

STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION



IN RE:

Administrative Proceeding
No. 0307-S-11/06

Ameritas Investment Corp.
CRD No. 14869,

Respondent.

FINAL ORDER

The State of Florida, Office of Financial Regulation ("Office"), and Ameritas Investment Corp., ("Respondent"), having entered into the attached Stipulation and Consent Agreement ("Agreement"), last dated Sept. 24, 2007, resolving and concluding this matter, it is therefore

ORDERED:

1. The Agreement entered into by the Office and Respondent, last dated September 24, 2007 is adopted and incorporated by reference herein as if set forth at length.

2. The parties shall comply with all provisions of the incorporated Agreement.

DONE AND ORDERED this 25th day of Sept., 2007, in Tallahassee, Leon County, Florida.

Don Saxon
DON B. SAXON, Commissioner
Office of Financial Regulation

NOTICE OF RIGHTS

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK, OFFICE OF FINANCIAL REGULATION, LEGAL SERVICES OFFICE, SUITE 526, FLETCHER BUILDING, 200 E. GAINES STREET, TALLAHASSEE, FLORIDA 32399-0379, AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY SECTION 35.22, FLORIDA STATUTES, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 301 MARTIN LUTHER KING, JR., BOULEVARD, TALLAHASSEE, FLORIDA 32399-1850, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished via regular U.S. Mail to Charles L. Stutts, Esq., Holland and Knight, 100 North Tampa Street, Suite 4100, Tampa, Florida 33602-3644 Gregory C. Sernett, JD, Chief Compliance Officer, Ameritas Investment Corp., 5900 "O" Street, Lincoln, Nebraska 68510-2234 this 25th day of September, 2007.



Lealand L. McCharen
Assistant General Counsel
Office of Financial Regulation
The Fletcher Building, Suite 526
200 E. Gaines Street
Tallahassee, Florida 32399-0379
(850) 410-9896

Copies furnished to:
Richard A. White, Director
Securities Regulation

**STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION**

IN RE:

**Ameritas Investment Corp.,
CRD No. 14869**

**Administrative Proceeding
No. 0307-S-11/06**

Respondent.
_____ /

STIPULATION AND CONSENT AGREEMENT

The State of Florida, Office of Financial Regulation, (the "Office"), and Ameritas Investment Corp. ("Respondent" or "Ameritas") in consideration of the mutual promises herein, recite, stipulate, and agree as follows:

1. **Background:** Respondent was approved in Florida as a securities dealer on September 18, 1984. Its home office is 5900 "O" Street, Lincoln, Nebraska 68510-2234. Based on an examination in 2006 of two (2) of Respondent's registered representatives in Tallahassee, Florida, the Office determined that grounds exist to initiate an administrative proceeding against Respondent pursuant to Chapter 517, Florida Statutes.

2. **Jurisdiction:** The Office is the state agency charged with the administration and enforcement of Chapter 517, Florida Statutes, and the rules promulgated thereto. The Respondent stipulates that the Office has jurisdiction to bring administrative action against the Respondent.

3. **Findings:** Respondent neither admits nor denies the findings below and consents to the entry of findings by the Office and the Office finds as follows:

a. Two (2) of Respondent's registered representatives conducted sales seminars in Florida between January 1, 2004 and July 20, 2006 without requesting or receiving approval for the seminars from Respondent in violation of Section 517.161(1)(h), Rule 69W-600.13(1)(h)1., F.A.C., and NASD Conduct Rule 2210(b)(1). Respondent knew or should have known of the seminar activity. Therefore, Respondent failed to properly supervise its associated persons in violation Rule 69W-600.13(1)(h)1., F.A.C. and NASD Conduct Rule 3010 by failing to approve the sales seminars presentation content.

b. Two (2) of Respondent's associated persons distributed sales literature, advertisements, and independently prepared reprints at the sales seminars set out above in a. between January 1, 2004 and July 20, 2006 without receiving approval for the materials from Respondent in violation of Section 517.161(1)(h), Florida Statutes, Rule 69W-600.013(1)(h)1., F.A.C., and NASD Conduct Rule 2210(b)(1). Therefore, Respondent failed to properly supervise its associated persons in violation of Rule 69W-600.13(1)(h)1., F.A.C., and NASD Conduct Rule 2210(b)(1).

