

**ADMINISTRATIVE PROCEEDING  
BEFORE THE  
SECURITIES COMMISSIONER OF MARYLAND**

<b>IN THE MATTER OF:</b>	*	CASE NO. 2010-0308
AMERIPRISE FINANCIAL		
SERVICES, INC.	*	
 Respondent.	 *	

**CONSENT ORDER**

WHEREAS, the Securities Division of the Office of the Attorney General (the "Division") initiated an investigation into the activities of Ameriprise Financial Services, Inc. ("AFS"), formerly known as American Express Financial Advisors, Inc. ("AEF"); and

WHEREAS, the Maryland Securities Commissioner (the "Securities Commissioner") has found that grounds exist to allege that Respondent violated the Maryland Securities Act, contained at Md. Code Ann., Corps. and Ass'ns, §§11-101 *et seq.* (2007 Repl. Vol. & Supp. 2011) (the "Securities Act"), by failing to reasonably supervise its agent within the meaning of Section 11-412 (a)(10) of the Securities Act, and by failing to comply with Section 11-411(d) of the Securities Act; and

WHEREAS, before the holding of a hearing, without trial or final adjudication of any issue of fact or law, and prior to the issuance of a final order in this proceeding, the Securities Commissioner and Respondent have reached an agreement whereby Respondent, without admitting or denying the Statement of Facts and Findings of Fact and Conclusions of Law contained herein, consents to the terms of this Order.

**I.**

**JURISDICTION**

1. The Securities Commissioner has jurisdiction in this proceeding pursuant to Section 11-701 of the Securities Act.

**II.**

**RESPONDENT**

2. AFS is a registered broker-dealer, with the SEC, FINRA, and in the State of Maryland among other states. AFS has been registered with the SEC since 1971, and with FINRA (formerly NASD) since 1972. AFS has been registered as a broker-dealer in Maryland since 1981.

3. AFS changed its name from AEF to AFS on or about August 8, 2005.

4. AFS's principal place of business is located in Minneapolis, Minnesota.

**III.**

**STATEMENT OF FACTS**

5. From February 1998 to August 2006, a broker named Christopher Coulther was affiliated with AFS as a broker-dealer agent operating a franchised AFS brokerage office in the Orlando, Florida area. From January 16, 2003 to August 26, 2006, Coulther was registered in Maryland as a broker-dealer agent affiliated with AFS. He was also registered in Florida as a broker-dealer agent and investment adviser affiliated with AFS. Coulther was registered as a broker-dealer agent in other states as well.

6. In April 2006, Coulther began using his AFS email in corresponding with a Costa Rican business associate, Matteo Quintavalle, regarding a Costa Rican real estate investment

venture, LaVida Partnership. On April 29, 2006, Quintavalle emailed Coulther, thanking him for choosing Quintavalle as his "Costarican [sic] business partner."

7. In May 2006, Coulther emailed certain prospective investors, including one of his AFS clients, MK of Maryland, promotional materials relating to LaVida Partnership. On May 15, 2006, MK emailed Coulther's AFS assistant, D.D, to inquire into "what's a good time for Chris to talk to my wife about this opportunity [LaVida Partnership]?" On that same day, Coulther emailed Quintavalle additional information regarding wires sent out from him and his customers from AmSouth Bank-including \$50,000 from MK

8. Initially Coulther emailed Quintavalle using the AFS electronic mail network, in violation of AFS policy, however, later he began using an outside network and non-AFS electronic mail to communicate with his Costa Rican business partner and to send documents relating to the Costa Rican investments to AFS clients. Through early August 2006, however, Coulther continued to use AFS email to send periodic correspondence relating to the Costa Rican venture and his associates there, in violation of AFS policy.

9. Before investing in or soliciting investors in the LaVida Partnership, Coulther did not provide AFS with notice of his intentions to do so. Nor did Coulther provide AFS with any notice of his involvement in the LaVida Partnership until May 2006, when he spoke with his AFS registered principal.

**AFS' Investigation Into Coulther's Activities**

10. In early May 2006, Coulther's AFS supervisor obtained information that Coulther had approached a fellow AFS adviser about possibly soliciting investors for a real estate investments, and that Coulther may have already been engaged in such solicitation activity. Coulther's supervisor attempted to reach Coulther via telephone to discuss the matter, however, he was unable to do so, having been advised by Coulther's assistant that he was out of the office.

