

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. E062003000601

TO: Department of Enforcement
NASD

RE: American General Securities, Inc.
CRD No. 13626

Pursuant to Rule 9216 of NASD Code of Procedure, American General Securities, Inc. ("AGSI" or "Respondent") 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 Respondent alleging violations based on the same factual findings.

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

The Respondent also understands that its 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:

American General Securities Corporation is currently, and was during all time relevant hereto, a member of NASD and registered as a broker/dealer with the Securities and Exchange Commission. The firm became registered with NASD in August 1983. It has no prior relevant disciplinary history.

I.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against it;
- 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, Respondent 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.

Respondent further specifically and voluntarily waives 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. Respondent hereby accepts and consents, 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:

Violations of NASD Rule 2830(k) – Receipt of Directed Brokerage Payments

1. NASD Conduct Rule 2830(k) is designed to prevent arrangements in which brokerage commissions, which are mutual fund assets, are used to compensate member firms for selling fund shares. The rule is also designed to ensure that execution of portfolio transactions by brokerage firms is guided by the principle of "best execution" and not by other considerations.¹ Accordingly, the rule prohibits member firms from favoring or disfavoring the sale or distribution of mutual fund shares on the basis of brokerage commissions received by the firm, and prohibits member firms from recommending the purchase of mutual fund shares on the basis of brokerage commissions received or expected to be received by the firm from any source.
2. During the period from at least January 2002 until approximately September 2003, American General Securities, Inc. maintained a shelf space (or revenue sharing) program in which participating mutual fund companies paid a fee in return for preferential marketing and distribution access to AGSI's registered representatives. During the relevant time period, at least twelve mutual fund companies participated in the program, which was known as the "Preferred Partners Program." Nine of the fund companies paid cash or "hard dollars" to participate in the program. The three remaining fund companies paid all or some of their fees for participating in the program by directing approximately \$2.7 million in mutual fund portfolio brokerage commissions to AGSI by executing portfolio transactions through AGSI.
3. The benefits provided to the preferred partners included enhanced access to AGSI's sales force including, being included on the list of preferred partners on AGSI's internal website; being featured in internal marketing publications, such as *The Advisors Guide* and *Focus Firm Of The Month*, that were distributed by AGSI to its sales force; and invitations to attend AGSI meetings for its top producers.

Such acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rules 2830(k) and 2110 by American General Securities, Inc.

¹ See Notice to Members 84-40. Note that Notice to Members 05-04 discussed amendments to Rule 2830(k) that were added to strengthen the prohibitions on investment company directed brokerage arrangements. Those changes, which became effective on 2/14/05, did not alter the provisions of the rule that are at issue here.

Violation of SEC Rule 15c3-3 – Failure To Promptly Forward Customer Checks

4. During the period from at least July 2003 through September 2003, AGSI failed to promptly forward approximately 2,108 customer checks made payable to product sponsors that had been received in connection with mutual fund and variable annuity transactions in violation of SEC Rule 15c3-3 ("customer protection rule"). Specifically, of the 1,664 checks received and forwarded by AGSI in July 2003, 578 checks were not forwarded by noon of the next business day as required by the customer protection rule. Checks totaling \$433,034 were held over to August 2003. Of the 1,841 checks received and forwarded by AGSI in August 2003, 727 checks were forwarded late. Checks totaling \$85,839 were held over to September. Finally, of the 1,932 checks received and forwarded by AGSI in September 2003, 803 were forwarded late. Checks totaling \$340,138 were held over to October.
5. By holding customer funds, AGSI became subject to the full provisions of SEC Rule 15c3-3, and was required to perform reserve computations and to make deposits into a special reserve bank account for the exclusive benefit of customers. The firm failed to make any such computations or deposits.

Such acts, practices, and conduct constitute separate and distinct violations of Section 15(c) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 15c3-3 thereunder and NASD Conduct Rule 2110 by American General Securities, Inc.

Books and Records Violation: Retention of Electronic Mail Communications

6. During the period from at least November 2001 through approximately September 2003, AGSI failed to adequately preserve electronic mail communications sent and received by its employees in connection with AGSI's securities business. Specifically, AGSI failed to adequately preserve for three years and/or preserve in an accessible place for two years, e-mail communications relating to the business of the firm.

Such acts, practices, and conduct constitute separate and distinct violations of Section 17(a) of the Exchange Act and Rule 17a-4 thereunder, and NASD Conduct Rules 3110² and 2110 by American General Securities, Inc.

Supervision Violations

² NASD Conduct Rule 3110 requires each member to make and preserve books, accounts, records, memoranda, and correspondence in conformity with all applicable laws, rules, regulations, and statements of policy promulgated thereunder and with the Rules of this Association and as prescribed by SEC Rule 17a-3. The rule also provides that the record keeping format, medium and retention period shall comply with SEC Rule 17a-4.

