

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. E1020050019-01

TO: Department of Enforcement
NASD

RE: Andrew Garrett, Inc. (BD No. 29931)

and
[REDACTED]

Pursuant to Rule 9216 of NASD Code of Procedure, Andrew Garrett, Inc. ("AGI" or the "Firm") and [REDACTED] (collectively, "Respondents") 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 Respondents;
 - 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 positions in litigation or other legal proceedings in which NASD is not a party.

Respondents also understand that Respondents' 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:

AGI has been a member of NASD since August 21, 1992. AGI conducts a general securities business from its main office located in New York, New York. The Firm has been the subject of one prior net capital formal disciplinary action by NASD. In February 2004, AGI and its then Financial and Operational Principal ("FINOP") were fined \$7,500 for failing to maintain adequate net capital, inaccurate net capital calculations and inaccurate FOCUS filings. The Firm has no other relevant formal disciplinary history with NASD, the Securities and Exchange Commission, any self-regulatory organization or any state securities regulator.

██████████ entered the securities industry in October 1997 as an employee of AGI. He was first registered as a General Securities Representative in December 1998. In addition, he is currently registered through AGI as a FINOP, a General Securities Principal, Equity Trader Limited Representative, and a Registered Options Principal. He has no disciplinary history with NASD, the Securities and Exchange Commission, any self-regulatory organization or any state securities regulator.

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

- 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. Member firm AGI, acting through [REDACTED] conducted a securities business when its net capital fell below the minimum amount required under Rule 15c3-1 of the Securities Exchange Act of 1934 ("SEC Rule 15c3-1") on June 30, 2004, August 31, 2004, September 30, 2004, November 30, 2004, December 31, 2004, January 31, 2005, February 28, 2005 and March 31, 2005. Specifically:

- a. Pursuant to SEC Rule 15c3-1, on Wednesday, June 30, 2004, AGI's minimum net capital requirement was \$100,000. On that date, AGI, had net capital in the amount of (\$414,472.39) and a net capital deficiency of \$514,472.39;
- b. Pursuant to SEC Rule 15c3-1, on Tuesday, August 31, 2004, AGI's minimum net capital requirement was \$100,000. On that date, AGI, had net capital in the amount of (\$436,720.12) and a net capital deficiency of \$536,720.12;
- c. Pursuant to SEC Rule 15c3-1, on Thursday, September 30, 2004, AGI's minimum net capital requirement was \$100,000. On that date, AGI, had net capital in the amount of (\$426,897.55) and a net capital deficiency of \$526,897.55;

- d. Pursuant to SEC Rule 15c3-1, on Tuesday, November 30, 2004, AGI's minimum net capital requirement was \$100,000. On that date, AGI, had net capital in the amount of \$7,882.69 and a net capital deficiency of \$92,117.31;
- e. Pursuant to SEC Rule 15c3-1, on Friday, December 31, 2004, AGI's minimum net capital requirement was \$100,000. On that date, AGI, had net capital in the amount of \$9,773.52 and a net capital deficiency of \$90,226.48;
- f. Pursuant to SEC Rule 15c3-1, on Monday, January 31, 2005, AGI's minimum net capital requirement was \$100,000. On that date, AGI, had net capital in the amount of \$20,300.59 and a net capital deficiency of \$79,699.41; and
- g. Pursuant to SEC Rule 15c3-1, on Monday, February 28, 2005, AGI's minimum net capital requirement was \$100,000. On that date, AGI had net capital in the amount of \$4,373.72 and a net capital deficiency of \$95,626.28.

Through this conduct, AGI violated SEC Rule 15c3-1 and NASD Conduct Rule 2110 and [REDACTED] violated NASD Conduct Rule 2110.

- 2. AGI, acting through [REDACTED] prepared inaccurate net capital computations, for June 30, 2004; July 31, 2004; August 31, 2004; October 31, 2004; November 30, 2004; December 31, 2004; January 31, 2005; February 28, 2005; May 31, 2005; June 21, 2005; and June 22, 2005.

Through this conduct, AGI violated SEC Rule 17a-3 and NASD Conduct Rules 2110 and 3110, and [REDACTED] violated NASD Conduct Rules 2110 and 3110.

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

- AGI and [REDACTED] to be jointly and severally fined \$7,500;
- AGI to be additionally fined \$10,000; and
- AGI and [REDACTED] to be censured.

III.

OTHER MATTERS

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

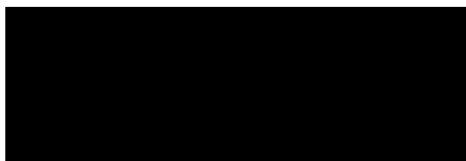
Respondents certify that they have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it, and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce them to submit it.

Respondent Andrew Garrett, Inc.

5/30/06
Date

By: Mark Maurer
Mark Maurer, Chief Compliance Officer

5-31-2006
Date



~~June 14, 2006~~
Date

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



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