There was also a suggestion that Coulther had mentioned Costa Rica as a retirement destination to clients in the context of an AFS-approved retirement conference. Coulther's supervisor personally visited Coulther's office in Orlando, Florida on May 16, 2006 to discuss his concerns regarding outside investments.

11. On that date, Coulther verbally disclosed to Coulther's supervisor that, allegedly beginning a few weeks prior, he and certain AFS clients had become involved in investments in an overseas real estate deal. Coulther then provided his supervisor with some of the real estate literature relating to Costa Rica.

12. Coulther's supervisor understood from speaking with Coulther regarding the Costa Rican investment as of May 16, 2006 that Coulther was involved in "selling away" and was not complying with AFS's policies and procedures. Coulther's supervisor verbally told Coulther that AFS did not allow any investments with clients outside of the scope of AFS investments, and immediately instructed Coulther to cease the activities. Coulther's supervisor immediately conveyed his concerns regarding Coulther's selling away activities to AFS's Compliance Department ("Compliance"), which caused Compliance to open an investigation into the matter.

13. At that time, Coulther's supervisor inquired with Compliance as to whether he should conduct the annual audit and inspection of Coulther's office, which had last been done in February 2005. Coulther's supervisor had tried earlier to schedule the inspection, however, Coulther was not available. Coulther's supervisor was advised by Compliance that the inspection was not necessary, as it was supplanted by the investigation into Coulther's activities. Rather, Coulther's supervisor was instructed by Compliance to meet with Coulther and to obtain additional information regarding his outside investment activities to aid Compliance's investigation.

14. On or about May 24, 2006, Coulther's supervisor obtained a letter from Coulther that provided further information regarding his activities. In that letter, Coulther further disclosed that the investment previously discussed with Coulther's supervisor was a Costa Rican real estate investment, that there were at least four current investors including himself, and that the intention was to obtain additional investors, including at least 10 current AFS clients. In response to that letter, Compliance again requested that Coulther's supervisor obtain additional information from Coulther.

15. Coulther's supervisor emailed Coulther's assistant, DD, for the additional information. Coulther did not immediately cooperate with the request, a pattern of Coulther's throughout AFS's attempts to obtain information from Coulther to aid its Compliance investigation. The Compliance investigation was further stalled because Coulther maintained a busy travel schedule and also he reported a death in his family in the summer of 2006.

16. On June 5, 2006, DD, on behalf of Coulther, forwarded to Coulther's supervisor a list of more than 20 of Coulther's client investors, including MK Coulther's supervisor then forwarded that information to Compliance. On that same date, Coulther emailed Quintavalle regarding an investor meeting to be held on June 22nd, and he attached numerous La Vida documents including one that identified AFS customer-investors.

17. On June 30th, 2006, at Compliance's request, Coulther's supervisor visited Coulther's office to collect files for those clients listed in DD's email, and he sent the files to AFS's home office. Among the documents Coulther's supervisor obtained was a business card for Coulther listing him as the treasurer of the Depository Pacific Bank Costa Rica (the "DPB")-a position Coulther never disclosed to AFS as an outside business activity.

18. In late June or early July 2006, Compliance became aware that clients were moving money by wire transfers from AFS to AmSouth Bank in the United States (no monies were ever

wired or sent from AFS directly to any accounts in Costa Rica). At that time, AFS did not suspend Coulther. Rather, Compliance continued investigating Coulther. Coulther's supervisor again requested additional information from Coulther regarding the Costa Rican investments and any other outside business activities.

19. On or about July 7, 2006, Coulther's supervisor received a responsive but undetailed letter from Coulther in which he admitted to investing in the Costa Rican properties at an earlier date than admitted to previously – March 2006. Also he “characterized his conduct as “[s]elling away,” and provided information that client funds were commingled and that the form of entity for the Costa Rican investments was a real estate partnership. The following day, Coulther conducted an investor meeting not authorized by AFS with AFS clients regarding La Vida Partnership.

