



*State of North Carolina*  
*Department of the Secretary of State*

ELAINE F. MARSHALL  
SECRETARY OF STATE

ANN B. WALL  
General Counsel

Thursday, December 17, 2009

*Via Hand Delivery*

December 17, 2009

Jennie J. Hayman, Chair  
c/o Rules Review Commission  
1711 New Hope Church Road  
Raleigh, NC 27609

**RE: Adoption of 18 NCAC 06B .0201 and Further Suggestions**

Dear Ms. Hayman:

Please find enclosed the Department's adoption of 18 NCAC 06B .0201. As noted on the adoption form, this rule incorporates by reference the Model Senior Designation Rule adopted by the North American Security Administrators Association (NASAA) on March 20, 2008.

The Department would also appreciate the Commission's and the Codifier's consideration of the following suggestions concerning the organization and titling of the Securities Rules within the Code. The Department feels these changes will assist readers:

- (1) The Department suggests setting the title of 18 NCAC Subchapter 06B as "GENERAL";
- (2) The Department suggests setting the title of 18 NCAC Subchapter 06B, Section .0100 *et seq.* as "PURPOSE";
- (3) The Department suggests setting the title of 18 NCAC Subchapter 06B, Section .0200 *et seq.* as "CONSOLIDATED RULES".

The Department appreciates your consideration of our submitted adopted rule and these suggestions.

Sincerely,

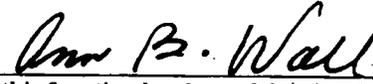
Ann B. Wall

C: File

FILED  
2009 DEC 18 AM 11:12  
OFFICE OF  
ADMIN HEARINGS

# SUBMISSION FOR PERMANENT RULE

[Authority G.S. 150B-21.19]

<b>1. Rule-Making Agency:</b> Department of the Secretary of State, Securities Division	
<b>2. Rule citation &amp; name (name not required for repeal):</b> 18 NCAC 06B .0201 SENIOR DESIGNATION AS DISHONEST OR UNETHICAL PRACTICE	
<b>3. Action:</b> <input checked="" type="checkbox"/> ADOPTION <input type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL	
<b>4. Notice:</b> <input checked="" type="checkbox"/> <b>Notice Required</b> Notice of text on: October 15, 2009 Hearing on: October 30, 2009 Adoption by agency on: December 17, 2009  <input type="checkbox"/> <b>Notice not required under G.S.:</b> Adoption by agency on:	<b>5. Fiscal impact (mark all that apply):</b> <input type="checkbox"/> <b>Approved by OSBM</b> <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$3,000,000)  <input checked="" type="checkbox"/> <b>No fiscal note required</b>
<b>6. Rule establishes or increases a fee? (See G.S. 12-3.1)</b> <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority:  <input checked="" type="checkbox"/> No	
<b>7. REASON FOR ACTION</b>	
<b>7A. What prompted this action? Check all that apply:</b> <input checked="" type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite:  <input type="checkbox"/> Legislation enacted in last General Assembly session Cite Session Law: <input type="checkbox"/> Petition for rule-making <input checked="" type="checkbox"/> Other:	
<b>7B. Explain:</b> This rule is an incorporation by reference of the Model Senior Designation Rule adopted by the North American Security Administrators Association (NASAA) on March 20, 2008. The rule will apply to the natural persons currently registered as securities dealers or salesmen and as investment advisers or investment adviser representatives. In North Carolina, securities and investment registrants are prohibited by law from engaging in dishonest or unethical conduct. This rule merely clarifies the extent of already prohibited conduct as well as what constitutes permissible conduct.	
<b>8. Rule-making Coordinator:</b> Ann B. Wall, General Counsel <b>Address:</b> NC Department of the Secretary of State, P.O. Box 29622, Raleigh, NC 27626-0622 <b>Phone:</b> (919) 807-2230 <b>E-Mail:</b> rules@sosnc.com  <b>Agency Contact, if any:</b> Elliot A. Rushing, AGC <b>Phone:</b> (919) 715-2124 <b>E-Mail:</b> erushing@sosnc.com	<b>9. Signature of Agency Head* or Rule-making Coordinator:</b>  *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.  <b>Typed Name:</b> Ann B. Wall, General Counsel <b>Title:</b> Rule-making Coordinator
<b>RRC AND OAH USE ONLY</b>	
<b>Action taken:</b>	<b>Submitted to OAH/RRC</b>
<input type="checkbox"/> RRC Extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	<input type="checkbox"/> Rule exempt from RRC review

FILED  
2009 DEC 18 AM 11:12  
OFFICE OF  
ADMIN HEARINGS

1 18 NCAC 06B .0201 is adopted as published in 24:08 NCR 554-555 as follows:

2

3 **18 NCAC 06B .0201 SENIOR DESIGNATION AS DISHONEST OR UNETHICAL PRACTICE**

4 (a) This rule applies to natural persons registered with the Division as securities dealers, securities salesmen,  
5 investment advisers or investment adviser representatives.

6 (b) The NASAA Model Rule On The Use of Senior-Specific Certifications and Professional Designation, as  
7 adopted March 20, 2008, including subsequent amendments and editions, is hereby incorporated by reference.

8 Copies of the NASAA Model Rule On The Use of Senior-Specific Certifications and Professional Designation are  
9 available free of charge on the Division's web page at [www.sosnc.com](http://www.sosnc.com) or at the NASAA web site, [www.nasaa.org](http://www.nasaa.org),  
10 under "Adopted Model Rules."

11 (c) As used in the Model Rule, the "appropriate State securities act provisions" are G.S. 78A-39 and 78C-19.

12

13 *History Note: Authority G.S. 78A-39, G.S. 78A-49, G.S. 78C-19, G.S. 78C-30; G.S. 150B-21.6;*

14 *Eff. February 1, 2010.*