

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO.E112004010401

TO: Department of Enforcement
NASD

RE: Kuhns Brothers Securities Corporation, Respondent
BD No. 47331

And

John D. Kuhns, Respondent
CRD No. 851444

Pursuant to Rule 9216 of NASD Code of Procedure, we 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 allegation 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 legal 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:

Kuhns Brothers Securities Corporation ("KBSC" or the "firm") has been a member of NASD since November 1999. The firm conducts a general securities business on a fully disclosed basis and employs approximately 10 registered persons. KBSC has no prior disciplinary history.

John D. Kuhns ("Kuhns") first became registered with NASD in 1986. He is currently registered with NASD as a general securities principal of KBSC and is employed as the firm's chairman. He has no prior NASD disciplinary history.

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 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:

Membership Agreement
NASD Membership & Registration Rule 1017
and NASD Conduct Rule 2110

1. In its Membership Agreement, KBSC agreed to file with NASD written notice and application at least thirty (30) days prior to effecting a material change in the control of the firm.
2. On or about September 19, 2003, KBSC, acting through Kuhns, initiated a 50% transfer of ownership of KBSC to another person, without giving prior notice and receiving approval from NASD.
3. This conduct by KBSC and Kuhns violated NASD Membership and Registration Rule 1017 and NASD Conduct Rule 2110.

Customer Protection Rule
SEC Rule 15c3-3 and NASD Conduct Rule 2110

4. KBSC operates its business as an Introducing Firm and claimed an exemption under Section 15(c) of the Securities Exchange Act of 1934 ("Exchange Act"), Rule 15c3-3(k)(2)(ii) thereunder, based on not holding customer funds and/or securities.

5. KBSC, acting through Kuhns, failed to comply with their claimed exemption under Section 15(c) of the Exchange Act, Rule 15c3-3(k)(2)(ii) thereunder, in that during various periods in January, March, May and June 2003, KBSC acted as the placement agent for a private offering and held customer funds in a firm bank account.
6. KBSC's conduct violated Section 15(c) of the Exchange Act, Rule 15c3-3(k)(2)(ii) thereunder and NASD Conduct Rule 2110. Kuhns' conduct violated NASD Conduct Rule 2110

Net Capital Rule
SEC Rule 15c3-1 and NASD Conduct Rule 2110

7. During various periods in January, March, May and June 2003 and on January 2, 2004 and March 1, 2004, KBSC, acting through Kuhns, failed to comply with Section 15(c) of the Exchange Act, and Rule 15c3-1 thereunder, in that it used the instrumentalities of interstate commerce to conduct a securities business while failing to maintain, minimum required net capital, as more fully set forth on Schedule "A" attached hereto and incorporated herein by this reference.
8. KBSC's conduct violated Section 15(c) of the Exchange Act, Rule 15c3-1 thereunder and NASD Conduct Rule 2110. Kuhns' conduct violated NASD Conduct Rule 2110.

Books and Records
SEC Rules 17a-3 and 17a-4 and
NASD Conduct Rules 3110 and 2110

9. During the period from about January 2003 to about June 2003, KBSC, acting through Kuhns, failed to make, maintain and preserve required customer information records and/or subscription agreement documents for at least eight (8) private offering investors.
10. KBSC's conduct violated Section 17 of the Exchange Act, Rules 17a-3 and 17a-4 thereunder, and NASD Conduct Rules 3110 and 2110. Kuhns' conduct violated of NASD Conduct Rules 3110 and 2110.

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

A censure and fine of \$15,000, joint and several.

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 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.

September 6, 2005
Date

Kuhns Brothers Securities Corporation,
Respondent

John D. Kuhns
By: John D. Kuhns, Chairman and
Registered Principal

September 6, 2005
Date

John D. Kuhns
John D. Kuhns, Respondent

Accepted by NASD:

9/23/05
Date

Frederick F. McDonald, Jr.
Frederick F. McDonald, Jr.
District Director
Boston District Office

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

Schedule A

Net Capital Deficiencies (Receipt of Customer Funds)

Dates Customer Funds were held by KBSC

Required Net Capital¹

1/21/03 through 1/29/03	\$250,000
3/31/03 through 5/1/03	250,000
5/21/03 through 5/27/03	250,000
6/12/03 through 6/13/03	250,000

Net Capital Deficiencies (January 2, 2004 and March 1, 2004)

<u>Date</u>	<u>Reported Net Capital</u>	<u>Required Net Capital²</u>	<u>Deficiencies</u>
January 2, 2004	\$27,548	\$50,000	\$22,452
March 1, 2004	25,668	50,000	24,332

¹ The firm's net capital during the relevant time period was substantially less than \$250,000.

² KBSC's net capital requirement was increased to a minimum of \$50,000 as a result of the firm's participation as a selling group member in a firm commitment underwriting.