

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. E9B2005005003

TO: Department of Enforcement
NASD

RE: First Montauk Securities Corp.
BD No. 13755



Pursuant to Rule 9216 of NASD Code of Procedure, First Montauk Securities Corp. ("First Montauk") *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 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

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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:

First Montauk has been an NASD member since 1983. First Montauk employs approximately 300 registered individuals. The firm conducts a general securities business on a fully disclosed basis. The firm's prior relevant disciplinary history is summarized as follows:

- On or about May 7, 2004, NASD accepted an AWC which censured and fined First Montauk \$15,000 for failing to timely accept or decline in ACT numerous transactions;
- On or about March 26, 2004, NASD accepted an AWC which censured and fined First Montauk \$75,000, and suspended the firm from issuing research reports for three months, for various research report violations and related supervisory deficiencies as well as for permitting an individual to manage the firm's securities business without being registered as a principal;
- On or about March 9, 2004, NASD accepted an AWC which censured and fined First Montauk \$45,000 for failing to timely amend certain Forms U4 and Forms U5, failing to timely report certain arbitration awards, settlements and terminations for cause and for inadequate written supervisory procedures;
- On or about October 4, 2002, NASD accepted an AWC which censured and fined First Montauk \$15,000 for failing to timely display limit orders and report FIPS securities;
- On or about August 12, 2002, NASD accepted an AWC which censured and fined First Montauk \$45,000 for various violations, including a failure to properly report trades, to exercise reasonable diligence for determining the best inter-dealer market and to properly time-stamp order tickets and related written supervisory procedure deficiencies;
- On or about October 12, 2001, NASD accepted an AWC which censured and fined First Montauk \$50,000 for various NASD Rule violations, including a failure to make proper reports, permitting unregistered individuals to act as OTC traders and permitting an inactive registered representative to execute securities transactions;

- On or about February 25, 2000, NASD accepted an AWC which fined First Montauk \$5,000 for failing to timely and accurately report transactions;
- On or about January 3, 2000, NASD accepted an AWC which censured and fined First Montauk \$20,000 for failing to accurately report transactions and complete order tickets and failing to establish, maintain and enforce certain written supervisory procedures; and
- On or about September 28, 1999, NASD accepted an AWC which fined First Montauk \$2,000 for entering orders that were priced better than the firm's public quote without reflecting such.

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:

- NASD Conduct Rule 3011, which became effective on April 24, 2002, requires NASD members to develop and implement a written anti-money laundering (“AML”) program reasonably designed to achieve and monitor compliance with the requirements of the Bank Secrecy Act (“BSA”), 31 U.S.C. §5311, et seq. and the regulations promulgated thereunder and conduct independent testing of its AML program for compliance. NASD issued numerous communications to its members regarding the requirement to have an AML program and that the requirement applied to all member firms. Among other things, NASD communicated the requirement in Notice to Members 02-21 in April 2002 to notify NASD members of this requirement and 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).

MSRB Rule G-41, which the SEC approved on July 11, 2003, requires every NASD member broker, dealer and municipal securities dealer to establish and implement an AML compliance program designed to achieve and monitor ongoing compliance with the requirements of NASD Conduct Rule 3011. On July 16, 2003, the MSRB issued Notice 2003-28 announcing that Rule G-41 had been approved.

On April 24, 2002, First Montauk implemented an AML program. That program, however, did not establish, implement and enforce written policies, procedures and internal controls that were reasonably designed to achieve compliance with the various requirements imposed by the BSA and the regulations promulgated thereunder. Specifically, First Montauk failed to establish written procedures designed to address the firm’s obligation to:

- 1) maintain all identifying customer information for 5 years after an account is closed and, for records used to verify the identity of a customer that such records must be maintained for five years after the record was made;
- 2) provide customers with adequate notice that the firm is requesting information to verify their identities;

3) maintain copies of Suspicious Activity Reports and the back-up documentation for those reports for 5 years;

4) respond to information requests from the Financial Crimes Enforcement Network under Section 314(a) of the USA PATRIOT Act; and

5) identify customers that present a greater risk of money laundering or terrorist financing, particularly foreign accounts and conduct additional due diligence of those customers, such as a review of correspondent accounts of foreign financial institutions (or internal controls to prevent the opening of accounts by foreign financial institutions), and establish written procedures designed to identify and conduct enhanced scrutiny of accounts of senior foreign political figures (or procedures to prevent the existence of accounts opened by foreign persons).

