

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2009016275601**

TO: Department of Enforcement  
Financial Industry Regulatory Authority ("FINRA")

RE: Southwest Securities, Inc., Respondent  
CRD No. 6220

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Southwest Securities, Inc. submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if it is accepted, FINRA will not bring any future actions against Respondent alleging violations based on the same factual findings described herein.

**I.**

**ACCEPTANCE AND CONSENT**

- A. Respondent 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 FINRA, or to which FINRA 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 FINRA:

**BACKGROUND**

Southwest Securities, Inc. is currently, and was during all times relevant hereto, a member of FINRA and registered as a broker/dealer with the U.S. Securities and Exchange Commission. Southwest registered with FINRA in May 1972 as a full-service broker-dealer. The firm currently employs 538 registered personnel and operates 46 branch offices.

**RELEVANT DISCIPLINARY HISTORY**

Southwest's relevant disciplinary history over the last five years includes the following:

On March 24, 2010, the U.S. Securities and Exchange Commission issued a Cease and Desist Order (Administrative Proceeding No. 3-13831), in which Southwest was fined \$50,000 and ordered to disgorge \$348,154 (plus \$71,993 in pre-judgment interest) for willful violations of MSRB Rules G-37(b) and G-37(e) and Section 15b(c)(1) of the Exchange Act.

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The SEC found that a Southwest municipal finance professional (“MFP”) had made political contributions to an issuer official in the State of Massachusetts, and that, within two years of the political contributions, Southwest had engaged in prohibited municipal securities business with the issuer. The SEC also found that the political contributions were not disclosed on MSRB Form G-37.

On November 12, 2009, FINRA issued a Letter of Acceptance, Waiver and Consent (No. 2006005101101), in which the firm was censured, fined \$54,500 and ordered to pay restitution to customers in the amount of \$23,394.08, plus interest, for violations of, among other provisions, MSRB Rules G-14, G-17 and G-30(a). With respect to the MSRB Rule violations, FINRA found that the firm bought and/or sold corporate bonds to and/or from customers and, taking all relevant circumstances into account, failed to sell and/or buy the bonds at a fair price. In pairs of transactions, the firm purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer, at an aggregate price that was not fair and reasonable.

On July 18, 2008, FINRA issued a Letter of Acceptance, Waiver and Consent (No. 2005002895501), in which the firm was fined \$75,000 for violations of, among other provisions, MSRB Rule G-41. FINRA found that Southwest failed to develop and implement a written Anti-Money Laundering (“AML”) Program that was reasonably designed to achieve and monitor its compliance with the requirements of the Bank Secrecy Act in that it failed to timely address deficiencies noted in three consecutive independent tests of its AML Program.

On March 12, 2008, FINRA issued a Letter of Acceptance, Waiver and Consent (No. 2005000096201), in which the firm was fined \$67,500 for violations of, among other provisions, MSRB Rules G-14, G-17 and G-27(a). With respect to the MSRB violations, FINRA found that Southwest failed to properly and timely report information regarding municipal securities transactions, and failed to have an adequate supervisory system in place that was designed to achieve compliance with MSRB rules concerning the timely reporting of municipal securities transactions. In addition to the fine, the firm was also ordered to revise its supervisory procedures regarding the timely reporting of municipal securities transactions.

On September 12, 2007, FINRA issued a Letter of Acceptance, Waiver and Consent (No. E062005004101), in which the firm was fined \$5,000 for its failure to timely submit Forms G-36 (OS) to the MSRB, in violation of MSRB Rule G-36.

## OVERVIEW

From October 2006 to April 2009, Southwest Securities, Inc. violated MSRB Rule G-38 by using unaffiliated individuals to solicit municipal securities business on behalf of the firm. Southwest received over \$1.9 million in gross revenues from twenty-four municipal securities offerings and two financial advisory roles on which the consultants had played a role in soliciting the business. The firm also violated MSRB Rule G-36 by failing to timely file official statements and Forms G-36(OS) in connection with the primary offering of municipal securities, and advance refunding documents and Forms G-36(ARD) in connection with advance refund issues; violated MSRB Rule G-14 by failing to accurately report certain municipal securities transactions to the MSRB; and violated MSRB Rule G-27 by failing to adopt, maintain and enforce procedures reasonably designed to ensure compliance with applicable MSRB rules.