c. Two (2) of Respondent's associated persons maintained email addresses without receiving approval for said addresses from Respondent in violation of Section 517.161(1)(h), Florida Statutes, Rule 69W-600.013(1)(h)1., F.A.C., and NASD Conduct Rule 2210(b)(1). Therefore, Respondent failed to properly supervise its associated persons in violation of Rule 69W-600.13(1)(h)1., F.A.C., and NASD Conduct Rule 3010(d)(1), and SEC Rule 17(a)-3(a)(20).

d. Two (2) of Respondent's associated persons maintained email addresses without receiving approval for said addresses from Respondent in violation of Section 517.161(1)(h), Florida Statutes, Rule 69W-600.013(1)(h)1., F.A.C., and NASD Conduct Rule

2210(b)(1). Respondent did not preserve any communications through these addresses, and, therefore, did not fulfill its books and records retention obligations in violation of Section 517.121(2), Florida Statutes, NASD Conduct Rule 3110(a), and SEC Rule 17a-4(b)(1).

e. One (1) of Respondent's associated persons engaged in outside business activities without disclosing this to Respondent before engaging in the outside business activity violation of Rule 69W-600.131(1)(h)1., F.A.C. and NASD Conduct Rule 3030. Respondent knew or should have known of the outside business activity. Therefore, Respondent failed to properly supervise its associated person in violation of Rule 69W-600.131(h)(1)1., F.A.C. and NASD Conduct Rules 3010.

f. Two of Respondent's associated persons failed to file amendments to their Uniform Application Form U-4 as required in violation of Section 517.12(13), Florida Statutes, Rule 69W-600.002(1)(c), F.A.C., and SEC Rule 17a-3(12)(i)(C). Respondent knew or should have known of the changes in the associated persons' employment history. Therefore, Respondent failed to properly supervise its associated persons in violation of Rule 69W-600.131(h)(1)1., F.A.C. and NASD Conduct Rules 3010.

Because Respondent knew or should have known of these changes in the employment history and outside business activity and failed to timely amend the Registered Representative Forms for these two associated persons within the mandated thirty (30) day time limit, Respondent violated Section 517.12(13), Florida Statutes, Rule 69W-600.002(1)(c), F.A.C., and SEC Rule 17a-3(12)(i)(C).

g. Respondent violated Section 517.121(1), Florida Statutes and Rule 69W-600.014(1), F.A.C. by violating SEC Rule 17a-3(a)17(i)(b)(1) in that Respondent failed to

generate new account communications that contained all required information for new accounts opened in its Tallahassee office in May, June, and July 2006.

h. Respondent violated the terms of a Final Order entered into by Respondent and the Office on February 28, 2001 in violation of Section 517.161(1)(a), Florida Statutes.

4. **Consideration:** The parties agree that the issues raised in this proceeding can be expeditiously resolved without the expense of litigation and a formal hearing upon the following terms and conditions:

a. Respondent agrees to cease and desist from any violations of Chapter 517, Florida Statutes and the Office's rules promulgated thereunder and to strictly comply in the future with all provisions of Chapter 517, Florida Statutes, and the Office's rules promulgated thereunder;

b. Respondent shall pay an ADMINISTRATIVE FINE of \$65,000.00, with the submission of this Stipulation and Consent Agreement. This administrative fine shall be submitted in the form of a **cashier's check** or **money order** made payable to the "Department of Financial Services", and sent to Agency Clerk, Office of Financial Regulation, Suite 526, 200 E. Gaines Street, Tallahassee, FL 32399-0379. **Respondent agrees that this administrative fine shall be collected and deposited in accordance with Chapter 215.31, Florida Statutes. Respondent agrees, regarding the deposit of monies, that (1) the tendered fine or settlement check proceeds may be deposited in advance of full execution or acceptance of the proposed settlement agreement and (2) such deposit shall not be construed as a final acceptance of the Stipulation absent full execution thereof and entry of the Final Order adopting same.**

c. Respondent shall retain an independent consultant and forward to the Office such consultant's report as set forth in paragraph (1) and (2), below:

(1) Within forty-five (45) days of the entry of the Final Order incorporating this Stipulation and Consent Agreement, Respondent shall retain a consultant approved by the Office to review the firm's compliance procedures relating to all the violations set out in this Stipulation and Consent Agreement, including, but not limited to: communications with the public including email accounts, new account notification requirements; sales seminars; review of advertising materials and sales literature; annual disclosure questionnaires; internal audits; and maintaining current and correct U-4 records and related associated persons information.