20. In mid-July 2006, Compliance emailed Coulther and requested additional information regarding his involvement in the Costa Rican real estate venture. AFS acknowledged being aware that Coulther conducted a July 7, 2006 investor meeting, and that an investor trip to Costa Rica was being arranged. AFS further inquired into whether clients had withdrawn funds from the AFS accounts to invest in the real estate, and why Coulther had failed to disclose information about the Costa Rican real estate venture on the outside business activities form he submitted to the firm in February 2006.

21. Coulther responded in writing, confirming his extensive involvement and investment in the real estate venture, and that he was arranging and paying for investors to travel to Costa Rica. He provided promotional materials relating to the investment, and information regarding clients' withdrawal of funds from AFS accounts to invest in the real estate. He confirmed Matteo Quintavalle's involvement in the investment. He also stated that he explained to clients that the investment was not sponsored by AFS, and that when he first disclosed the

investment to Coulther's supervisor in May 2006, it was "30 days into the project – after the involvement was very clear."

22. On or about July 24, 2006, Coulther, for the first time, provided Compliance with a seemingly complete outside business activities form pursuant to Coulther's supervisor's request in mid-May. The form disclosed Coulther's involvement in La Vida Partnership. He also disclosed that he was the treasurer of the DPB, that he was a one third owner of the DPB, that he was a one third owner of a remodeling and consulting company, that he was involved in Costa Rican federal government activities, and that he co-owned personal and real property in Costa Rica (with Quintavalle) and in New Jersey (with his family). He also claimed that he was asked by NATO to be a guest speaker at a monthly meeting, and that he had been interviewed in a recently-published book.

23. Compliance, before taking action to suspend or terminate Coulther, continued to ask Coulther questions via email and to seek his assistance in obtaining client releases relating to the Costa Rican investments. In a July 28, 2006 email to Coulther, Compliance indicated that it "received your packet of information yesterday, and upon quick review determined that it did not include a copy of the video tape of the Investors Meeting that took place on 7/7/06. Could you provide a copy of the video tape immediately?" Compliance also requested that he provide AFS with letters of release on a form previously provided, on or before August 4, 2006, and to contact Compliance immediately if there were "any issues with obtaining the signed 'Letter of Releases' ...."

24. Around the first of August 2006, Compliance began calling those customers whom Coulther indicated in early July were investors in La Vida Partnership. The customers confirmed their investments, and that they were aware that the Costa Rican investments were not authorized or endorsed by AFS.

25. On August 10, 2006, Coulther's supervisor discovered from speaking with an AFS client that Coulther had offered a non-approved CD product promising a 12 percent return. Coulther's supervisor on that same date contacted Compliance to advise of his concerns. Coulther's supervisor did not have the authority within AFS to terminate Mr. Coulther, however, when he spoke with Compliance, he advised that there was an obvious need to terminate Coulther.

26. At no time did AFS grant Coulther permission to engage in the offer and sale of LaVida Partnership investments, or to invest in LaVida Partnership. Furthermore, Ameriprise made no income, revenue, or profit from the outside investments made by investors in Costa Rica.

**AFS's Suspension and Termination of Coulther**

27. On August 17, 2006, AFS issued and hand-delivered a "Notice of Special Regulatory Supervision and Suspension" letter to Coulther. In that letter, AFS acknowledged receiving an outside business activities form from Coulther that disclosed his half ownership in a title company in Costa Rica and in a construction and development company, his status as treasurer of a Costa Rican bank, and his offer of investments in Costa Rican real estate to AFS clients. The letter advised that Coulther's suspension was effective August 17, 2006. Coulther signed the letter on that same date.

28. On August 18, 2006, AFS issued a "Notice of Termination" letter to Coulther via certified mail, return receipt requested. The letter advised that since the prior day's letter, AFS's investigation "has found that you are in default under the Franchise Agreement due to your violation of numerous company compliance policies ... [t]herefore ... Ameriprise Financial is terminating the Franchise Agreement [between AFS and Coulther] ... effective August 18, 2006."

**AFS Letters To Coulther's Clients**

29. By letter dated October 10, 2006, AFS contacted Coulther's clients. The letter stated that AFS "would like to inform you that your former financial advisor's affiliation with our



firm ended on August 18, 2006." The letters further stated that "[a]lthough Ameriprise offers a wide variety of investments, please be advised that investment(s) your former advisor may have recommended to you with respect to any Costa Rican real estate venture or certificate of deposit underwritten by a Costa Rican bank are not investments offered or endorsed by Ameriprise."

