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**NASD**  
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**

[No. ELI2002005701]

**TO: Department of Enforcement**  
**NASD**

**RE: Kirlin Securities, Inc.**  
**[BD No. 21210]**

Pursuant to Rule 9216 of NASD Code of Procedure, Kirlin Securities, Inc. ("Kirlin" or "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 Respondent; and
3. If accepted:
  - a. this AWC will become part of Respondent's permanent disciplinary record 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 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. 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:

On or about November 4, 2005, the Department of Enforcement of NASD filed a complaint against Respondent alleging violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder and NASD Conduct Rules 2120, 2110, 2320 and 3010(a) and (b) in connection with allegations that Respondent engaged in a manipulation of stock, failed to comply with best execution rules and failed to establish, maintain and enforce an adequate supervisory system.

On or about August 13, 2004, Respondent entered into an AWC with NASD under which it agreed to a fine of \$155,800.00, disgorgement of \$1,044,732.35 and a censure in connection with Respondent's sale of Brady bonds and its role as an underwriter of the Brady bonds. The AWC contained findings of violations of Sections 10(b) and 10b-10(a)(2), Rules 10b-5 and 15c1-2 thereunder, and Sections 15(c) and 17(a) of the Exchange Act; NASD Conduct Rules 2110, 2120, 2210, 2230, 2320, 2440, 3010, 3110, 3070(c), NASD Marketplace Rules 4632, 6310, 6420, NASD Program Rules 6240 and 6260.

On or about August 10, 2001, Respondent entered into an AWC with NASD for violations of SEC Rule 17a-3, NASD Conduct Rules 3110, 3370, NASD Marketplace Rule 4632, and NASD Systems and Programs Rules 6130 and 6954. Pursuant to the AWC, Respondent agreed to a fine of \$12,000.00 and a censure.

On or about March 1, 2001, Respondent entered into an AWC with NASD for violations of NASD Conduct Rules 2110, 2320, 3010, and 3070, NASD Marketplace Rules 4632, 4642 and NASD Systems and Programs Rules 6130, 6260, 6420, 6620. Pursuant to the AWC, Respondent agreed to a fine of \$17,250.00 and a censure.

#### I.

#### WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under NASD's Code of Procedure:



(2) From on or around March 27, 2001 through on or around November 17, 2002, Respondent's written supervisory procedures failed to address certain areas, including, books and records pursuant to SEC Rule 17a-3 and 17a-4; net capital computations; clearing arrangement; Corporate Collateralized Mortgage Obligations ("CMOs"); margin accounts; branch office activities; equity trade reporting; corporate bond TRACE Reporting; how documents will be evidenced for review. By reason of the foregoing, Respondent violated NASD Conduct Rules 3010 and 2110.

(3) In a review of transactions reported to ACT during the period on or about August 1, 2002 through on or about October 31, 2002, Respondent failed to report nine transactions using the proper "SLD" late trade modifier. In addition, during that period, Respondent failed to report ten transactions to ACT within ninety seconds. By reason of the foregoing, Respondent violated NASD Marketplace Rule 4632(a)(1) and NASD Systems and Programs Rule 6620(a)(1).

- B. Respondent also consents to the imposition, at a maximum, of the following sanctions:
- A fine of \$15,000.00; and,
  - A censure.
- C. 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 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 payments are due and payable and has attached an Election of Payment form showing the method by which Respondent 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 it 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, has been made to induce Respondent to submit it.

1/9/06  
Date

Kirlin Securities, Inc.

By: [Signature]  
David Lindner  
Chief Executive Officer

Reviewed by:

[Signature]  
Counsel for Respondent

Accepted by NASD:

2/13/06  
Date

Vaishali S. Shetty  
Vaishali S. Shetty  
Regional Counsel

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