In addition, First Montauk failed to have internal controls to:

1) detect and close correspondent accounts of unregulated foreign shell banks;

2) determine the identity of the nominal and beneficial account holders and the source of funds deposited into "private banking accounts" for foreign persons (or procedures to prevent the existence of private banking accounts or accounts to be opened by foreign persons);

3) provide information on foreign bank accounts to law enforcement within 7 days of receiving a request;

4) address the firm's obligation to file Currency Transaction Reports, Currency and Monetary Instrument Transportation Reports and Foreign Bank and Financial Accounts Reports with the Financial Crimes Enforcement Network when warranted; and

5) address the firm's obligation to freeze the accounts of suspected terrorists.

As a result of the foregoing, First Montauk violated NASD Conduct Rules 3011(a), 3011(b) and 2110 and MSRB Rule G-41;

- A review of 51 equity transaction confirmations executed by the firm between November 25, 2002 through on or about February 25, 2003, revealed the following deficiencies:
 - 9 confirmations failed to indicate that it was a market maker in the security; and
 - On 1 confirmation the number of shares was inaccurate.

As a result of the foregoing, First Montauk violated SEC Rules 10b-10 and 17a-3 and NASD Conduct Rules 2110 and 3110;

- A review of 122 order tickets completed by the firm between November 25, 2002 through on or about February 25, 2003, revealed the following 43 deficiencies:
 - 35 order tickets failed to identify the terms and conditions of the order (market/limit order);
 - 3 order tickets did not contain time stamps;
 - 1 order ticket contained an illegible time stamp;
 - 1 order ticket contained an execution time stamp that was subsequent to the trade report time;
 - 2 order tickets did not contain the customer account number; and
 - 1 order ticket did not contain the execution price.

As a result of the foregoing, First Montauk violated SEC Rule 17a-3 and NASD Conduct Rules 2110 and 3110;

- A review of 60 municipal securities transactions executed by the firm between November 1, 2002 and January 31, 2003, revealed that 23 of the transactions were reported incorrectly as 22 of the transactions did not contain the correct time of the trade and 1 transaction contained an incorrect price. As a result of such conduct, the firm violated MSRB Rule G-14;
- A review of 60 TRACE-eligible securities transactions executed by the firm between November 25, 2002 and February 25, 2003, revealed that 24 transactions were reported with incorrect prices, 15 of the transactions were reported late, 7 transactions were reported with an incorrect execution time, 2 transactions were reported when, in fact, no such trade had taken place, 2 transactions were incorrectly reported as customer trades and 1 transaction was reported with an incorrect volume. In addition, a review of 55 TRACE-eligible securities transactions executed by the firm between December 1, 2004 through February 28, 2005, revealed that 6 transactions were reported late. Furthermore, the firm failed to report a cancelled transaction. As a result of such conduct, the firm violated NASD Conduct Rules 2110 and 6230; and

- At various times during 2002 through in or about February 2005, First Montauk's supervisory system and written procedures were not reasonably designed to achieve compliance with respect to the applicable securities laws and regulations concerning TRACE reporting. Specifically, First Montauk did not have any written supervisory procedures addressing its TRACE reporting requirements. As a result of such conduct, First Montauk violated NASD Conduct Rules 2110 and 3010.

B. First Montauk also consents to the imposition, at a maximum, of the following sanctions:

A censure and a \$50,000 fine.

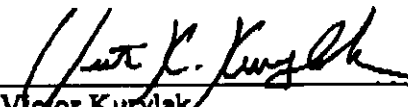
The sanctions imposed herein shall be effective on a date set by NASD staff.