## FACTS AND VIOLATIVE CONDUCT

### *A. Violations of MSRB Rule G-38*

Since August 29, 2005, MSRB Rule G-38 has prohibited payments to unaffiliated individuals for the solicitation of municipal securities business. Specifically, the rule provides that “no broker, dealer or municipal securities dealer may provide or agree to provide, directly or indirectly, payment to any person who is not an affiliated<sup>1</sup> person of the broker, dealer or municipal securities dealer for a solicitation<sup>2</sup> of municipal securities business on behalf of such broker, dealer or municipal securities dealer.”

During the period from October 2006 through April 2009, Southwest paid, or agreed to pay, five unaffiliated individuals, including two former officials of Texas issuers of municipal securities and two individuals who were formerly affiliated with the firm, to solicit municipal securities business on its behalf. In total, the firm paid over \$200,000 to the consultants for their services. Southwest received over \$1.9 million in gross revenues from the municipal securities business obtained by the consultants.

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<sup>1</sup> The term “affiliated person of the broker, dealer or municipal securities dealer” means any person who is a partner, director, officer, employee or registered person of the broker, dealer or municipal securities dealer or of an affiliated company of the broker, dealer or municipal securities dealer.

<sup>2</sup> The term “solicitation” means a direct or indirect communication by any person with an issuer for the purpose of obtaining or retaining municipal securities business.

From March 2007 to April 2009, Southwest utilized a former official of a Texas issuer of municipal securities to solicit business from various issuers of municipal securities on its behalf. The firm entered into a formal consulting agreement with this individual on or about November 6, 2007. Pursuant to the agreement, this individual would receive a monthly consulting fee of \$2,000 and finder's fees of approximately 15% of the net profits received by Southwest from underwritings that he helped to obtain. The agreement also stated that this individual would "promote the capabilities of Southwest's municipal bond department in their desire to earn mandates as financial advisor and municipal underwriter for public entities throughout Texas." The individual's activities on behalf of Southwest included contacting and meeting with officials at various Texas municipal issuers to solicit business as lead municipal underwriter for Southwest. In total, he played a role in soliciting twenty-three municipal securities underwritings for the firm. Southwest received gross revenues of over \$1.7 million from the underwritings. The firm paid this individual a total of \$51,000 in monthly consulting fees and over \$122,000 in finder's fees. On April 16, 2009, as a result of FINRA's investigation, Southwest employed him as a Non-registered Fingerprint Person. Prior to this date, this individual had not been employed, associated, or registered with Southwest.

In May 2008, Southwest entered into a consulting agreement with another former official of a Texas issuer of municipal securities to solicit business from various issuers of municipal securities on its behalf. Pursuant to the agreement, this individual would receive 15% of the net profits received by Southwest for underwritings obtained by him. The agreement also stated that this individual would "promote the capabilities of Southwest's municipal bond department in their desire to earn mandates as financial advisor and municipal underwriter for public entities throughout Texas." His activities on behalf Southwest also included contacting and meeting with officials at various Texas municipal issuers to solicit business as lead municipal underwriter for Southwest. Although he was not successful in obtaining any municipal securities business for Southwest during FINRA's review period, Southwest paid this individual over \$5,100 in reimbursements for expenses that he incurred in connection with his efforts to solicit municipal securities business on behalf of the firm. On May 1, 2009, as a result of FINRA's investigation, Southwest employed this individual as a Non-registered Fingerprint Person. He had not been previously employed, associated, or registered with the firm.

