

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. EAF0400970003

To: Department of Enforcement, NASD

Re: Evergreen Investment Services, Inc., CRD 487, Respondent

Pursuant to Rule 9216 of NASD's Code of Procedure, 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 Respondent 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 it; 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 it;
 - 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

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- e. 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 proceeding 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.

RESPONDENT

Evergreen Investment Services, Inc. ("EIS"), CRD No. 487, is the administrator and wholesaler for the Evergreen mutual funds ("Evergreen Funds"). EIS has been a member of NASD since 1936. It is an affiliate of Evergreen Investment Management Company, LLC ("EIMCO"), the registered investment advisor for Evergreen mutual funds. EIS has dual headquarters in Charlotte, North Carolina and Boston, Massachusetts. It has no relevant disciplinary history within the past five years. Both EIS and EIMCO are subsidiaries of Wachovia Corp. of Charlotte, North Carolina.

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 ("SEC") 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. Findings

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:

Summary

1. This matter involves violations of NASD Rules 2830(k)(3)¹ and 2830(l)(5). Rule 2830(k)(3) prohibits a member firm from arranging for the direction to any member of a specific amount or percentage of brokerage commissions conditioned upon that member's sales or promise of sales of shares of an investment company. Rule 2830(l)(5) governs non-cash compensation arrangements related to the sale and distribution of mutual funds and prohibits a member firm from, among other things, directly or indirectly accepting or making payments of non-cash compensation, except as specifically provided by the rule.
2. Between January 1, 2001 and December 31, 2003, EIS, the administrator and wholesaler of the Evergreen Funds, participated in a yearly "shelf-space" or "revenue-sharing" program ("the Preferred Partner Program") with its affiliate, Wachovia Securities, LLC ("WSLLC"). To pay for participation in the Preferred Partner Program, EIS arranged for WSLLC to receive approximately \$25.6 million in directed brokerage commissions generated by Evergreen Funds portfolio trades over a three year period. EIS established targets for these commissions first based upon yearly sales by, and then based upon the sales goals for, WSLLC of Evergreen Funds. In return, EIS gained increased exposure and access in various ways to the WSLLC sales force in connection with the sales and marketing of the funds.

¹ This AWC refers to the NASD Conduct Rule 2830(k)(3) effective during the relevant time period beginning January 1, 2001, and ending December 31, 2003. Rule 2830(k) was amended, effective February 2005, and as a result of the amendment, Rule 2830(k)(3), was renumbered as 2830(k)(4).

3. By arranging for the direction of specific amounts of brokerage commissions to another member firm -- WSLLC -- conditioned upon WSLLC's sales of Evergreen Funds, EIS violated NASD Rules 2830(k)(3) and 2110.
4. In 2001, 2002, and 2003, EIS sponsored a sales recognition program for registered representatives of WSLLC who sold Evergreen Funds. The program was known as the Medallion Club. Registered representatives who participated in the Medallion Club were eligible to attend multi-day meetings at luxury resort locations. The meetings, which were sponsored and paid for by EIS, were available to WSLLC registered representatives who sold certain target amounts of Evergreen Funds set by EIS. EIS communicated the sales targets to WSLLC registered representatives and encouraged the representatives to sell more Evergreen Funds when they neared the required sales levels. The Medallion Club meetings constituted the payment of improper non-cash compensation by EIS to WSLLC registered representatives. By sponsoring and paying for the Medallion Club meetings, EIS violated Rules 2830(l)(5) and 2110.

**EIS Arranged to Pay Directed Brokerage
Commissions to WSLLC in Violation of
NASD Rules 2830(k)(3) and 2110**

5. Between January 1, 2001 and November 10, 2003, EIS arranged to pay for participation in the Preferred Partner Program by directing brokerage commissions to WSLLC. As a preferred partner, the Evergreen Funds received preferential treatment from the WSLLC sales force in the sales and marketing of those funds. Such preferential treatment included inclusion of Evergreen Funds on WSLLC "recommended" lists that were used with customers, special placement of the funds on the WSLLC internal website, and direct links from the WSLLC internal website linked directly to the Evergreen Funds' website. Preferred partners were also highlighted in web-based product sheets on the WSLLC internal website, received enhanced access to the WSLLC sales force through due diligence meetings, road shows, and conference calls, and received preferential access to top-selling WSLLC registered representatives.
6. To pay for participation in the Preferred Partner Program, EIS arranged for EIMCO to pay WSLLC through brokerage commissions generated by Evergreen Fund portfolio trades. EIS determined a target amount for the brokerage commissions to be directed to WSLLC and provided that target to EIMCO, which then directed trades to WSLLC toward fulfillment of the targets. The trades sent by EIMCO to WSLLC generated commissions that were retained by WSLLC.