**AFS Policies and Procedures**

30. In addition to FINRA (fka NASD) and federal and state regulatory requirements, Coulther was subject to the rules stated in AFS's Compliance Policy Manual dated April 2006 ("CPM") and the American Express Financial Advisor's Compliance Resource Guide dated August 2004 ("CRG").

31. The CPM and the CRG set forth AFS's list of prohibited practices, and further set forth other firm policies that Coulther violated in connection with acting on behalf of La Vida Partnership and the DBP.

32. Specifically, the CPM and/or the CRG acknowledged an investment adviser's fiduciary duty to act in the best interests of clients, and required that a registered representative "maintain a sense of personal responsibility in the course of ... daily business affairs." The CPM and/or the CRG further provided that a registered representative must provide prompt disclosure within five calendar days if he participates in or intends to participate in an outside business activity. The CRG required notice within seven days and made clear that any activity that created a potential for a conflict of interest was strictly prohibited.

33. The CPM and the CRG further required registered representatives to disclose any employment outside of AFS, including self-employment, and, furthermore, to provide prompt disclosure of required amendments to Forms U4 and U5.

34. The CPM and/or the CRG prohibited a registered representative from commingling his funds with a client's funds, from co-owning a business or real estate with a client, from "being

employed by a business that competes or does business with Ameriprise...," from holding unapproved presentations for the purpose of attracting clients or selling products, and from using any form of electronic mail other than the company's internal electronic mail network.

35. The CPM prohibited a registered representative from engaging in a private securities transaction and made clear that failure to comply with the policy constituted "selling away" and "will result in disciplinary action that may include termination." The CRG also discussed the prohibition on "selling away." The CPM provided for "heightened supervision" of a registered representative in the event of "[h]igh risk sales practice violations," including selling away.

36. AFS has amended its policies and procedures since the events involving Coulther so that under similar circumstances a registered representative like Coulther would be immediately suspended during an investigation of potential or alleged "selling away" activities or outside investments involving AFS clients if the firm becomes aware that the conduct continues following a clear instruction to cease and desist from engaging in the activity.

37. AFS also requires registered principals who are involved in an investigation into a registered representative's activities to report to compliance personnel promptly if it is discovered that the registered representative has engaged in a prohibited activity in violation of internal or regulatory policies and procedures.

**Forms U4 Filed As To Coulther**

38. While still affiliated with AFS, on June 20, June 23, July 27 and August 3, 2006, Forms U4 were filed on Coulther's behalf, after certain details regarding the LaVida Partnership and other outside investment activity details emerged. Each of those Forms U4 contained "no" answers in response to Item 13 regarding whether the registrant was "engaged in any other business . . . ."

39. Even before Coulther admitted his involvement in LaVida Partnership, beginning in 2001 he completed AFS outside business activity forms reflecting that he had a consulting business, Coulther Consulting, which was the corporate entity through which he managed his AFS franchised business. He also disclosed to AFS that he became involved in a real estate partnership other than LaVida Partnership in March 2005, which was also established as part of his franchise practice to hold the building where he conducted his franchise business. At no time while he was affiliated with AFS was Coulther's Form U4 amended to include information regarding outside business activities.

**Forms U5 Filed As To Coulther**

40. On August 24, 2006, AFS filed a Form U5 for Coulther that stated at Item 3 that Coulther was terminated because of his "violation of compliance rules." In making this filing, AFS answered "no" to Item 7B on the form. That is, AFS stated that Coulther was not currently, or at termination, "under internal review for fraud or wrongful taking of property, or violating *investment-related* statutes, regulations, rules or industry standards of conduct" (emphasis in original).

41. On August 25, 2006, the day after the initial U5 filing for Coulther, AFS amended Form U5 to respond affirmatively to Item 7B on the form, and a DRP was added stating that "THE ADVISOR WAS TERMINATED IN [sic] 08/18/06 AFTER ADMITTING HE SOLICITED AMERIPRISE CLIENTS TO INVEST IN OUTSIDE REAL ESTATE INVESTMENTS IN VIOLATION OF COMPANY POLICY" (emphasis in original). There was no mention of the fact that Coulther sold LaVida Partnership interests or unapproved CDs to clients, as the firm had confirmed through its investigation.

