

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. EAF0401410001

TO: Department of Enforcement
NASD

RE: Gerald Martin
Registered Representative
CRD No. 1315411

Pursuant to Rule 9216 of NASD Code of Procedure, I, Gerald Martin, 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 me alleging violations based on the same factual findings.

I 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 me; and
3. If accepted:
 - a. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against me;
 - 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. I 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 my testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

I also understand that my 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:

I entered the securities industry on November 22, 1984 as a Direct Participation Programs Representative with a member of NASD. On July 20, 1985, I became a General Securities Representative. On December 9, 1991, I became a General Securities Principal. I became registered in these capacities with LaSalle Street Securities LLC ("Member") beginning on May 8, 1989. I am still registered with the Member and I have no disciplinary history with NASD.

L. WAIVER OF PROCEDURAL RIGHTS

I 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 me;
- 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, I 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.

I 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. Martin hereby accepts and consents, 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:

Martin Was Aware of Devine's Regulatory and Disciplinary History

On December 9, 1991, Martin became a General Securities Principal with the Member. Between the approximate dates of June 15, 1998 through September 27, 2004, Frank Devine ("Devine") was registered with the Member. The Member delegated to Martin direct supervisory responsibilities over Devine throughout the entire course of Devine's employment with the Member.

On April 28, 1997, Devine was terminated by his previous firm for engaging in unauthorized and undisclosed outside business activities. NASD began an investigation into this allegation. In June 1998, the Member registered Devine. During his interview process, Devine disclosed to the Member and Martin the ongoing NASD investigation. While registered with the Member, Devine developed a formal disciplinary record. In September 1998, NASD informed Devine in a "Wells" letter that NASD intended to recommend formal disciplinary action against him. On March 10, 1999, NASD issued a formal complaint against Devine alleging that he engaged in private securities transactions by selling vistics without prior written authorization from his previous employing firm.¹

On June 13, 2000, a NASD Hearing Panel found that Devine, and others, engaged in private securities transactions without prior written notification to, or receiving authorization from, their previous employing firm. Sanctions imposed against Devine were a \$34,825.42 fine, 45-day suspension in all capacities and re-qualification by examination. The National Adjudicatory Council ("NAC") called the case for review, and on May 17, 2001, the NAC affirmed the Hearing Panel decision on liability, and increased the sanctions. The NAC increased the suspension of Devine to 90 days, and affirmed the Hearing Panel's imposition of a \$34,825.42 fine, re-qualification by examination and \$1,414.28 in costs.

Devine appealed the NAC findings to the SEC, and on October 30, 2002, the SEC sustained the NAC's decision. During the pendency of the SEC appeal, the NASD sanctions were stayed. On December 13, 2002, Devine filed a motion for reconsideration of the sanction imposed, and the SEC denied his motion.

¹ NASD case number C8A990025.

Devine served his suspension from February 18, 2003 through May 19, 2003. Devine voluntarily terminated his registration with the Member on September 27, 2004.

Martin had full knowledge of the regulatory investigation and disciplinary proceedings involving Devine. Martin did not heighten supervision of Devine in light of Devine's disciplinary history.

Martin Failed to Reasonably Supervise Devine

Devine operated exclusively from his home office in Oswego, Illinois. No other employees of the Member worked out of Devine's home office. When Devine became associated with the Member, he disclosed to the Member and Martin that he held the position of President with two entities, "Professional Group" and "Devine Financial Services." These businesses involved insurance, accounting and consulting, and Devine maintained a separate bank account for these companies. Martin was aware of the nature of Devine's outside businesses, but did not coordinate his supervision of Devine with the Member's Compliance Department to ensure Devine had disclosed these outside business activities, for instance, on his annual Questionnaire.

Devine's production declined precipitously in 2003, compared to previous years. The following chart shows the compensation paid to Devine by the Member:

1999	2000	2001	2002	2003	2004
\$200,814.92	\$141,756.99	\$182,089.73	\$337,072.46	\$936.53	\$926.43

Martin was instructed by the Member to investigate this drop in production. When Martin questioned Devine, Devine said that he was being paid as a political consultant, and was being paid "very, very well." Devine also told Martin that he was doing work for the U.S. Government, that it was "hush-hush" and he could not go into further details. Martin reported this information to the Member's Compliance Department. Martin did not investigate this further.