7. EIS established the brokerage commission targets used to make payments for participation in the preferred partner program based on sales of Evergreen Funds by WSLLC. The target used by EIS in 2001 was based on WSLLC's net sales of Evergreen Funds in 2000. Thereafter, the target was negotiated between EIS and WSLLC, using past sales and certain sales goals for the upcoming year. EIS fell short of reaching the yearly brokerage commission targets for 2001 and 2002, and WSLLC's sales of Evergreen Funds also fell short of the sales goals for those years.
8. In total, from January 1, 2001 until November 2003, EIS arranged for WSLLC to receive approximately \$25.6 million in brokerage commissions to participate in the Preferred Partner Program. In November of 2003, WSLLC informed EIS that it would stop accepting brokerage commissions as payment for participation in the program. On January 6, 2004, EIS paid \$1.5 million in cash to WSLLC through a "budget transfer" in satisfaction of the unpaid balance of brokerage commissions still owed to WSLLC for 2003.
9. By arranging for EIMCO to direct Evergreen Fund brokerage commissions to WSLLC conditioned upon WSLLC's sale of Evergreen Funds, EIS used Evergreen Fund shareholder assets, instead of its own funds, to pay marketing and distribution expenses to its affiliate instead of to another broker-dealer.
10. NASD Conduct Rule 2830(k) is designed to prevent arrangements in which brokerage commissions, which are fund assets, are used to compensate member firms for selling fund shares. The rule is also designed to ensure that execution of portfolio transactions is guided by the principle of "best execution" and not by other considerations.
11. Rule 2830(k)(3) provides that:

No member shall, directly or indirectly, offer or promise to another member, brokerage commissions from any source as a condition to the sale or distribution of shares of an investment company and no member shall request or arrange for the direction to any member of a specific amount or percentage of brokerage commissions conditioned upon that member's sales or promise of sales of shares of an investment company.
12. By arranging to direct specific amounts of brokerage commissions to WSLLC conditioned upon WSLLC's sales of Evergreen Funds, EIS violated NASD Rules 2830(k)(3) and 2110.

**EIS Paid Non-Cash Compensation to WSLLC Registered
Representatives in Violation of
NASD Rules 2830(l) and 2110**

13. During 2001, 2002, and 2003, EIS sponsored a sales-recognition program, known as the Medallion Club, for registered representatives of WSLLC who sold target amounts of Evergreen Funds.
14. EIS described the Medallion Club program to WSLLC registered representatives as a way "to reinforce your success and reward you with well-earned priority status." Registered representatives who qualified for the Medallion Club were eligible to attend all-expense paid meetings held annually by EIS at luxury resort locations. Among other things, the meetings provided Evergreen employees, including portfolio managers, an opportunity to meet with and speak to WSLLC registered representatives about Evergreen products. EIS paid all the expenses for WSLLC registered representatives to travel to and attend these meetings, including hotel and meal costs, and the costs of a wide array of entertainment activities, including boating on private lakes, clay shooting, and golfing on world-class courses.
15. In order to qualify for the Medallion Club, WSLLC registered representatives needed to reach a target amount of sales of Evergreen Funds set by EIS. WSLLC registered representatives who sold from \$2 million to \$4,999,999 of Evergreen Funds became "Gold" level Medallion Club members and were eligible to receive an invitation to the meetings. WSLLC registered representatives who sold \$5 million or more of Evergreen Funds became "Platinum" level Medallion Club members and were eligible to receive an invitation to the meetings and also to attend an additional meeting and thus stay an extra day at the resort location.
16. EIS communicated the \$2 million and \$5 million sales targets, and the resort locations, to WSLLC registered representatives. As a result, the meetings served as an inducement for WSLLC registered representatives to sell Evergreen Funds. EIS informed WSLLC registered representatives of the targets in a variety of ways, including during meetings, in web-casts, and in publications prepared by EIS for distribution to WSLLC registered representatives. EIS also published the targets in a quarterly newsletter distributed to the WSLLC sales force. EIS wholesalers were also instructed to inform WSLLC registered representatives of the sales targets.
17. EIS also encouraged WSLLC registered representatives to sell more Evergreen Funds when they approached the sales targets. In particular, when the end of an annual qualification period was approaching, EIS wholesalers reminded WSLLC registered representatives of the sales targets, informed the

registered representatives of their progress towards those targets, and urged them to take action to reach the targets.