42. At no time did any subsequent Form U5 filed by AFS as to Coulther respond affirmatively to Item 7F(1), *i.e.*, ". . . was the individual discharged . . . after allegations were

made that accused the individual of . . . violating investment-related statutes, regulations, rules or industry standards of conduct?” By letter dated August 17, 2006, however, AFS advised Coulther in writing of the firm’s investigation into his activities and the other information developed through AFS’s internal investigation.

**Securities Division’s Action Against Coulther**

43. On May 11, 2011, the Securities Commissioner issued a Final Order To Cease And Desist/Order Of Bar as to Coulther in connection with his selling away activities while at Ameriprise. By the terms of that Order, the Securities Commissioner found that Coulther violated Sections 11-301, 11-401 and 11-501 of the Securities Act, and Coulther was permanently barred from the securities and investment advisory business in Maryland.

**IV.**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

44. In connection with the facts described in the Statement Of Facts contained in this Order, incorporated herein by reference, Respondent failed to reasonably supervise its agent, Christopher G. Coulther, within the meaning of Section 11-412(a)(10) of the Securities Act, which is grounds for the revocation of Respondent's broker-dealer registration in this State, and Respondent violated Section 11-411(d) of the Securities Act.

**V.**

**CONSENT TO CEASE AND DESIST  
AND OTHER RELIEF**

45. NOW, THEREFORE, IT IS HEREBY **ORDERED**, and AFS expressly consents and agrees that:

a. AFS is assessed a civil monetary penalty of \$50,000.00, which payment shall be made contemporaneous with the issuance of this Consent Order by way of a check made payable to “Office of the Attorney General.”

b. AFS shall, in all future activities respecting the supervision of its agents registered and/or located in Maryland, comply with and follow its internal policies and procedures, including those requiring special supervision and suspension of a registered representative.

c. Respondent shall cease and desist from engaging in activities in violation of the Securities Act.

d. Respondent shall in all future activities in Maryland comply with the Securities Act.

## VI.

### **JURISDICTION RETAINED**

46. Jurisdiction shall be retained by the Securities Commissioner for such further orders and directions as may be necessary or appropriate for the construction or enforcement of the Consent Order.

47. If Respondent fails to materially comply with any term of this Consent Order, the Securities Commissioner may institute administrative or judicial proceedings against Respondent to seek to enforce this Consent Order, to sanction Respondent for violating an Order of the Securities Commissioner or for making a misrepresentation of material fact upon which this Order was based, and may take any other action authorized under the Securities Act or under any other applicable law, including the issuance of fines or penalties as provided by the Securities Act. In any such proceeding in which, after an opportunity for a hearing, the Securities Commissioner or the court finds that Respondent has violated this Consent Order or made any material misrepresentations in their dealings with the Division, the Division may also seek other sanctions for the violations that initiated this matter. For the purpose of determining those sanctions, the

Statement of Facts and violations of the Securities Act set forth in this Consent Order shall be deemed admitted, and may be introduced into evidence against Respondent.

48. In the event that judicial intervention in this matter is sought by the Securities Commissioner or Respondent, subject matter jurisdiction will lie in the Circuit Court for Baltimore City pursuant to Section 11-702 of the Securities Act. Respondent agrees that that Court will have personal jurisdiction over Respondent, and that venue will be properly in that Court.

49. The terms of this Consent Order may only be vacated or modified by a subsequent order issued by the Securities Commissioner, by agreement with AFS except as to any non-substantive matters.

**DATE OF THIS ORDER:**

January 17, 2013

**SO ORDERED:**

**Commissioner's Signature is on File with Original Document**

\_\_\_\_\_  
Melanie Senter Lubin  
Securities Commissioner

**CONSENTED TO:**

\_\_\_\_\_, 2013

\_\_\_\_\_/S/\_\_\_\_\_  
Ameriprise Financial Services, Inc.

By: \_\_\_\_\_  
Please print name and title:  
\_\_\_\_\_  
\_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012, personally appeared \_\_\_\_\_, signer of the foregoing Consent Order, who did duly acknowledge his/her signature to be his/her free act and deed, and that he/she was authorized to sign on behalf of Ameriprise Financial Services, Inc.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_  
Seal: