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NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT

20041000237-01

TO: Department of Market Regulation
NASD

RE: Daiwa Securities America Inc.
Broker-Dealer
CRD No. 1576

Pursuant to Rule 9216 of NASD Code of Procedure, Daiwa Securities America Inc. (the "firm" or "DAWA") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described in Part II below. This AWC is submitted on the condition that, if accepted, NASD will not bring any future actions against the firm alleging violations based on the same factual findings.

The firm understands that:

1. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by NASD's Department of Market Regulation and the National Adjudicatory Council ("NAC") Review Subcommittee or Office of Disciplinary Affairs, pursuant to NASD Rule 9216;
2. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the firm; and
3. If accepted:
 - a. this AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against the firm;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about the firm's disciplinary record;
 - c. NASD may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-2; and
 - d. the firm may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Nothing in this provision affects the firm's

testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

The firm also understands that its experience in the securities industry and its disciplinary history may be factors that will be considered in deciding whether to accept this AWC. That experience and history are as follows:

DAWA became a member of NASD in 1965. Its registration remains in effect.

The firm has no relevant disciplinary history.

I.

WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the firm;
- B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the NAC and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the firm specifically and voluntarily waives any right to claim bias or prejudgment of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance, or rejection of this AWC.

The firm further specifically and voluntarily waives any right to claim that a person violated the *ex parte* prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

II.

ACCEPTANCE AND CONSENT

This matter is the result of the Department of Market Regulation's investigation (no. 20041000237 (formerly MRD200448282)) into DAWA's compliance with the short interest reporting obligations contained in NASD Conduct Rule 3360 in June and July 2004.

- A. The firm hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of NASD, or to which NASD is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by NASD:
1. In June and July 2004, DAWA submitted to NASD its short interest position report. In June 2004, DAWA incorrectly reported that it held short positions in 17 securities, totaling 913,401 shares, when it did not have a short position in each of the securities. In July 2004, DAWA incorrectly reported that it held short positions in the same 17 securities, totaling 1,764,431 shares, when it did not have a short position in each of the securities.
 2. The conduct described in paragraph one constitutes a violation of NASD Conduct Rule 3360.
 3. The firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and the Rules of NASD, relating to short interest reporting under NASD Conduct Rule 3360. The firm's supervisory system did not include written supervisory procedures providing for: (1) identification of the persons responsible for supervision with respect to the applicable rules; (2) a statement of the supervisory steps to be taken by the identified persons; (3) a statement as to how often such persons should take such steps; and (4) a statement as to how the completion of the steps included in the written supervisory procedures should be documented.
 4. The conduct described in paragraph three constitutes a violation of NASD Conduct Rules 2110 and 3010.

- B. The firm also consents to the imposition, at a maximum, of the following sanctions:

A censure and a total fine of \$15,000, comprised of a \$10,000 fine for violating Conduct Rule 3360 and a fine of \$5,000 for Conduct Rule 3010.

The sanctions imposed herein shall be effective on a date set by the staff.

III.

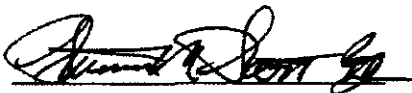
OTHER MATTERS

- A. The firm understands that it may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by NASD, nor does it reflect the views of NASD or its staff.
- B. The firm agrees to pay any monetary sanctions imposed on it upon notice that this AWC has been accepted and that such payments are due and payable, and has attached the Election of Payment form showing the method by which the firm proposes to pay any fine imposed.
- C. The firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

The firm certifies that it has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it, and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce the firm to submit it.

Respondent,
Daiwa Securities America Inc.

7/17/2006
Date

By: 

Name: STEWART M. SCOTT, JR.

Title: EXECUTIVE VICE PRESIDENT,
DIRECTOR OF COMPLIANCE, &
ASSOCIATE GENERAL COUNSEL

Reviewed by:


Counsel for Daiwa Securities America Inc.

Accepted by NASD:

8/30/06
Date


Cameron K. Funkhouser
Senior Vice President
Department of Market Regulation

Signed on behalf of the Director of ODA,
by delegated authority

Attachment:

Standard Election of Payment Form

July 18, 2006

This Corrective Action Statement is submitted by the Respondent. It does not constitute factual or legal findings by NASD, nor does it reflect the views of NASD, or its staff.

The Respondent took appropriate remedial steps with respect to short interest reporting. The firm enhanced its reporting and supervisory procedures to include more detailed written descriptions and recordation of the steps the firm goes through when doing its short interest reporting. These procedures were previously submitted to NASD, along with copies of forms of the checklists used by those who prepare the reports and those who supervise them. As noted in the enhanced procedures, the process involves the firm's Regulatory Reporting Manager, Assistant Controller and the Controller. (And, the firm has identified them by name to the NASD.)