

Government of the District of Columbia
Department of Insurance, Securities and Banking



Thomas E. Hampton
Commissioner

_____))
In the Matter of:))
))
BANC OF AMERICA INVESTMENT))
SERVICES, INC.))
(CRD# 16361),))
Christopher J. Wallace)) SB-08-005
(CRD# 2458965),))
Howard Pressman))
(CRD# 3207375), and))
Michael B. Cunningham))
(CRD#2246577).))
))
_____))
Respondents))

ADMINISTRATIVE CONSENT AGREEMENT
AND SETTLEMENT ORDER

WHEREAS, Banc of American Investment Services, Inc. (“BAI”) (CRD# 16361) is an investment adviser registered with the U.S. Securities and Exchange Commission and notice filed in the District of Columbia.

WHEREAS, BAI, in conjunction with filing investment adviser representative applications with the Department of Insurance, Securities and Banking (“Department”), submitted notarized representative affidavits on behalf of Mr. Christopher J. Wallace (CRD #2458965) and Mr. Howard Pressman (CRD #3207375) on November 15, 2006, and on behalf of Mr. Michael B. Cunningham (CRD #2246577)(collectively “Respondents”) on January 29, 2007 to serve as registered investment adviser representatives for BAI;

WHEREAS, the representative affidavits submitted on behalf of the Respondents by BAI answered in the affirmative and indicated that the Respondents had established or relocated to BAI offices in the District, and that the Respondents in fact provided advisory services to District residents without being licensed with the Department. Throughout the period in question, however, each Respondent had been and is still licensed and properly registered in Maryland, the state of the Respondents previous place of business. In addition, each of the Respondents was licensed as a broker-dealer agent throughout the relevant period;

WHEREAS, upon inquiry by the Department, BAI informed the Department staff that Messrs. Pressman, Cunningham and Wallace had in fact relocated their places of business to the District on or about September 1, 2005, October 7, 2005 and January 2, 2006, respectively, and from that period to the date the representative affidavits were submitted to the Department continued to provide advisory services to District residents;

WHEREAS, BAI, in responding to the request on the representative affidavits to provide, *inter alia*: (a) the name, address and telephone number of each such client; and (b) the date of each agreement with the clients involved, stated that there were (19) nineteen District of Columbia residents, dating back to September 1, 2005 who were clients of BAI and Messrs. Wallace, Pressman or Cunningham during the relevant period;

WHEREAS, the Commissioner of the Department (the "Commissioner"), having the authority to administer and enforce the Securities Act of 2000, effective October 26, 2000 (D.C. Law 13-203; D.C. Official Code § 31-5601.01 *et seq.*) (the "Securities Act"), and upon due consideration of the subject matter hereof, has determined that grounds exist to find that BAI and respondents have engaged in acts or practices constituting violations of Section 202 of the Securities Act, D.C. Official Code § 31-5602.02 (a);

WHEREAS, without holding a hearing, trial or adjudication of any issue of fact or law pertaining to this matter, and prior to the initiation of any formal proceeding, the Department, BAI and Respondents have reached a mutual agreement to resolve all matters related to unregistered activity by Messrs. Pressman, Cunningham and Wallace; and

WHEREAS, BAI and Respondents agree to voluntarily waive all rights to a hearing and appeal under D.C. Official Code §§ 2-509 (a), 2-510 (a), and 31-5606.02(b), and 17 DCMR 8100 *et. seq.*;

NOW, THEREFORE, the Commissioner hereby Orders and enters into this Settlement Agreement ("Order and Settlement Agreement"):

I. JURISDICTION

1. The Department has jurisdiction over this matter pursuant to District of Columbia Official Code §§ 31-5602.07, 5602.08 and 5606.02.
2. This action concerns the period from September 1, 2005 to the present.

II. DEPARTMENT'S FINDINGS OF FACT

3. On November 15, 2006, BAI, a licensed investment adviser firm in the District, submitted to the Department applications, along with the accompanying notarized investment adviser representative affidavits, on behalf of Messrs. Wallace and Pressman to serve as BAI registered investment adviser representatives in the District. On January 29, 2007, BAI submitted a notarized affidavit on behalf of Mr. Cunningham to serve as a BAI registered investment adviser representative in the District. Each of the representative applications and

affidavits for Messrs. Wallace, Pressman and Cunningham were submitted in connection with their relocation to a BAI office located in the District.

4. In responding to the questions on the representative affidavits, BAI answered that Messrs. Pressman, Cunningham and Wallace had in fact transacted investment advisory services with District residents while employed with BAI and after relocating to a BAI office located in the District without first having obtained an investment adviser representative license from the Department. However, at all relevant times during the period in question the three representatives were properly registered in Maryland, the state of their previous place of business. In addition, each of the Respondents was licensed as a broker-dealer agent throughout the relevant period.

5. As an attachment to the representative affidavit for Mr. Wallace, BAI, in response to questions therein, provided, *inter alia*: (a) the name, address and telephone number of each such client; and (b) the date of each agreement with the clients involved. From on or about January 2, 2006 to the present, BAI noted eight (8) District of Columbia residents who were clients of Mr. Wallace.

6. As an attachment to the representative affidavit for Mr. Pressman, BAI, in response to questions therein, provided, *inter alia*: (a) the name, address and telephone number of each such client; and (b) the date of each agreement with the clients involved. From on or about September 1, 2005 to the present, BAI noted seven (7) District of Columbia residents who were clients of Mr. Pressman.

7. As an attachment to the representative affidavit for Mr. Cunningham, BAI, in response to questions therein, provided, *inter alia*: (a) the name, address and telephone number of each such client; and (b) the date of each agreement with the clients involved. From on or about October 7, 2005 to the present, BAI noted four (4) District of Columbia residents who were clients of Mr. Cunningham.

8. The Department acknowledges BAI's statements that the failure to comply with the District's licensing laws was not the result of an intentional act by BAI or the representatives.

9. BAI and Respondents, solely for the purposes of this proceeding, desire to settle this matter; and thus, without admitting or denying the existence of a violation, voluntarily and freely waive all rights to a hearing, consent to the terms of the Agreement provided herein, and agree to the execution of the attendant Order.

III. DEPARTMENT'S CONCLUSIONS OF LAW

10. The Department has jurisdiction over this matter pursuant to District of Columbia Code §§ 31-5602.07, 31-5602.08, 31-5606.02 and 16 DCMR 3700 *et seq.*

11. As a result of the conduct and transactions -- which included transactions involving residents of the District of Columbia by unlicensed investment adviser representatives conducting such business from Respondents' offices located in the District -- Respondents

conduct violated D.C. Official Code § 31-5602.02(a) and 31-5602.07(a)(2), and Respondent BAI violated 31-5602.07(12).

IV. AGREEMENT

12. On the basis of the Findings of Facts and Conclusions of Law, Respondents, after waiving their rights to a hearing, consent, without admitting or denying any violations, to the entry of this Order for the sole purpose of settling the licensure status of Mr. Wallace, Mr. Cunningham and Mr. Pressman.

13. The Order shall become final upon its entry by the Department.

14. The Respondents shall pay the following amounts: Banc of America shall pay a fine of Three Thousand Dollars (\$3,000.00); Mr. Wallace shall pay a fine of One Thousand Dollars (\$1,000.00); Mr. Pressman shall pay a fine of One Thousand Dollars (\$1,000.00); and Mr. Cunningham shall pay a fine of One Thousand Dollars (\$1,000.00), collectively, as civil fines/penalties pursuant to District of Columbia Official Code § 31-5606.02(b)(4) and 16 DCMR 3700 *et seq.* The amount shall be made payable to the "D.C. Treasurer" and will be deposited into the District of Columbia's General Fund, pursuant to District of Columbia Official Code § 1-201.50. This amount may be mailed to the Department pursuant to an agreeable payment arrangement, but shall be paid **no later than 30 days** from the date of entry of this Order.

15. If payment is not made as agreed, the Commissioner may vacate this Order, at his sole discretion, upon ten days notice to Respondents; and Respondents agree that any statute of limitations applicable to the matters addressed in this Administrative Settlement Agreement and Order are tolled until such date the Commissioner vacates this Order.

16. The Department will approve the applications and issue licenses to Messrs. Wallace, Pressman and Cunningham as Investment Adviser Representatives effective the date of this order.

17. Respondents represent, warrant, and agree that they have received independent legal advice from an attorney with respect to the advisability of entering into this Settlement Agreement and the execution of this Order.

18. Respondents, through their execution of the Settlement Agreement and the issuance of this Order, voluntarily waive any and all rights available in this matter to contest the allegations serving as the basis for this Settlement Agreement, including, but not limited to judicial review of this Order under D.C. Official Code §§ 31-5606.02(b) and 31-5608.03.