Additionally, Devine solicited funds from Martin to invest in deals involving cars and real estate that promised extraordinary rates of return. Although Martin believed that his money was being used to buy cars and real estate, he never received any paperwork regarding the purchase or sale of these properties. Martin invested approximately \$80,000 with Devine. To pay for the investments, Martin wrote checks out to Devine personally, and also to Devine's companies. Martin received irregular returns on his investments via checks from both Devine's corporate and personal bank accounts. Furthermore, Martin never received any

tax forms in relation to the purchase and sale of real estate. Martin never asked Devine if any of the Member's customers were solicited by Devine to invest in the outside business activities. In actuality, these investments were bogus.

Despite Martin's knowledge that Devine had a formal disciplinary history involving activities away from his firm, Martin took no action to ensure that Devine fully disclosed the extent and nature of the outside business activities. Devine continued to work without on-site supervision and Martin did not implement any supervisory review or procedures with a view towards preventing Devine from engaging in other selling away activities. Martin did not visit or inspect Devine's home office at any time during the nearly six years that Devine worked under Martin's supervision, nor did Martin hold any scheduled supervisory or compliance related meetings with Devine. Martin's supervision over Devine consisted of irregularly scheduled informal meetings. No records of the substance of these meetings were created. Even after Devine developed a formal disciplinary record involving activities away from his previous firm, Martin did not alter his method of oversight over Devine.

Martin failed to fully investigate Devine's dramatic drop in production. Martin never received a full explanation for Devine's lack of production and did not verify that Devine disclosed all his outside business activities to the Member. Devine's solicitation of funds from Martin should have prompted Martin to question Devine's action.

Devine Exploited Supervisory Deficiencies

Devine exploited Martin's supervisory deficiencies as described above. Beginning before Devine became associated with the Member, and continuing until approximately November 2004, Devine operated a number of fraudulent investment schemes outside his duties at the Member. Devine's schemes took on several different forms. Among them, Devine falsely told individuals that their funds would be invested in a car resale program, or real estate, or initial public offerings. None of these schemes was approved or known by the Member. In reality, Devine converted the funds he obtained from investors for his own personal use or used them in his "Ponzi" scheme to repay certain participants. Ultimately, Devine pled guilty to wire and tax fraud in Federal Court and was sentenced to 156 months in Federal prison.

Devine's misconduct outside of his regular business activities as a representative of the Member escaped detection in part because Martin failed to properly supervise Devine. Despite his disciplinary history, and despite red flags that he may have been engaging in other outside business activities without proper disclosure to the Member, Martin did not subject him to increased scrutiny. Instead, Devine was allowed to work from a one-person office, and experienced

no on-site audits of this office during the entire term of his registration with the Member.

The conduct described above constitutes separate and distinct violations of NASD Conduct Rules 2110 and 3010 by Martin.

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

A bar from acting as a supervisor or principal for any member of NASD, a 3-month suspension from association with any member of NASD in any capacity, and a fine of \$5,000.

The sanctions imposed herein shall be effective on a date set by NASD staff. Pursuant to IM-8310-2(f), a bar or expulsion shall become effective upon approval or acceptance of this AWC by the NAC.

III. OTHER MATTERS

- A. I understand that I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I 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. I agree to pay any monetary sanctions imposed on me 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 I propose to pay any fine imposed.
- C. I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.
- D. I understand that if I am barred or suspended from associating with any NASD member, I become subject to a statutory disqualification as that term is defined in Section 3(a)(39) of the Securities Exchange Act of 1934, as amended. Accordingly, I may not be associated with any NASD member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension. (See NASD Rule 8310 and IM-8310-1.)

I certify that I 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 me to submit it.

5/2/00
Date

Gerald Martin
Gerald Martin

Reviewed by:

Counsel for Respondent

Accepted by NASD:

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

5/2/00
Date

UnBo Chung
UnBo Chung, Senior Regional Attorney
NASD District 8
55 West Monroe Street, Suite 2700
Chicago, IL 60603
(312) 899-4641

NASD Regional Director
Carlotta Romano, Senior Vice President
NASD, District 8
55 West Monroe Street, Suite 2700
Chicago, IL 60603

Attachment: Election of Payment Form