In addition to the above-described formal consulting arrangements, Southwest also made one-time payments to three individuals in connection with their roles in obtaining municipal securities business for the firm. Specifically, in October 2006, Southwest paid an individual, who was a former employee of an affiliated company and a former official of a Texas municipality, \$5,000 in connection with his role in obtaining a municipal underwriting with a Texas issuer of municipal securities for Southwest. Additionally, in July 2007, Southwest paid an individual

\$7,548.45 for his role in obtaining a financial advisor role with another Texas issuer of municipal securities for Southwest. Finally, in October 2008, Southwest paid \$13,650.50 to a former Southwest registered representative, whose registration with the firm had been terminated in June 2005, in connection with her role in obtaining a financial advisory role with a Texas municipality for the firm. Southwest received over \$250,000 in gross revenues from the municipal securities business obtained by these three individuals.

***B. Violations of MSRB Rule G-36***

MSRB Rule G-36 requires each broker, dealer, or municipal securities dealer that acts as an underwriter in a primary offering of municipal securities to send a copy of the final official statement and a completed Form G-36(OS) to the MSRB on or before the later of one business day after delivery of the securities by the issuer to the broker, dealer, or municipal securities dealer, or one business day after receipt of the official statement in final form from the issuer. If the issuer advances an outstanding issue of municipal securities, each broker, dealer, or municipal securities dealer that acts as an underwriter in such issue is required to send the advance refunding document and completed Form G-36(ARD) to the MSRB within five business days of delivery of the securities by the issuer to the broker, dealer, or municipal securities dealer.

During the period from March 2007 through January 2009, Southwest failed to comply with MSRB Rule G-36, in that it failed to timely file ten MSRB Forms G-36(OS) and G-36(ARD). The filings ranged from one to fifty-nine days late.

***C. Violations of MSRB Rule G-14***

MSRB Rule G-14 requires each broker, dealer or municipal securities dealer to report to the MSRB information about each purchase and sale transaction effected in municipal securities to the Real-time Transaction Reporting System ("RTRS"). The rule also requires that the information be reported promptly, accurately and completely.

During the period from October 2007 to February 2009, Southwest failed to comply with MSRB Rule G-14, in that it inaccurately reported certain municipal securities transactions to the MSRB. Specifically, the firm inaccurately reported 210 transactions by not identifying the trades as Inter-Dealer Regulatory-Only (IDRO) transactions. The firm also inaccurately reported 94 transactions by reporting that Southwest was both the buyer and the seller.

***D. Violations of MSRB Rule G-27***

MSRB Rule G-27 requires each broker, dealer and municipal securities dealer to "supervise the conduct of the municipal securities activities of the dealer and its associated persons to ensure compliance" with MSRB rules. It also requires each broker, dealer and municipal securities dealer to "adopt, maintain and enforce

written supervisory procedures reasonably designed to ensure that the conduct of the municipal securities activities of the dealer and its associated persons are in compliance" with MSRB rules, and to "amend its written supervisory procedures as appropriate within a reasonable time after changes occur in [MSRB] or other applicable rules."

During the period from October 2006 through February 2009, Southwest violated MSRB Rule G-27 by failing to adopt, maintain and enforce procedures reasonably designed to ensure compliance with MSRB Rules G-14, G-37 and G-38. Specifically, the firm had inadequate procedures to ensure compliance with MSRB Rule G-38, in that the firm's procedures had not been amended to reflect the 2005 changes to the rule to prohibit payments to non-affiliated individuals for the solicitation of municipal securities business. The firm also failed to enforce these outdated procedures. During the relevant time period, Southwest's procedures stated that the firm could utilize paid consultants in connection with its municipal business, which was contrary to the requirements of Rule G-38. Southwest's procedures further stated that a consulting relationship would obligate Southwest to report the consultant's political contributions to the MSRB. Pursuant to the procedures, any consultant engaged by the firm to obtain municipal business was required to provide a report of political contributions and payments or a statement that no such contribution or payment had been made for the quarter being reported. Southwest failed to enforce its procedures and did not obtain any records regarding its consultants' political contributions.

