

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. ELI20040278-01

TO: Department of Enforcement
NASD

RE: David Charles Vogel, Respondent
[Investment Company and Variable Contracts Products Representative]
[CRD No. 2985902]

Pursuant to Rule 9216 of NASD Code of Procedure, Respondent David Charles Vogel ("Vogel" 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 him;
 - 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 understand that his 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:

Respondent was registered with NASD as an Investment Company and Variable Contracts Products Representative from April 19, 1999 through September 23, 2004, through member firms Metropolitan Life Insurance Company (BD No. 4095) and MetLife Securities, Inc. (BD No. 14251) (collectively, "MetLife").

Respondent does not have any prior disciplinary history with the Securities and Exchange Commission, any self-regulatory organization or any state securities regulator.

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 him;
- 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:

On or about July 10, 2003, while registered with NASD as an Investment Company and Variable Contracts Products Representative through MetLife, Vogel submitted a withdrawal application for the withdrawal of \$1,800 from the variable annuity of his father-in-law, MetLife customer TW, but failed to have TW sign and date the withdrawal application. Instead, Vogel attached to the withdrawal application the signature page of a previously signed withdrawal application containing TW's signature, and altered the date on that page to reflect that customer TW signed the withdrawal application on July 10, 2003. By reason of the foregoing, Vogel violated NASD Conduct Rule 2110.

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

- A suspension from associating with any member firm in any capacity for a period of three (3) months; and
- A fine in the amount of \$5,000.

The fine shall be due and payable either immediately upon re-association with a member firm following the three-month suspension noted above, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

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

III.

OTHER MATTERS

- A. Respondent understands that he may attach a Corrective Action Statement to this AWC, which is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that he 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 understands that if he is barred or suspended from association with any NASD member, he becomes 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, he 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.)
- C. Respondent specifically and voluntarily waives any right to claim that he is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

B. Respondent understands that if he is barred or suspended from association with any NASD member, he becomes 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, he 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.)

C. Respondent specifically and voluntarily waives any right to claim that he is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

Respondent certifies that he has read and understands 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 him to submit it.

8/1/2005
Date

Date _____

David Charles Vogel
David Charles Vogel

David Charles Vogel

Reviewed by:

Counsel for Respondent

Accepted by NASD:

8/25/05

Date

Date _____


Jon S. Batterman
Signed on behalf of the Director of ODA
by delegated authority

Jon S. Batterman

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