19. This Order is the final compromise and settlement of all matters related to unregistered investment adviser representative activity by Banc of America, Mr. Wallace, Mr. Cunningham and Mr. Pressman.

20. This Order and any dispute related thereto shall be construed and governed by and in accordance with the laws of the District of Columbia, without regard to any choice of law principles.

AGREED AND CONSENTED TO:

DEPARTMENT OF INSURANCE, SECURITIES AND BANKING

BY: _____
Theodore A. Miles, Associate Commissioner
Securities Bureau
Date

RESPONDENTS

BY: _____
Banc of America Investment Services, Inc.
(CRD NO. 16361)
Date

BY: _____
Christopher J. Wallace
(CRD NO. 2458965)
Date

BY: _____
Howard Pressman
(CRD NO. 3207375)
Date

BY: _____
Michael B. Cunningham
(CRD NO. 2246577)
Date

**APPROVED and so ORDERED: In
Witness Whereof, I have hereunto set
my hand and affixed the official seal of
this Department in the District of
Columbia, this ____ day of _____
_____, 2008.**

Thomas E. Hampton,
Commissioner

20. This Order and any dispute related thereto shall be construed and governed by and in accordance with the laws of the District of Columbia, without regard to any choice of law principles.

AGREED AND CONSENTED TO:

DEPARTMENT OF INSURANCE, SECURITIES AND BANKING

BY: _____ Date _____
Theodore A. Miles, Associate Commissioner
Securities Bureau

RESPONDENTS

BY: _____ Date _____
Banc of America Investment Services, Inc.
(CRD NO. 16361)

BY: Chris J. Wallace _____ Date 7/2/2008
Chris J. Wallace
(CRD NO. 24589657)

BY: Howard Pressman _____ Date 7/2/08
Howard Pressman
(CRD NO. 3207375)

BY: Michael B. Cunningham _____ Date 7/2/08
Michael B. Cunningham
(CRD NO. 2246577)

APPROVED and so ORDERED: In Witness Whereof, I have hereunto set my hand and affixed the official seal of this Department in the District of Columbia, this _____ day of _____, 2008.

Thomas E. Hampton,
Commissioner

20. This Order and any dispute related thereto shall be construed and governed by and in accordance with the laws of the District of Columbia, without regard to any choice of law principles.

AGREED AND CONSENTED TO:

DEPARTMENT OF INSURANCE, SECURITIES AND BANKING

BY: _____ Date
Theodore A. Miles, Associate Commissioner
Securities Bureau

RESPONDENTS

BY: *Emuel J. Newth* *Emuel J. Newth*, *7/10/2008*
Banc of America Investment Services, Inc. COO Date
(CRD NO. 16361)

BY: *Chris Wallace* *7/2/2008*
Chris I. Wallace Date
(CRD NO. 24589657)

BY: *Howard Pressman* *7/2/08*
Howard Pressman Date
(CRD NO. 3207375)

BY: *Michael B. Cunningham* *7/2/08*
Michael B. Cunningham Date
(CRD NO. 2246577)

APPROVED and so ORDERED: In Witness Whereof, I have hereunto set my hand and affixed the official seal of this Department in the District of Columbia, this _____ day of _____, 2008.

Thomas E. Hampton,
Commissioner

20. This Order and any dispute related thereto shall be construed and governed by and in accordance with the laws of the District of Columbia, without regard to any choice of law principles.

AGREED AND CONSENTED TO:

DEPARTMENT OF INSURANCE, SECURITIES AND BANKING

BY: Theodore A. Miles 7/11/08
Theodore A. Miles, Associate Commissioner Date
Securities Bureau

RESPONDENTS

BY: Ronald J. Newth 7/10/2008
Banc of America Investment Services, Inc. COO Date
(CRD NO. 16361)

BY: Chris L. Wallace 7/2/2008
Chris L. Wallace Date
(CRD NO. 24589657)

BY: Howard Pressman 7/2/08
Howard Pressman Date
(CRD NO. 3207375)

BY: Michael B. Cunningham 7/2/08
Michael B. Cunningham Date
(CRD NO. 2246577)

APPROVED and so ORDERED: In Witness Whereof, I have hereunto set my hand and affixed the official seal of this Department in the District of Columbia, this 11th day of July, 2008.

Thomas E. Hampton
Thomas E. Hampton,
Commissioner