Southwest also failed to enforce its procedures regarding compliance with MSRB Rule G-37, which regulates political contributions. Specifically, the firm's procedures required that all MFPs have their political contributions cleared through the Compliance Department prior to making the contributions. No such pre-approval process was utilized. Instead, the firm sent a quarterly email to each MFP asking him or her to disclose any political contributions that had made during the quarter. No response was required if the MFP had not made any political contributions.

In addition to the quarterly emails, Southwest also inquired about political contributions on its annual compliance questionnaire ("ACQ"). The questionnaire asked, "[d]uring the past two years have you directly or indirectly made any political contributions? If yes, list the name, date, and the total amount given." At least one MFP disclosed on three separate ACQs for the years 2006, 2007 and 2008, that he had in fact made political contributions. Nevertheless, Southwest failed to detect that the MFP had not disclosed the contributions via the quarterly emails. The firm had no process in place to reconcile ACQ disclosures with the quarterly emails. Southwest's failure to detect the MFP's political contributions led to the firm engaging in prohibited municipal securities business in violation of MSRB Rule G-37.

Southwest's procedures regarding compliance with MSRB Rule G-14 were inadequate, in that they failed to outline a process for follow-up on information learned from reviews of MSRB RTRS report data.

Such acts, practices and conduct constitute violations of MSRB Rules G-14, G-27, G-36 and G-38 by Southwest Securities, Inc.

- B. Respondent also consents to the imposition of the following sanctions:
- 1) A censure;
  - 2) A monetary fine in the amount of \$500,000, and
  - 3) Within 60 days of the issuance of this AWC, an officer of Southwest shall certify to FINRA in writing that the firm has reviewed its procedures regarding compliance with all applicable MSRB rules, and that the firm has established systems and procedures reasonably designed to achieve compliance with the rules. Southwest shall provide FINRA with a written detailed description of the review conducted, its systems and procedures, and any changes to its systems and procedures, including a copy of any changes to applicable written procedures.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim it is unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter. The sanctions imposed herein shall be effective on a date set by FINRA staff.

## II.

### WAIVER OF PROCEDURAL RIGHTS

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

- A. To have a Complaint issued specifying the allegations against Respondent;
- B. To be notified of the 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 National Adjudicatory Council (“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 FINRA Rule 9143 or the separation of functions prohibitions of FINRA 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.

### **III.**

#### **OTHER MATTERS**

Respondent understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (“ODA”), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and
- C. If accepted:
  - 1. this AWC will become part of Respondent’s permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against Respondent;
  - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about Respondent’s disciplinary record;



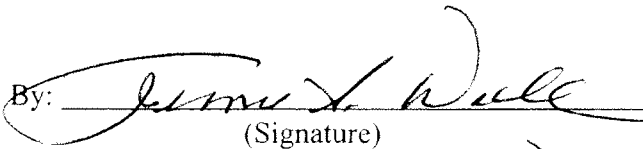
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No. 2009016275601/Southwest Securities, Inc.

3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
  4. 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 finding in this AWC or create the impression that the AWC is without factual basis. Respondent may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects Respondent's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. Respondent 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 FINRA, nor does it reflect the views of FINRA or its staff.

The undersigned, on behalf of Southwest Securities, Inc., certifies that a person duly authorized to act on the firm's behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the firm has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

Southwest Securities, Inc.

January 12, 2011  
Date

By:   
(Signature)

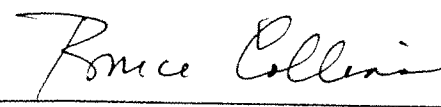
Name: Terence S. Wade  
(Print Name)

Title: Vice President -  
General Counsel

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No. 200901627560\_1/Southwest Securities, Inc.

Reviewed by:

  
Counsel for Respondent

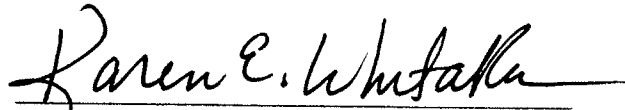
  
Counsel for Respondent

Accepted by FINRA:

Feb. 8, 2011

Date

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



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