

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. E8A2004030401

TO: Department of Enforcement
NASD

RE: Auto Club Funds, Inc.
(CRD No. 10580)

Pursuant to Rule 9216 of NASD Code of Procedure, Auto Club Funds, Inc., ("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 Respondents alleging violations based on the same factual findings.

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 Respondent; and,
3. If accepted:
 - a. this AWC will become part of Respondent's permanent disciplinary records and may be considered in any future actions brought by NASD or any other regulator against Respondent;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about Respondent's disciplinary records;
 - 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.

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:

Auto Club Funds, Inc. ("Member") became a member of NASD and became registered with the Securities and Exchange Commission ("SEC") on July 1, 1982. The Member's membership with NASD and registration with the SEC as a Broker-Dealer remain currently in effect. The Member has not been the subject of an NASD disciplinary proceeding in the last five years.

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:
1. NASD Conduct Rule 3011, which became effective on April 24, 2002, requires NASD members to develop and implement a written anti-money laundering program reasonably designed to achieve and monitor compliance with the requirements of the Bank Secrecy Act, 31 U.S.C. §5311, *et seq.*, and the regulations and amendments promulgated thereunder. NASD issued Notice to Members 02-21 in April 2002 to notify NASD members of this requirement. NASD reiterated this requirement in subsequent Notices to Members 02-47 (August 2002), 02-50 (August 2002), 02-78 (November 2002), 02-80 (December 2002), and 03-34 (June 2003).
 2. Notwithstanding the notifications from NASD described above, from approximately April 24, 2002 until approximately August 25, 2003, the Member failed to establish, implement and enforce written policies, procedures and internal controls that were reasonably designed to achieve compliance with the various requirements imposed by the Bank Secrecy Act and the regulations promulgated thereunder.¹ Specifically, the Member:
 - a. failed to develop and implement a written Anti-Money Laundering Program on or before April 24, 2002, as required under NASD Conduct Rule 3011. The Member did not develop and implement a written Anti-Money Laundering Program until August 25, 2003, that was sixteen months after it was required to do so;
 - b. the Anti-Money Laundering Program that the Member developed on August 25, 2003 was inadequate in that it:

¹ The Member had a pre-existing policy against accepting cash or other currency, did not process deposits or payments or distributions to clients, did not maintain any non-Michigan accounts with financial institutions and conducted no transfers of funds. If a firm does not engage in, or affirmatively prohibits, certain activities triggering discrete AML obligations, such as maintaining accounts for foreign banks or private banking accounts for foreign persons or currency transactions, it should nevertheless adopt internal controls to address these areas.

- (i) failed to identify the person responsible for ensuring compliance with the procedures, the frequency of the performance of the procedures and the documentation and auditing of the compliance with the procedures;
- (ii) failed to include procedures to identify the nominal and beneficial account holders and the source of funds deposited into "private banking accounts" and to conduct enhanced scrutiny of accounts of senior foreign political figures;
- (iii) failed to include procedures for the filing of reports of Foreign Bank and Financial Accounts;
- (iv) failed to include procedures for the filing of reports of International Transportation of Currency or Monetary Instruments;
- (v) failed to include procedures for the filing of Currency Transaction Reports;
- (vi) failed to include internal controls to detect any attempt to open private banking accounts for non-U.S. persons;
- (vii) failed to include internal controls to detect any attempt to open correspondent accounts for foreign banks;
- (viii) failed to perform testing of the Member's Anti-Money Laundering Program from August 25, 2003 through June 15, 2004.

- 3. Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2110 and 3011 by the Member.

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

- 1. Censure; and
- 2. a \$10,000 fine.

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 also 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 payment is 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 a duly appointed representative 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, have been made to induce the representative to submit it.

Auto Club Funds, Inc.

6/27/05
Date

Harold E. Mause
By HAROLD E. MAUSE JR
Its PRESIDENT

Reviewed by:

[Signature]
Counsel for Respondent

Accepted by NASD:

August 1, 2005
Date

Carlotta A. Romano
Carlotta A. Romano
Senior Vice President and Regional Director
Signed on behalf of the Director of ODA, by
delegated authority