(2) Within one hundred twenty (120) days following the entry of the Final Order incorporating this Stipulation and Consent Agreement, the consultant retained pursuant to paragraph (1), above, shall review Respondent's current business and compliance procedures as set out in paragraph (1) above and shall provide a report detailing his recommendations concerning them to Respondent. Within thirty (30) days of Respondent's receipt of the consultant's report, Respondent shall forward a true and correct copy of such report to William F. Reilly, Jr., Bureau of Securities Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0374 along with a detailed description of Respondent's response to the report and a detailed plan by Respondent to implement the recommendations. All costs and fees of the independent consultant are the sole responsibility of Respondent.

(3) Respondent agrees that any report furnished to the Office pursuant to paragraph (2) in this section of this Stipulation and Consent Agreement shall be a public record, except that Respondent may designate portions of such report as trade secrets or confidential, and the Office will treat such portions as such, if permitted by Florida law, but in no event can Respondent withhold such report from the Office or any employee of the Office, or from any appropriate regulatory agency, nor may Respondent redact such report, in whole or in part.

5. **Final Order:** Respondent consents to the issuance by the Office of the accompanying Final Order, attached hereto as “A”, which incorporates by reference the terms of this Stipulation and Consent Agreement. Respondent understands and agrees that this Stipulation and Consent Agreement is subject to the final approval of the Commissioner of the Office of Financial Regulation and the entry of the Final Order adopting same. In the event that the Final Order is not entered, this Stipulation and Consent Agreement shall be null and void. The Final Order incorporating this Stipulation and Consent Agreement constitutes final agency action by the Office for which the Office may seek enforcement pursuant to the provisions of Chapters 517 and 120, Florida Statutes.

6. **Consent and Waiver:** By Respondent’s consent to the entry of the Final Order with respect to this proceeding, Respondent knowingly and voluntarily waives:

a. any right to receive notice of administrative charges or an administrative complaint and notice of rights pursuant to Chapter 120, Florida Statutes;

b. any right to an administrative hearing provided by Chapter 120, Florida Statutes and the Act;

c. any requirement that the Office’s final order contain separately stated Findings of Fact and Conclusions of Law or a Notice of Rights;

d. any right to issuance of a recommended order by an administrative law judge from the division of Administrative Hearings or a hearing officer from the Office; and

e. any and all rights to object to or challenge in any judicial proceeding, including but not limited to, an appeal pursuant to Chapter 120.68, Florida Statutes, any term, condition, obligation, or duty expressly created by the Final Order.

7. **Releases:** Upon full execution of this Agreement, Respondent waives and releases the Office's agents and representatives, and employees from any and all causes of action that Respondent may have arising from or relating to the subject matter hereof. The Office agrees to accept this release on behalf of itself, its agents, representatives and employees without acknowledging and expressly denying that any such cause or causes of action may exist.

8. **Future Actions:** This Stipulation and Consent Agreement is being executed solely for the purpose of resolving and settling the instant proceeding. Nothing herein shall be construed to waive or restrict the Office's right in a future proceeding to undertake any administrative action under the provisions of Chapter 517, Florida Statutes, or any civil or criminal prosecution, arising out of any facts or circumstances undisclosed or undiscovered at the time of the entry of the Final Order, or facts unrelated to the instant complaint should further information warrant such action. In no event, however, shall the facts and circumstances at issue in this proceeding constitute the sole basis for future action by the Office.

9. **Failure to Comply:** Respondent acknowledges, concurs and stipulates that Respondent's failure to comply with any of the terms, obligations and conditions of this Stipulation and Consent Agreement, and the Final Order adopting it, violates this written agreement and the Final Order entered pursuant to Chapters 120 & 517, Florida Statutes. Such non-compliance may result in the issuance of an emergency cease and desist order. However, nothing herein shall be construed to limit Respondent's right to contest any finding or determination of non-compliance.

