

STATE OF MAINE
OFFICE OF SECURITIES
121 STATE HOUSE STATION
AUGUSTA, MAINE 04333

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IN THE MATTER OF:) CONSENT AGREEMENT
Acument Securities, Inc.) No. 02-024-CAG
Robert T. Angle)
Thomas F. White and)
William McCarty)
)
_____)

THIS AGREEMENT is entered into between the State of Maine Office of Securities ("Office of Securities"), and Acument Securities, Inc. ("Acument"), a California corporation, and Robert T. Angle ("Angle") and Thomas F. White ("White"), affiliated persons of Acument (collectively referred to as "the Affiliated Persons");

WHEREAS, the Office of Securities has determined that William McCarty ("McCarty"), formerly associated with Acument as a sales representative, was not licensed to transact business in the State of Maine as a sales representative before October 26, 2000, and the Office of Securities is not aware of any exemption from licensing for which McCarty might have qualified;

WHEREAS, the Office of Securities has determined that McCarty transacted business in the State of Maine as a sales representative when he purchased and sold securities on at least ninety-three (93) occasions to Maine residents before he was licensed, in violation of 32 M.R.S.A. §10301(1);

WHEREAS, the Office of Securities has determined that, during the period when McCarty was transacting business in the State of Maine as a sales representative without having been licensed to do so, he was associated with Acument as a sales representative;

WHEREAS, it is unlawful for any broker-dealer to employ or contract with a person as a sales representative in the State of Maine unless the sales representative is licensed or exempt from licensing, pursuant to 32 M.R.S.A. §10301(2);

WHEREAS, the Office of Securities has alleged that Acument, in allowing McCarty to transact business as an unlicensed sales representative in the State of

Maine prior to October 26, 2000, failed reasonably to supervise him, pursuant to 32 M.R.S.A. §10313(J);

WHEREAS, according to the electronic broker-dealer records filed by Acument with the Central Registration Depository, White and Angle have been “control persons” of Acument, since 1999, and therefore were control persons of Acument when McCarty transacted business with Maine residents prior to his becoming licensed as a sales representative in the State of Maine;

WHEREAS, the Office of Securities has alleged that White and Angle, control persons of Acument, are liable for the securities laws violations alleged by the Office of Securities to the same extent as Acument and McCarty, pursuant to 32 M.R.S.A. §10602(3);

WHEREAS, on October 8, 2002, the Office of Securities issued an Amended Notice of Intent to Issue a Cease and Desist Order and to Impose a Civil Penalty against Respondents, to Bar McCarty from Association, to Revoke the Broker-Dealer License of Acument, to Censure or Revoke the Sales Representative License of Angle, and to Censure or Bar White from Association (the “Amended Notice of Intent”), which Amended Notice of Intent is affixed hereto and marked as Appendix “A;”

WHEREAS, Acument and White and Angle deny the allegations contained in the Amended Notice of Intent;

WHEREAS, Acument has executed Releases with nine persons (collectively referred to as the “represented Maine victims”), all of whom are Maine residents and jointly represented by legal counsel and has paid a total of \$360,000 in full and final satisfaction of the claims by the represented Maine victims and their legal counsel against Acument and the Affiliated Persons, subject to the terms of the Releases executed between the represented Maine victims and Acument;

WHEREAS, all parties desire a final and expeditious resolution of this matter;

NOW THEREFORE, without trial or adjudication of any issue of fact or law, without any finding that Acument or any of the Affiliated Persons has violated any of the provisions of the Revised Maine Securities Act, 32 M.R.S.A. §10101 et seq., and without any admission by Acument and the Affiliated Persons of any wrongdoing or liability in this regard, it is agreed that:

1. This Consent Agreement is wholly contingent upon Acument, on its own behalf and on behalf of the Affiliated Persons, signing, abiding by, and fulfilling the terms of the releases with the Maine represented victims and abiding by and fulfilling the terms of the General Releases with the Maine unrepresented victims. Legal counsel for the Maine represented victims has informed the Office of Securities that

Acument has signed, abided by, and fulfilled the terms of the releases with the Maine represented victims. If the Office of Securities determines that Acument has failed to abide by or fulfill the terms of the General Releases with the Maine unrepresented victims, the Office of Securities may reinstate the administrative action that the Office of Securities commenced when it issued the Amended Notice of Intent. The Office of Securities will provide Acument and the Affiliated Persons with notice of the reinstated action as required by law, if it reinstates the administrative action. Except as provided herein, the Office of Securities, Acument, and the Affiliated Persons agree that this Consent Agreement constitutes a full and final resolution of the administrative action commenced when the Office of Securities issued the Amended Notice of Intent.

2. Acument shall pay the sum of six thousand dollars (\$6,000) to the Office of Securities within thirty (30) days of execution of this Consent Agreement. The payment of these monies shall be in full and final satisfaction of the civil penalty sought by the Office of Securities set out in the Amended Notice of Intent in the amount of one hundred thirty-nine thousand five-hundred dollars (\$139,500). Should Acument fail to abide by any of its obligations set out in the releases, the Office of Securities reserves the right to pursue the full amount of the civil penalty set out in the Amended Notice of Intent, less any payments that have been made by Acument to the Office of Securities toward settlement of the civil penalty sought by the Office of Securities in the Amended Notice of Intent, as does Acument and said Affiliated Persons reserve their rights to accordingly assert any defense in such regard.

3. In addition, Acument shall pay to the following unrepresented Maine victims, as set out in paragraphs 13a, 13b and 13c of the Amended Notice of Intent:

- (a) \$14,632.48 to "NP" of Holden Maine;
- (b) \$6,065.28 to "RW" of Holden Maine; and
- (c) \$8,369.07 to "AB" of Newcastle Maine.

Payment of these monies shall be contingent upon each of the unrepresented Maine victims duly signing and providing Acument with a release in the form attached hereto. Payments of these amounts shall be made to each of these individuals no later than ten (10) days after receipt by Acument of a duly signed release by each of these unrepresented Maine victims.

4. This Consent Agreement constitutes the entire agreement between the Office of Securities, Acument, and each of the Affiliated Persons and does not address compliance or non-compliance of any of the provisions of the Revised Maine Securities Act, 32 M.R.S.A. §10101 et seq., by Acument and the Affiliated Persons other than:

- (a) the unlicensed sales activities of McCarty with the represented and unrepresented Maine victims prior to October 26, 2000, while McCarty was

- associated with Acument as a sales representative, as enumerated in the Amended Notice of Intent;
- (b) Acument's failure to supervise McCarty while associated with Acument and transacting business in the State of Maine; and
 - (c) any unsuitable transactions made by McCarty with the represented Maine victims after McCarty became licensed in the State of Maine, which claims are also contemplated by, and have been resolved in, the releases with the Maine represented victims.

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| <u>January 8, 2003</u> Date | <u>/s/ Robert Angle</u> Robert Angle, President of Acument |
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| <u>January 8, 2003</u> Date | <u>/s/ Robert Angle</u> Robert Angle |
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| <u>January 8, 2003</u> Date | <u>/s/ Thomas F. White</u> Thomas F. White |
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| <u>February 11, 2003</u> Date | <u>/s/ Christine A. Bruenn</u> Christine A. Bruenn Securities Administrator |
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Approved by:

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| <u>February 11, 2003</u> Date | <u>/s/ Bonnie E. Russell</u> Bonnie E. Russell Supervisor of Enforcement |
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Presented by:

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| <u>January 10, 2003</u> Date | <u>/s/ Christian D. Van Dyck</u> Christian D. Van Dyck Investigator/Examiner |
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