III. OTHER MATTERS

- A. We understand that they we may attach a Corrective Action Statement to this AWC, which is a statement of demonstrable corrective steps taken to prevent future misconduct. We further understand that they 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.

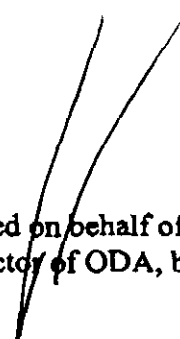
12-21-2005
Date



Victor Kurylak
President of First Montauk Securities Corp.

Accepted by NASD:

Date


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

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

**CORRECTIVE ACTION STATEMENT
LETTER OF ACCEPTANCE WAIVER AND CONSENT
NO. _____**

This Corrective Action Statement ("the Statement") is in response to the Letter of Acceptance, Waiver and Consent No. _____ ("AWC") accepted by First Montauk Securities Corp. ("First Montauk").

First Montauk wishes to point out that the firm has undergone a complete reorganization of its management and supervisory structure, well before this AWC. In January of 2004 Victor K. Kurylak became the firm's new President and Chief Operating Officer. In February 2005 Mr. Kurylak became the new Chief Executive Officer and retained the title of President. At about that same time Robert I. Rabinowitz assumed the duties of General Counsel and Chief Compliance Officer and James Port became Chief Supervisory Officer. This position of Chief Supervisory Office was created at that time so as to streamline and strengthen the firm's supervisory and surveillance structure.

With this relatively new senior management team in place First Montauk has continued the improvements made to its supervisory and regulatory performance and its conformance with the applicable securities laws, rules, and regulations. Most of the violations noted by the AWC occurred before these personnel changes had the opportunity to affect these areas.

As the AWC concerns two areas, Anti-Money Laundering ("AML") and trade reporting, the Statement is in two parts. The first part is in regard to the firm's AML program, and the second part deals with trade reporting.

**PART ONE
ANTI-MONEY LAUNDERING**

First Montauk takes its responsibilities under the rules and regulations pertaining to AML very seriously. The firm recognizes that AML is an evolving process, and that proper written supervisory policies and procedures play a crucial role in preventing money laundering activity. Shortly after the management changes cited above, First Montauk undertook to update and strengthen its AML procedures. Securities Resource Professionals ("SRP"), an independent consultant, was retained by First Montauk, prior to notification of this AWC, to audit, update, and rewrite the firm's AML written supervisory procedures. This relationship is an ongoing one as SRP continues to monitor this area so as to keep First Montauk informed in regard to developments in AML and to ensure that the firm's policies and procedures keep pace with any changes.

New written policies and procedures went into effect in June of 2005 that address the deficiencies noted by the AWC. The firm will maintain and enforce these written

supervisory procedures so as to prevent illegal money laundering activity. In addition, through its own efforts and those of outside vendors such as SRP First Montauk will keep abreast of new developments in this area and modify its written supervisory procedures as required.

PART TWO TRADE REPORTING

The NASD should take note that most of the trade reporting violations listed by the AWC took place before the management and structural changes discussed above. These changes took place after, and in part as a result of, recognized issues.

Moreover, since that time, but before notification of the AWC, First Montauk sought to improve its policies and procedures in regard to trade reporting. First Montauk retained SRP to audit the firm's trade reporting (as well as AML), in particular its trading desk area, and to rewrite First Montauk's supervisory policies and procedures regarding trade reporting.

SRP completed its audit, and based on its findings and suggestions drafted new policies and procedures for First Montauk's trading desk, including trade reporting. The firm implemented these new policies and procedures in June 2005, including a section devoted specifically to TRACE reporting. The new section devoted to TRACE reporting consists of some six pages, and includes sections dealing with definitions, transaction reporting, modifiers, and dissemination of transaction information.

First Montauk is confident these new policies and procedures will be instrumental in preventing future violations. The firm will continue to monitor its trade reporting, and to retain outside consultants to monitor regulatory developments in this area and to update its policies and procedures as needed.

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