18. From 2001 to 2003, at least 440 WSLLC registered representatives qualified for Medallion Club and attended the Medallion Club meetings by selling at least \$2 million of Evergreen Funds in a particular year. A number of registered representatives attended the Medallion Club meetings during more than one year.
19. EIS spent over \$3 million to pay for the Medallion Club meetings from 2001 through 2003. EIS spent between \$2,100 and \$2,700 per year for each individual WSLLC registered representative to attend the meetings.
20. In 2003, WSLLC reimbursed EIS approximately \$125,000 for the cost of entertainment for WSLLC registered representatives in connection with the Medallion Club meetings in 2001 and 2002. The reimbursement occurred during the course of preparation for an on-site examination of WSLLC by the Securities and Exchange Commission.
21. From 2001 to 2003, registered representatives of WSLLC who were Medallion Club members sold over \$2.46 billion of Evergreen Funds.²
22. The Medallion Club meetings constituted the provision of non-cash compensation by EIS to WSLLC registered representatives as defined by Rule 2830(b)(1)(D). Rule 2830(l)(5) prohibits member firms and associated persons from directly or indirectly accepting or making payments or offers of payments of non-cash compensation in connection with the sale and distribution of investment company securities, subject only to certain exceptions.
23. Rule 2830(l)(5)(C) provides an exception to the prohibition on the payment or acceptance of non-cash compensation for payments or reimbursements by offerors³ in connection with training or education meetings that meet certain criteria. However, the exception is not available if a member firm preconditions attendance at a meeting, or the offeror preconditions payment or reimbursement of meeting expenses, on the achievement of a sales target.
24. The Medallion Club meetings did not meet the training or education exception provided for in NASD Rule 2830(l)(5)(C). As described above, EIS pre-conditioned attendance at the meetings on achievement of certain sales targets

² This amount excludes sales of money market funds.

³ An "offeror" for purposes of Rule 2830 means an investment company, an adviser to an investment company, a fund administrator, an underwriter and any affiliated person (as defined in Section 2(a)(3) of the Investment Company Act of 1940) of such entities. Rule 2830(b)(1)(E).

by WSLLC registered representatives. In order to attend Medallion Club meetings, EIS required that WSLLC registered representatives sell at least \$2 million of Evergreen Funds. EIS informed WSLLC registered representatives of this requirement and also encouraged registered representatives to sell more Evergreen Funds when they approached the sales targets. In addition, the Medallion Club meetings failed to meet the requirements of a training or education meeting as EIS paid for or reimbursed the entertainment expenses of WSLLC registered representatives.

25. As a result, by sponsoring and paying for the Medallion Club meetings, EIS provided non-cash compensation to WSLLC registered representatives in violation of NASD Rule 2830(l)(5) and Rule 2110.

B. Sanctions

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

1. A censure; and
2. A fine of \$4,200,000.

III.

OTHER MATTERS

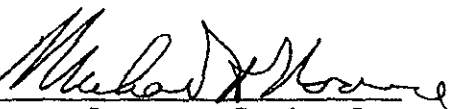
- A. Respondent understands that it may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondents understand that they may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by NASD, nor does it reflect the views of NASD or its staff.
- B. Respondent agrees to pay any monetary sanctions imposed on it pursuant to the terms of this AWC.
- 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.

The undersigned certify on behalf of Respondent that it has 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.

Date:

11/3/2006

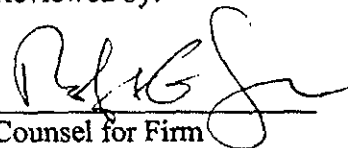
By:


Evergreen Investment Services, Inc.

Name: Michael H. Koonce, Esq.

Title: Senior Vice President, EIS

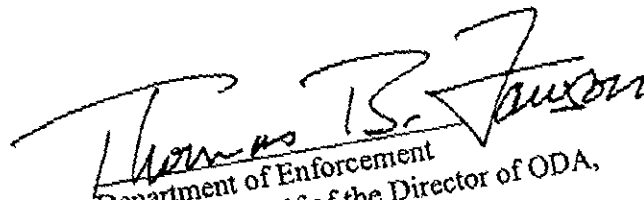
Reviewed by:


Counsel for Firm

Accepted by NASD:

Accepted by NASD:

Date 12/26/06


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