

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. E062004009601

**TO: Department of Enforcement
NASD**

**RE: Salomon Grey Financial Corporation
CRD No. 43413**

**Kyle Browning Rowe
Financial and Operations Principal
CRD No. 2310978**

Pursuant to Rule 9216 of NASD Code of Procedure, Salomon Grey Financial Corporation and Kyle Browning Rowe (hereinafter referred to as "Salomon Grey" and "Rowe," individually or "Respondents," collectively) 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 Respondents alleging violations based on the same factual findings.

Respondents 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 Respondents; and
3. If accepted:
 - a. this AWC will become part of Respondents' permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against them;
 - 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. Respondents 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 Respondents testimonial obligations or right to take legal or factual

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positions in litigation or other legal proceedings in which NASD is not a party.

Respondents also understand that their 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:

Salomon Grey Financial Corporation was, during all times 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 January 1998. The firm ceased business operations and filed a Form BDW on February 24, 2006. The firm's disciplinary history includes the following:

On August 4, 2004, NASD issued an Order Accepting An Offer of Settlement (CAF030043), whereby Salomon Grey and Rowe were sanctioned for violations of SEC Regulation M and NASD Rules 2110 and 2710. The firm and Rowe were fined \$100,000, jointly and severally, and Rowe was suspended from association with any NASD member in any capacity for a period of two weeks.

Kyle Browning Rowe entered the securities industry in January 1993, when he associated with NASD member firm Thomas James Associates. He subsequently registered with two other NASD member firms before associating with Pacific Cortez Securities Incorporated from April 1994 to November 1998, when he registered with NASD member firm Salomon Grey Financial Corporation. During his association with the firm, Rowe served in various capacities including owner, President and Chief Executive Officer. His disciplinary history includes the above-described NASD disciplinary action. During his career in the securities industry, Rowe obtained Series 7, 24, 27, 55 and 63 securities licenses. Based on Salomon Grey's Form BDW filing on February 24, 2006, Rowe is no longer registered with an NASD member firm as of that date. No Form U-5 filing has been made on his behalf by Salomon Grey.

I.

WAIVER OF PROCEDURAL RIGHTS

Respondents 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 them;
- 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

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- 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, Respondents 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.

Respondents 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. Respondents hereby accept and consent, without admitting or denying the 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:

1. **Deficient Supervisory System**

During the period from approximately January 2000 to at least March 2005, Salomon Grey Financial Corporation, acting through Kyle Browning Rowe, failed to establish and maintain a system to supervise the activities of its registered representatives and associated persons that was reasonably designed to achieve compliance with applicable securities laws and regulations, and with NASD Rules. During the relevant time period, Salomon Grey had as many as fourteen registered branch offices located throughout the United States, with a concentration of offices in California, New York, and Florida. Most of the branch offices were independently owned and operated by brokers who worked in the offices. The firm had numerous registered representatives, including several with extensive disciplinary histories, located in branch offices and at its headquarters. Salomon Grey's supervisory system was inadequate to supervise its dispersed group of offices, and high-risk brokers. Among others, the firm's supervisory system had the following deficiencies:

- a. The firm permitted the brokers in each branch office to hire branch managers, which resulted in a situation where the branch managers were charged with supervising the same brokers that hired them and had the effective ability to fire them;

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- b. The firm permitted brokers with extensive disciplinary histories and ongoing regulatory actions against them (including a broker who was appealing an SEC-imposed bar from the securities industry) to serve as supervisors;
- c. The firm failed to adequately respond to "red flags" of ongoing misconduct by several of its brokers, which led to customer harm. For example, the firm ignored ongoing warning signs of unauthorized trading by brokers who had been previously disciplined for unauthorized trading, who were the subjects of ongoing regulatory investigations for, among other things, unauthorized trading, and who were the subjects of customer complaints alleging unauthorized trading;
- d. The firm failed to impose and/or enforce heightened supervisory measures against brokers with disciplinary histories and ongoing customer complaints;
- e. The firm failed to take meaningful disciplinary action against representatives and supervisors who failed to comply with or enforce purported heightened supervisory measures;
- f. The firm failed to conduct annual internal inspections of each of its offices of supervisory jurisdiction; and
- g. The firm employed inexperienced and unqualified supervisory and compliance staff.

Such acts, practices, and course of conduct constitute separate and distinct violations of NASD Conduct Rules 2110 and 3010 by Salomon Grey Financial Corporation and Kyle Browning Rowe.

2. Anti-Money Laundering Violations

During the period from approximately April 2002 to at least March 2005, Salomon Grey Financial Corporation failed to develop and implement an anti-money laundering ("AML") program that was reasonably designed to achieve and monitor compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, *et. seq.*), and the implementing regulations promulgated thereunder by the Department of Treasury. Specifically, among other ways, the firm's AML program was deficient in the following respects:

- a. The firm did not have a written customer identification program and, instead, relied on its clearing firm to perform its CIP responsibilities;
- b. The firm's AML program had inadequate policies and procedures regarding the detecting and reporting of suspicious activity. Specifically, the firm's Program failed to contain adequate procedures regarding reviews that would be conducted to identify and report suspicious activity, reporting suspicious activity by filing of Suspicious Activity Reports (SARs) and complying with the confidentiality requirements for SARs;

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- c. Senior management of the firm did not approve the AML program in writing;
- d. The program did not provide for on-going training of appropriate personnel;
- e. The program did not provide for independent testing;
- f. The program did not identify (i.e., by name, title, mailing address, email address, and telephone and facsimile numbers) an AML Compliance Officer; and
- g. The firm had inadequate internal controls:
 - i. to detect an attempt to open or maintain correspondent accounts for foreign banks;
 - ii. regarding freezing accounts and prohibiting transactions with persons who are suspected of terrorist activities pursuant to Executive Order #13224 that was issued through OFAC; and
 - iii. for filing reports of International Transportation of Currency or Monetary Instruments or of Foreign Bank and Financial Accounts.

