

**NASD  
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,  Complainant,  v.  BERNARDO MISSEI (CRD No. 2713297),  Respondent.	Disciplinary Proceeding No. E1020032138-01  Hearing Officer - DMF  <b><u>ORDER ACCEPTING OFFER OF SETTLEMENT</u></b>  Date: April 10, 2006
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**INTRODUCTION**

Disciplinary Proceeding No. E1020032138-01 was filed on August 5, 2005, by the Department of Enforcement of NASD ("Complainant"). Respondent Bernardo Misseri ("Respondent") submitted an Offer of Settlement ("Offer") to Complainant on March 28, 2006. Pursuant to Code of Procedure Rule 9270(e), the Complainant and the National Adjudicatory Council ("NAC") Review Subcommittee or the Office of Disciplinary Affairs ("ODA") have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to Code of Procedure Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint, 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, to the entry of findings and violations consistent with the allegations of the Complaint, and to the imposition of

the sanctions set forth below, and fully understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by NASD.

### **BACKGROUND**

Respondent first became registered with NASD as a General Securities Representative ("GSR") through an association with a former member firm, on or about January 22, 1998.

From on or about June 11, 2002 through on or about December 17, 2003, Respondent was registered as a GSR through an association with member firm McGinn Smith & Co., Inc. (BD No. 1995398) ("McGinn").

Respondent is currently registered through another NASD member firm.

Respondent is subject to NASD's jurisdiction because was registered with NASD through an association with a member firm at the time the Complaint was filed.

### **FINDINGS AND CONCLUSIONS**

It has been determined that the Offer be accepted and that findings be made as follows:

1. During the period in or about June 2002 through in or about December 2003, Respondent was registered with NASD through member firm McGinn. While registered with NASD through McGinn, Respondent engaged in the following activities:
  - a. from in or about December 2002 through February 2003, Respondent effected private securities transactions away from McGinn by soliciting McGinn customers RC, AP and PB to purchase securities in Hawthorne Hathaway Partners, L.P. ("Hawthorne"), a limited partnership. Respondent raised approximately \$450,000 from these customers. Prior to effecting these private

securities transactions, Respondent failed to provide written notification to McGinn.

- b. from in or about August 2003 through in or about December 2003, Respondent effected private securities transactions away from McGinn by soliciting McGinn customers CG, PB, AP, IC and RB to purchase securities in RGB Developers, L.P. (“RGB”), a limited partnership. Respondent raised approximately \$800,000 from these customers. Prior to effecting these transactions, Respondent failed to provide written notification to, or obtain written approval from McGinn.

By reason of the foregoing, Respondent violated NASD Conduct Rules 2110 and 3040.

2. From in or about August 2003 through in or about December 2003, while Respondent was registered through McGinn, he engaged in an outside business activity with respect to RGB. Specifically, as set forth in an Operating Agreement and Private Placement Memorandum concerning RGB, Respondent was, inter alia, a “Class A Member” and member of RGB’s Management Committee. Respondent failed to provide prompt written notice to McGinn of his involvement in RGB.

By reason of the foregoing, Respondent violated NASD Conduct Rules 2110 and 3030.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by NASD, of its regulatory responsibility under the Securities Exchange Act of 1934.

**SANCTIONS**

It is ordered that Respondent be suspended from associating with any NASD member firm in all capacities for a period of two years and fined in the amount of \$15,000.

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

SO ORDERED.

NASD

By: Frank M. Weber  
Frank M. Weber, Regional Counsel  
on behalf of the Director of ODA,  
pursuant to delegated authority