denying any liability or any findings or conclusions, consented to the entry of an Order of the Office of the Mississippi Secretary of State Business Regulation and Enforcement Division and the Alabama Securities Commission based on, *inter alia*, findings that the firm failed to reasonably supervise its registered representative James B. Moorehead in connection with the transactions described in Section II(A)(1) below. The firm consented to the imposition of sanctions consisting of a \$25,000 administrative penalty, reimbursement of \$75,000 in investigative costs, a contribution of \$125,000 for investor education programs, an undertaking to make an offer to certain variable annuity customers to surrender contracts without incurring deferred sales charges, and an undertaking to engage an independent consultant to review and make recommendations as to certain aspects of the firm's compliance, supervisory, and training procedures.

WAIVER OF PROCEDURAL RIGHTS

We 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 us;
- 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, we 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.

We 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. We hereby accept and consent, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding in which NASD is a party, prior to a hearing and without adjudication of any issue of law or fact, to the entry of the following findings by NASD:

During the period from 2000 through 2003, AmSouth Investment Services, Inc., failed and neglected to establish and maintain a system reasonably designed to supervise its registered representative James B. Moorehead and other representatives situated in remote branch locations in connection with the sale of variable annuities and mutual funds.

The firm's procedures required that registered representatives collect customer financial situation and investment objective information on forms including a "Purchase Authorization Form." The forms disclosed important information concerning sales charges and the availability of reduced sales charges on purchases of Class A mutual fund shares. The firm required that customers sign a new Purchase Authorization Form in connection with each new purchase and each addition to an existing position in the amount of \$20,000 or more.

The firm's procedures directed registered representatives to retain the original Purchase Authorization and other forms in their offices and to send, by facsimile transmission, copies to the firm's Principal Review Desk in the home office. Forms received in the home office were reviewed and approved by one of a number of principals who were randomly assigned to process forms on a "first in, first out" basis. Principals examining the facsimile forms were unable to detect

documents that were altered with correction fluid, signed in blank and photocopied for use to authorize multiple transactions months or years after the original signing, or multiple forms clearly forged by the same writer with no effort made to disguise handwriting.

Review of the original forms held at the offices of registered representatives was generally limited to a sample.

The shortcomings of the supervisory system described above contributed to the firm's failure to detect registered representative Moorehead's circumvention of the firm's suitability review procedures.

In 2000 and 2001, Moorehead, in 125 instances, forged or caused to be forged customer signatures on new account and variable annuity documentation. In 18 instances, he completed, or caused to be completed, documents with inaccurate information concerning customers' financial situations and needs in order to make his variable annuity recommendations appear suitable.¹ These violations escaped detection by the firm's Principal Review Desk.

In view of the foregoing, AmSouth Investment Services, Inc. violated NASD Conduct Rules 3010(a) and (b) and 2110.

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

A censure and a monetary fine in the amount of \$100,000 to be assessed against AmSouth Investment Services, Inc.

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

III.

OTHER MATTERS

A. We understand that we may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. We understand that we 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.

¹ In connection with this matter, James B. Moorehead, without admitting or denying the allegations, consented to a bar from association with any NASD member in any capacity. (C05040073, November 11 2004).

- B. We agree to pay any monetary sanctions imposed on us upon notice that this AWC has been accepted and that such payments are due and payable as noted above and have attached an Election of Payment form showing the method by which we propose to pay any fine imposed.
- C. We specifically and voluntarily waive any right to claim that we are unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

We certify that we 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 us to submit it.

5/5/2006
Date

AmSouth Investment Services, Inc.
By: [Signature]
CHIEF COMPLIANCE OFFICER
[Name and Title]

Reviewed by:

[Signature]
Counsel for Respondent
AmSouth Investment Services, Inc.

Accepted by NASD:

May 24, 2006
Date

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

[Signature]
Mark P. Dauer, Senior Counsel
NASD, District No. 5
1100 Poydras Street, Suite 850
New Orleans, Louisiana 70163-0802
Phone: 504/522-6527
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**NASD Senior Vice President
and Regional Director**
Warren A. Butler, Jr.
NASD, District No. 5
1100 Poydras Street, Suite 850
New Orleans, Louisiana 70163-0802

Attachment: Election of Payment Form

AWC01
Rev 12/29/05

Corrective Action Statement

This Corrective Action Statement is submitted by the Respondent. It does not constitute factual or legal findings by NASD, nor does it reflect the views of NASD, or its staff.

Over the last two years, on its own initiative, AmSouth Investment Services, Inc. ("AIS" or "Firm") has made major enhancements to its supervisory procedures that were specifically designed to prevent, detect and discipline Registered Representatives' ("RRs") use of whiteout to alter and reuse previously signed account forms and/or their use of signed blank account forms. The Firm has invested significant management and financial resources to implement and enforce the enhancements described below. These enhancements supplemented those made after the Firm discovered James B. Moorehead's ("Moorehead") misconduct and those made in response to suggestions from the independent consultant the Firm hired to advise it on how to improve its supervisory systems and procedures.

1. New Account Forms

Since December 2003, AIS has required RRs to obtain customer financial information and signatures on three forms in order for the customer to open an account with the Firm. These forms consist of: (1) the Confidential Client Information Form (CCI), which gathers the financial status of the customer to determine liquidity, net worth, tax bracket, etc.; (2) the Investment Account Application (IAA), which gathers information such as the customer's name, address, social security number, date of birth, etc.; and (3) the Global Disclosure (GD), which details information to the customer regarding opening an account with the Firm and also includes arbitration language.

Once the forms are completed, the RR is required to take four steps. First, the RR is required to give a copy of the CCI, IAA, and GD to the customer. Second, the RR is required to forward the original CCI and IAA to the Office of Supervisory Jurisdiction ("OSJ"), along with

all other forms accompanying the new account. Third, the RR is required to fax a copy of the CCI and IAA to the Firm's Principal Review Desk ("PRD") for their review and approval. Finally, the RR is required to put a copy of the completed CCI and IAA in his or her files, along with copies of all other forms that accompanied the new account.

The PRD reviews the account forms it receives in the Home Office to ensure that the forms are properly completed and that the investments are not unsuitable to the investor in respect to the overall financial status of the client as documented within the account. The PRD acknowledges its review by signing the new account forms it reviews. All new account forms must contain PRD member's signature before a transaction can occur in the account.

A second level of review occurs at the OSJ. The Designated Supervisory Principal ("DSP"), or the Regional Compliance Principal ("RCP") as designee, periodically reviews the new account forms it receives to ensure that they are properly completed and that the investments are suitable for the investor. The DSP, or the RCP as designee, is also responsible for periodically reviewing original account forms to detect possible forgeries and/or other violations of the Firm's contemporaneous written signature requirements.

2. New Account Confirmation

Once a new account has been opened successfully, the Firm sends the customer a "Welcome Letter" that includes a copy of the customer's new account application (CCI, IAA and GD), which reflects the customer's financial information as completed by the RR and signed by the customer at the time of the account opening. The Welcome Letter asks the customer to review the account application for accuracy and to report any discrepancies to the Firm.

In addition to the Welcome Letter, the Firm provides notification of financial information on record to its customers at least every 36 months and within 30 days of any significant changes. This notification also provides instructions for reporting any discrepancies to the Firm.

The Firm believes that its direct correspondence with customers and verification of customer accounts adds another layer of protection against the acts of employees such as Moorehead who engage in misconduct. Affording customers a copy of their new account forms gives them an opportunity to check the accuracy of the forms and to report any deficiencies directly to the Firm.

3. Intensive Trade Reviews

In addition to the RCPs' select review of new account forms at the OSJ, AIS' revised policies and procedures require RCPs to annually perform an intensive trade review of each RR in his or her region. The RCPs are instructed to choose at least one RR per month and to review all of the RR's transactions for the prior three-to-six month period. The goal is to identify and examine unusual trades or trading patterns. The RCPs accomplish this task by reviewing purchase and sales reports, Pershing reports, surveillance reports, as well as customer account files and documentation for a three-to-six month period. The RCPs are also instructed to review the Weekly Trade Reports generated by the Surveillance Department in order to reconcile OSJ files with the Home Office files received.

When reviewing the RR's customer account files and documentation, the RCPs are specifically trained to look for signed blank forms and/or use of whiteout to alter previously signed forms. If signed blank forms and/or altered forms are found in the RR's customer files the RCP is instructed to remove those files and bring them to the Home Office Examination Team for review.

In addition, as part of their intensive trade review duties, the RCPs are required to conduct quality assurance calls to the customers. In particular, they are required to complete one call per month using the Quality Assurance Checklist form. After completing the call, the RCP emails the completed report to the Surveillance Department and the Compliance Manager.

The intensive trade reviews conducted by the DSPs/RCPs are effective in detecting forgeries, the use of signed blank forms, and/or the use of whiteout to alter previously signed forms. Further, the Firm's quality assurance calls have proven useful in verifying suitability determinations, and in deterring or preventing recurrences of the type of conduct in which Moorehead engaged.

4. Annual Branch Office Audits

In addition to the intensive trade reviews, the RCPs are responsible for conducting the compliance examinations of the branch offices and RRs under the DSPs' supervision. The RCPs review all of the RRs in their branch offices every year.

All audits are conducted following a multi-step procedure. Prior to going onsite, RCPs request an account run through the AIS Audit Mailbox. The account run is pulled for the last twelve months. The RCP is instructed to sort the account run by social security number in order to place all like customer trades together. Once the account run is sorted, the RCP reviews the run for large trades, small trades, switches, breakpoint issues, multiple annuity purchases, etc., in order to select transactions for a targeted review of customer files. The RCP is also encouraged to use the surveillance reports generated by the Firm to get a more detailed look at the RR's business.

While onsite, the RCP uses a checklist prepared by the Firm as a guideline for the audit. The checklist contains a specific section on customer account reviews. That section requires the RCP to answer detailed questions concerning account documentation and suitability of

investments. Question 1.10 specifically asks whether any signed blank documents were located in the customer file.

Indeed, one of the most important aspects of the audit is the customer account review. RCPs are instructed to examine thoroughly twenty of the RR's customer account files. When reviewing these twenty files, the RCP is trained to look for specific problems "such as missing documentation, omission of information and accounts which are missing other supporting documents." If potential issues are uncovered during the initial twenty-file review, such as the presence of a signed blank form in the customer file, the RCP is instructed to review an additional twenty-files to determine whether a pattern exists. If the RCP detects a pattern in the RR's customer files, the RCP forwards the RR's paperwork to the Home Office Examinations Team for further review.

After performing the examination, the RCP is encouraged to meet with the RR to conduct an exit interview. During this meeting the RCP gives the RR an idea of the deficiencies noted during the examination and reminds the RR that he or she is supposed to take corrective action relating to the deficiencies cited in the examination.

The RCP completes the audit by sending a closeout letter to the RR.¹ The closeout letter is a tool that the Firm uses to give details of the deficiencies noted during the examination. The letter is electronically generated once the examination is completed by the RCP. The RR has 30 days to respond to the closeout letter. When the RCP receives the RR's response, the RCP forwards it to the AIS Audits mailbox. Thereafter, a member of the AIS Compliance Examinations Department reviews all completed examinations and responses, for any noted areas of concern.

¹ RCPs are required to promptly alert AIS Audits of any audit resulting in red flags that may require a shorter response period, such as a signed blank form.

In some instances, a Letter of Caution ("LOC") may be sent to the RR based on the examination findings. A LOC is a warning issued by AIS to a RR to deter future misconduct, and a disciplinary tool used by the Compliance Department to reinforce adherence to AIS' policy and procedures, as well as Association rules. A signed blank document may result in a LOC and a fine of up to \$500. Whiteout used on documentation may also result in an LOC and a fine.

As demonstrated above, the Firm's audit procedure was designed to test specifically for problems with use of signed blank forms, alteration of previously signed forms, and forgeries. These audit procedures greatly enhance the Firm's ability to detect and punish the use of signed blank forms, altered forms, and forgeries.

5. Surveillance of Transactions

The Firm has also augmented its surveillance of transactions for sales practice issues. Presently, the Firm has access to many exception reports as well as Ad Hoc reports, which can be tailored to the examiners needs. The Firm also receives from its clearing broker a list of all exception reports that it can issue. The Surveillance Manager or its designee sends these reports out to the DSPs and the RCPs to make them aware of any issues or concerns that they may have. The Surveillance Manager or its designee is also responsible for generating in-house exception reports. Such reports include without limitation, weekly trade reports, 1035 exchange reports, variable annuities over age 65 reports, mutual fund break point reports, mutual fund switching reports, annuity replacement reports, so as to detect patterns that may raise a Red Flag of concern.

6. Education and Training of Registered Representatives

AIS' efforts in educating its RRs on issues regarding the Firm's prohibition of use of signed blank forms and/or alteration of previously signed forms also plays an important role in

preventing this conduct. The Firm's Compliance Department now has the primary role in educating the sales force. The Compliance Department employs numerous methods in doing so.

First, all RRs receive a comprehensive set of manuals detailing the Firm's policies and procedures and are required (as part of the Firm's compliance program) to acknowledge (electronically) that they have read the manuals. The Firm's policies and procedures concerning use of signed blank forms and/or alteration of previously signed forms is set forth in Registered Representative Manual and the Operations and Compliance Manual. The RCPs and DSPs also receive the Firm's Written Supervisory Procedures that set forth their supervisory responsibilities with respect to this conduct.

The Compliance Department updates these manuals on a periodic basis by distributing two types of compliance memorandums, called "Compliance Bulletins" and "Compliance Alerts," which convey updated compliance information to the RRs. The Compliance Bulletins are monthly publications, whereas Compliance Alerts are sent out on an as needed basis. Since December 2003, the Compliance Department has distributed two Compliance Bulletins to all RRs that highlight the Firm's prohibition of the use of signed blanks forms and/or alteration of previously signed forms.

7. Mystery Shops

AIS uses an outside company to conduct mystery shops to monitor the sales practices of its RRs. Mystery shops are used to investigate concerns about particular RRs and to spot-check the performance of RRs in general. To that end, the outside company receives a list of RRs identified by AIS that they will perform "shops" on during the year. Approximately one-hundred (100) mystery shops are performed annually. The list typically includes a significant sample of RRs. At the completion of the shops, the outside company prepares a series of

quarterly reports, which are reviewed by the DSPs. The DSPs are required to meet with the RRs upon completion of the shops.

The results of the mystery shops are used to gauge the overall effectiveness of AIS' policies and procedures, as well as to identify any problem representatives or areas where additional training may be needed. An added benefit of the mystery shops is that the RRs expect to be shopped each year, and with that expectation comes a higher level of awareness and desire to utilize all of their sales and compliance training when meeting with customers.

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