7. During the period from at least November 2001 through approximately September 2003, AGSI failed to establish, maintain and enforce a system and procedures reasonably designed to achieve compliance with applicable federal securities laws and NASD Rules. Specifically, AGSI had no supervisory procedures related to the receipt of directed brokerage payments; and had inadequate procedures regarding the retention of electronic mail communications and the forwarding of customer checks.

Such acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rules 3010 and 2110 by American General Securities, Inc.

- B. Respondent also consents to the imposition, at a maximum, of the following sanctions:

A censure and a monetary fine in the amount of \$1,127,623.

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

III.

OTHER MATTERS

- A. Respondent understands that it may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that it 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. Respondent agrees to pay any monetary sanctions imposed on it upon notice that this AWC has been accepted and that such payments are due and payable and has attached an Election of Payment form showing the method by which it proposes to pay any fine imposed.
- C. Respondent specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

Respondent certifies that it has read and understands all of the provisions of this AWC and has 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 Respondent to submit it.

12/16/05
Date

American General Securities, Inc.

By: John A. Kalbaugh
(signature)
Name: John A. Kalbaugh
(printed name)
Title: President & CEO

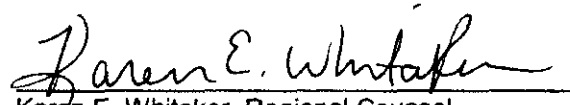
Reviewed by:


Counsel for Respondent
Sutherland Asbill & Brennan, LLP
1275 Pennsylvania Avenue, NW
Washington, DC 20004-2415

Accepted by NASD:

01/10/2006
Date

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


Karen E. Whitaker, Regional Counsel
NASD Department of Enforcement
12801 N. Central Expressway, Suite 1050
Dallas, TX 75243
Phone: 972-716-7610; Fax: 972-716-7646

NASD District Director

Virginia F. M. Jans
NASD, District 6
12801 N. Central Expressway, Suite 1050
Dallas, TX 75243
972-701-8554

CORRECTIVE ACTION STATEMENT

RE: American General Securities Incorporated, Respondent
Member Firm
(BD No. 13626)

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

Respondent American General Securities Incorporated ("AGSI" or the "Firm") states that:

1. The accompanying Letter of Acceptance, Waiver and Consent ("AWC") describes certain fees which AGSI received in the form of directed brokerage commissions.
2. AGSI ceased accepting such fees in the form of directed brokerage commissions in November 2003.
 - This was before the Securities and Exchange Commission issued its proposed rule prohibiting the use of brokerage commissions to finance distribution on February 24, 2004, and before that rule became effective on October 14, 2004. See 17 C.F.R. Part 270, "Prohibition on the Use of Brokerage Commissions to Finance Distribution," Release No. IC-26591, File No. S7-09-04.
 - This was also before AGSI received notification that NASD was initiating the investigation that preceded the enforcement action resulting in the attached AWC.
3. AGSI enhanced the disclosure of its revenue-sharing programs by including a description of revenue sharing in a document mailed to mutual fund customers in or about June 2004, and in the Account Information Form that is signed by every customer, as well as by posting the disclosure on its website.
4. AGSI has instituted a number of significant changes in its management and supervisory structure to ensure ongoing compliance with Rule 15c3-3. On January 11, 2004, the Finop was made directly responsible for brokerage and non-brokerage operations, the person previously responsible for non-brokerage operations was transferred to a position outside of the broker-dealer and a new Chief Compliance Officer was hired and has overseen compliance efforts since May 2004. AGSI also established and implemented new procedures to ensure that all customer checks are promptly forwarded by overnight courier or deposited by the next business day. These procedures include the prioritization of any application or other business accompanied by a check over all other types of work. Checks are tracked on the Firm's Check and Document Log for prompt forwarding. Any application accompanied by a check from a Registered Representative found to be missing information or documentation ("not in good order") will be resolved by the next business day or the check is promptly returned to the client. Each day, a report is made via e-mail to the Firm's senior

management team confirming that all check processing for the day was within standard. Any exceptions to standard are fully tracked and documented and reported to the Firm's management team, with correction as to pricing to the customer, if applicable.

5. AGSI also has undertaken a number of other compliance initiatives over the past year in order to strengthen and enhance the Firm's ongoing compliance effort. These initiatives included implementation of new Written Supervisory Procedures, along with revised and enhanced Anti-Money Laundering Procedures. Moreover, the Firm also finalized and implemented heightened supervision procedures, as well as a new e-mail retention and surveillance program. Other compliance efforts included the implementation of improved customer complaint handling procedures, the adoption of new product sponsor support guidelines, and dissemination of enhanced disclosures to clients relating to mutual fund share classes, breakpoints and revenue sharing. The Firm also developed an OSJ Supervision Guide along with training materials in order to support its initiative of establishing a geographically dispersed system of supervision and a clear chain-of-command in the field. Finally, the Firm does not in any way participate or accept any form of directed brokerage.

Date: 12/19/05

Respectfully submitted,

American General Securities Incorporated

By: John A. Kalbaugh
John A. Kalbaugh
Its: President & CEO