Such acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rules 2110 and 3011(b), (c), (d) and (e) by Salomon Grey Financial Corporation.

3. Books and Records Violation: Retention of Electronic Mail Communications

During the relevant time period, Salomon Grey Financial Corporation, acting through Kyle Browning Rowe, failed to adequately preserve electronic mail communications sent and received by its employees in connection with Salomon Grey's securities business. Specifically, the firm 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.

During the relevant period, Salomon Grey Financial Corporation, acting through Kyle Browning Rowe, had no supervisory procedures regarding the retention of electronic mail communications.

During the period from at least May 2004 through at least March 2005, Salomon Grey Financial Corporation, acting through Kyle Browning Rowe, failed to enforce the provisions in its written supervisory procedures that prohibited the use of non-corporate email accounts for securities related communications by its registered representatives and associated persons.

Such acts, practices, and conduct constitute separate and distinct violations of Section 17(a) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule

17a-4 thereunder, and NASD Conduct Rules 2110, 3010 and 3110¹ by Salomon Grey Financial Corporation and Kyle Browning Rowe.

4. Unauthorized Access To NASD's Central Registration Depository

NASD's Central Registration Depository ("Web CRD") permits member firms to perform a pre-registration search on individuals. A member firm, however, must first obtain the written consent of the individual and then affirm the following statement on Web CRD:

By selecting this option, I acknowledge that I am considering this person for registration or assignment to responsibilities subject to federal law or SEC rules governing statutory disqualification and have obtained and will keep on file this person's written consent to review his/her CRD record for that purpose.

From at least January 2003 to March 31, 2005, Salomon Grey failed to obtain and/or retain the required written consent in connection with pre-registration searches of at least 39 individuals. Accordingly, by doing so, Salomon Grey made a false affirmation.

During the aforementioned time period, Salomon Grey's supervisory procedures were inadequate to ensure that the required written consent was obtained before any pre-registration searches on Web CRD and that the firm retained the required documentation.

Such acts, practices, and course of conduct constitute separate and distinct violations of NASD Conduct Rules 2110 and 3010 by Salomon Grey Financial Corporation.

5. Failure To File Or To Timely File Amendments To Forms U-4 And U-5 And Failure To Make Rule 3070 Filings

During the period from approximately September 2001 to April 2003, Salomon Grey Financial Corporation, acting through Kyle Browning Rowe, failed to timely report information regarding at least twenty customer complaints to NASD by the 15th day of the month following the calendar quarter in which the firm received

¹ 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.

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the complaints. The filings ranged from 7 days to 322 days late. The firm also failed to file all information regarding thirty other customer complaints.

During the period from approximately October 2001 to March 2004, Salomon Grey Financial Corporation, acting through Kyle Browning Rowe, failed to amend or to timely amend the Forms U-4 and/or Forms U-5 of several existing and former registered representative to disclose customer complaints. Specifically, the firm failed to amend Forms U-4 and/or Forms U-5 in 20 instances and failed to timely amend Forms U-4 and/or Forms U-5 in 35 other instances. Thirty-one of the late filings were more than 90 days late, with some being as many as two years late.

During the aforementioned time period, Salomon Grey Financial Corporation, acting through Kyle Browning Rowe, had inadequate written supervisory procedures regarding the amendment of Forms U-4 and U-5. Specifically, the firm's procedures stated that the forms would be updated upon resolution of customer complaints instead of upon receipt of customer complaints.

Such acts, practices, and course of conduct constitute separate and distinct violations of Article V, Sections 2 and 3 of NASD Bylaws and NASD Conduct Rules 2110, 3010 and 3070 by Salomon Grey Financial Corporation and Kyle Browning Rowe.

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

Salomon Grey Financial Corporation: Expulsion from NASD membership.

Kyle Browning Rowe: Bar from association with any NASD member firm in any capacity.

Pursuant to IM-8310-2(f), a bar or expulsion shall become effective upon approval or acceptance of this AWC by the NAC.

III.

OTHER MATTERS

Respondents understand that if they are barred or suspended from associating with any NASD member, they 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, Respondents 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).

Respondents certify that they 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,

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inducement, or promise of any kind, other than the terms set forth herein, has been made to induce them to submit it.

4/13/06
Date

Salomon Grey Corporation, Respondent

By: [Signature]
(signature)

Name: Kyle Rowe
(printed name)

Title: Chairman

4/13/06
Date

[Signature]
Kyle Browning Rowe, Respondent

Reviewed by:

[Signature]
Counsel for Respondent

Accepted by NASD:

April 27, 2006
Date

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

Karen E. Whitaker

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