10. **Attorneys' Fees:** Each party herein shall be solely responsible for its attorneys' fees and costs incurred up to and including entry of the Final Order in this matter.

11. **Severability:** Respondent agrees that if any provision of this Stipulation and Consent Agreement or the application thereof to any person or circumstance is held to be invalid, the invalidity shall not affect the remaining provisions of the Stipulation and Consent Agreement or the Final Order adopting it, which shall be given effect without the invalid provision(s), and to this end, the provisions of this Stipulation and Consent Agreement are severable.

12. **Agreement Covered by the Law of the State of Florida:** This Agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the laws of the State of Florida.

13. **Venue:** In any action, special proceeding, or other proceedings that may be brought arising out of, in connection with, or by reason of this Agreement, the laws of the State of Florida shall be applicable and shall govern to the exclusion of the law of any other forum, and venue shall be in Leon County, Florida.

14. **Entire Agreement:** This Agreement represents the entire agreement by and between Respondent and the Office. Any alterations, variations, changes, modifications or waivers of the provisions hereof shall be valid only when they have been reduced to writing, duly signed by the Office and Respondent hereto and attached to the original of this Agreement.

[THIS SPACE INTENTIONALLY LEFT BLANK]

WHEREFORE, in consideration of the foregoing, the Office and Respondent undersigned execute this Agreement for the issuance of the attached Final Order on the last date executed below.

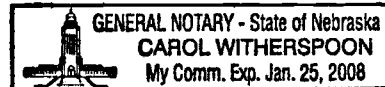
Ameritas Investment Corp.,

By: Gregory C. Sernett 9-12-07
Signature Date
Its: V.P. & Chief Compliance Officer
Title
Gregory C. Sernett
Print Name

State of Nebraska
County of Lancaster

Before me, the undersigned notary public, personally appeared Gregory C. Sernett as V.P. & Chief Compliance Officer Ameritas Investment Corp., who upon being duly sworn, states that (s)he has read and understands the foregoing Stipulation and Consent Agreement and voluntarily signed same. Sworn to and subscribed before me this 12th day of September, 2007.

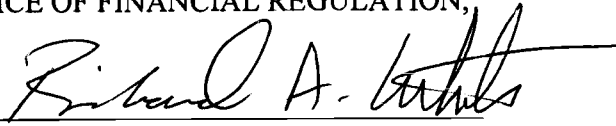
Carol Witherspoon
Notary Public



Personally Known OR Produced Identification _____

Type of Identification Produced _____

OFFICE OF FINANCIAL REGULATION,



RICHARD A. WHITE
Director, Securities Regulation
Office of Financial Regulation

9/24/07
Date

**STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION**

IN RE:

**Administrative Proceeding
No. 0307-S-11/06**

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CRD No. 14869,**

Respondent.

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FINAL ORDER

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ORDERED:

1. The Agreement entered into by the Office and Respondent, last dated _____, 2007 is adopted and incorporated by reference herein as if set forth at length.
2. The parties shall comply with all provisions of the incorporated Agreement.

DONE AND ORDERED this _____ day of, 2007, in Tallahassee, Leon County, Florida.

DON B. SAXON, Commissioner
Office of Financial Regulation

EXHIBIT “A”

NOTICE OF RIGHTS

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK, OFFICE OF FINANCIAL REGULATION, LEGAL SERVICES OFFICE, SUITE 526, FLETCHER BUILDING, 200 E. GAINES STREET, TALLAHASSEE, FLORIDA 32399-0379, AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY SECTION 35.22, FLORIDA STATUTES, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, 301 MARTIN LUTHER KING, JR., BOULEVARD, TALLAHASSEE, FLORIDA 32399-1850, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

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I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished via regular U.S. Mail to Charles L. Stutts, Esq., Holland and Knight, 100 North Tampa Street, Suite 4100, Tampa, Florida 33602-3644 Gregory C. Sernett, JD, Chief Compliance Officer, Ameritas Investment Corp., 5900 "O" Street, Lincoln, Nebraska 68510-2234 this day of _____, 2007.

Lealand L. McCharen
Assistant General Counsel
Office of Financial Regulation
The Fletcher Building, Suite 526
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(850) 410-9896

Copies furnished to:
Richard A. White, Director
Securities Regulation