

**NASD  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. E052004029501**

Department of Enforcement  
NASD

Alex L. Wittenburg, Respondent  
Investment Company and Variable Contracts  
Products Representative and General Securities Representative  
[CRD No. 4278127]

and

Rodney G. Graves, Respondent  
Investment Company and Variable Contracts  
Products Principal, Investment Company and Variable Contracts  
Products Representative, General Securities Principal  
and General Securities Representative  
[CRD No. 4181629]

and

Henry H. Godbee, III, Respondent  
Investment Company and Variable Contracts  
Products Representative, General Securities Principal  
and General Securities Representative  
[CRD No. 2284452]

Pursuant to Rule 9216 of the NASD Code of Procedure, Alex L. Wittenburg, Rodney G. Graves, and Henry H. Godbee, III 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.

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:

Alex L. Wittenburg entered the securities industry on January 10, 2001 as an Investment Company and Variable Contracts Products Representative of Walnut Street Securities, Inc., a member of the NASD. During all periods mentioned herein, Alex L. Wittenburg was associated with member firm SII Investments, Inc. and was registered with NASD under Article V of the By-Laws as an Investment Company and Variable Contracts Products Representative and General Securities Representative, which registrations remain currently in effect. Alex L. Wittenburg is currently associated with another member firm and has not previously been the subject of a formal disciplinary action by any regulatory body.

Rodney G. Graves entered the securities industry on June 5, 2000 as an Investment Company and Variable Contracts Products Representative of NYLife Securities Inc., a member of the NASD. During all periods mentioned herein, Rodney G. Graves was associated with member firm SII Investments, Inc. and was registered with NASD under Article V of the By-Laws as an Investment Company and Variable Contracts Products Principal, Investment Company and Variable Contracts Products Representative, and General Securities Representative, which registrations remain currently in effect. In addition, on March 25, 2005, Rodney G. Graves became registered as a General Securities Principal and is currently associated with another member firm. Rodney G. Graves has not previously been the subject of a formal disciplinary action by any regulatory body.

Henry H. Godbee, III entered the securities industry on November 3, 1992 as an Investment Company and Variable Contracts Products Representative of New England Securities, a member of the NASD. During all periods mentioned herein, Henry H. Godbee, III was associated with member firm SII Investments, Inc. and was registered with NASD under Article V of the By-Laws as an Investment Company and Variable Contracts Products Representative, General Securities Principal, and General Securities Representative, which registrations remain currently in effect. Henry H. Godbee, III is currently associated with another member firm and has not previously been the subject of a formal disciplinary action by any regulatory body.

I.

**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 an adjudication of any issue of law or fact, to the entry of the following findings by NASD:

During the time period from on or about January 23, 2004 to September 16, 2004, Rodney G. Graves, Alex L. Wittenburg, and Henry H. Godbee, III, exercised discretion in the accounts of 53 customers who had invested a total amount of \$455,408.23. Graves, Wittenburg, and Godbee exercised discretion without prior written authorization of their employer member firm SII Investments, Inc ("SII").

In January 2004, Graves, Wittenburg, and Godbee informed SII that they wished to establish discretionary accounts. SII responded in writing to Graves, Wittenburg, and Godbee on January 23, 2004, stating that the firm could not monitor discretionary accounts and could not, at that time, provide approval for establishment of the accounts. Despite lack of firm approval, Graves, Wittenburg, and Godbee opened accounts at the firm in which they exercised discretion.

During SII's review of accounts established by Graves, Wittenburg, and Godbee, SII noticed that they had been submitting customer documents to mutual fund companies granting themselves discretion. On March 4, 2004, SII notified Graves, Wittenburg, and Godbee in writing that the firm still could not monitor discretionary accounts and told the representatives to stop using discretion. Despite this notification from the firm, Graves, Wittenburg, and Godbee established additional accounts at the firm in which they exercised discretion.

SII continued to monitor the transactions of Graves, Wittenburg, and Godbee and found that the representatives continued to use discretion. On May 19, 2004, the firm again informed the representatives that the use of discretion was not approved and told the representatives to refrain from using discretion. Graves, Wittenburg, and Godbee ignored the firm directive and continued to establish discretionary accounts at the firm in which they exercised discretion.

Such acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rules 2510(b) and 2110 by Rodney G. Graves, Alex L. Wittenburg, and Henry H. Godbee, III.

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

A 60 day suspension of Alex L. Wittenburg, Rodney G. Graves, and Henry H. Godbee, III in all capacities and a \$30,000 fine to be shared jointly and severally.

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.
- 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.

Letter of Acceptance, Waiver,  
and Consent  
Alex L. Wittenburg, Rodney G. Graves,  
and Henry H. Godbee, III  
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19 May 06  
Date

Alex L. Wittenburg  
Alex L. Wittenburg, Investment  
Company and Variable Contracts  
Products Representative and  
General Securities Representative

Reviewed by:

[Signature]  
Counsel for Respondent  
Alex L. Wittenburg

5-19-06  
Date

Rodney G. Graves  
Rodney G. Graves, Investment  
Company and Variable Contracts  
Products Principal, Investment  
Company and Variable Contracts  
Products Representative, General  
Securities Principal and General  
Securities Representative

Reviewed by:

[Signature]  
Counsel for Respondent  
Rodney G. Graves

5-19-06  
Date

Henry H. Godbee, III  
Henry H. Godbee, III, Investment  
Company and Variable Contracts  
Products Representative, General  
Securities Principal and General  
Securities Representative

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and Consent  
Alex L. Wittenburg, Rodney G. Graves,  
and Henry H. Godbee, III  
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Reviewed by:

  
\_\_\_\_\_  
Counsel for Respondent  
Henry H. Godbee, III

Accepted by NASD:

May 31, 2006  
Date

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

  
\_\_\_\_\_  
Laura Leigh Blackston,  
Regional Counsel  
NASD, District No. 5  
1100 Poydras Street, Suite 850  
New Orleans, Louisiana 70163-0802  
Phone: 504/522-6527  
FAX: 504/522-4077

**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 forms