

**NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT**

20042000021

TO: Department of Enforcement
NASD

RE: Gregory Martin Power, Respondent
CRD No. 1342377

Pursuant to Rule 9216 of NASD Code of Procedure, I, Gregory Martin Power ("Power" or "Respondent") submit 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 me alleging violations based on the same factual findings.

I understand 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 National Adjudicatory Council ("NAC") Subcommittee or Office of Disciplinary Affairs ("ODA"), 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 me; and
3. If accepted:
 - a. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against me;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about my 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. I 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 allegation in this AWC or create the

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(formerly, MRD200236750)

impression that the AWC is without factual basis. Nothing in this provision affects my testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

I also understand that my experience in the securities industry and disciplinary history may be factors that will be considered in deciding whether to accept this AWC. That experience and history are as follows:

Power entered the securities industry in 1986 as a registered representative and limited principal – financial and operations, of an NASD member. He was associated with Jefferies & Company, Inc. ("JEFF") from January 30, 2001 until January 14, 2005 as a general securities principal, a general securities representative, a limited principal -- financial and operational, and an equity trader. He was associated with Jefferies Execution Services, Inc. in the same capacities from November 26, 2001 until January 14, 2005. Respondent currently is not registered with any member.

Power has no disciplinary history.

I.

WAIVER OF PROCEDURAL RIGHTS

I specifically and voluntarily waive the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against me;
- 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, I specifically and voluntarily waive 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.

I further specifically and voluntarily waive 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 arose out of an investigation, MRD200236750, conducted by the staff of NASD's Department of Market Regulation of JEFF's compliance with the Order Audit Trail System ("OATS") rules, NASD Marketplace Rule 6950 et seq., during the period April 1, 2001 through April 4, 2002.

- A. I hereby accept and consent, without admitting or denying the allegations or 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 or about the first quarter of 2001, JEFF began to develop an electronic order management system ("OMS") to automate the handling of orders received from its customers. JEFF understood that implementation of OMS would require the firm to submit to OATS certain information concerning the orders captured in OMS, including, among other things, information about new orders, cancellations and routes. In the first quarter of 2001, the firm also hired Power as an OATS Administrator to, among other things, supervise JEFF's OATS reporting and ensure that JEFF properly reported required information from OMS to OATS.
 2. JEFF began to implement OMS in stages beginning on or about April 3, 2001. Power was not advised in advance of the OMS implementation, but discovered, in April 2001, from a review of information JEFF had reported to OATS, that certain JEFF account executives were using OMS to record and track pending customer orders. Power also realized that JEFF was not accurately reporting OMS information to OATS. Specifically, JEFF was incorrectly reporting executions of OMS orders as the receipt and execution of new orders. Power did not advise any of his superiors that JEFF was not accurately reporting OMS information to OATS.
 3. Power understood that JEFF was required to report information for all OMS orders to OATS. He also realized that significant modifications to JEFF's OATS reporting system were required before JEFF could accurately report

OMS information to OATS. Without consulting anyone at JEFF, Power decided in April 2001 to suppress OATS reporting of OMS information while such modifications were being made.

4. Throughout the remainder of 2001, additional JEFF account executives began to use OMS and by the end of 2001, JEFF had completed implementation of OMS. However, because JEFF had not completed the necessary system modifications, Power continued to suppress the reporting of OMS information to OATS. Moreover, Power failed to notify any of his superiors that the OMS information was not being reported to OATS. NASD staff discovered JEFF's failure to report OMS information during an examination in December 2001. After the staff alerted JEFF to its non-reporting, the firm modified its OATS reporting system and finally began reporting OMS information to OATS on April 5, 2002. During the period from April 2001 to April 2002, however, JEFF failed to report to OATS at least 326,777 Reportable Order Events ("ROEs") relating to at least 129,569 orders in NASDAQ securities that were captured in OMS.
5. The conduct described in paragraphs one through four constitutes separate and distinct violations of NASD Marketplace Rule 6955(a) and a violation of NASD Conduct Rule 2110.

B. Power also consents to the imposition, at a maximum, of the following sanctions:

A suspension for 15 business days from associating in any capacity with an NASD member firm, and a requirement that Power requalify as a general securities principal prior to acting again in that capacity.

The sanctions imposed herein shall be effective on a date set by NASD staff. Pursuant to IM-8310-2(f), a bar or expulsion shall become effective upon approval or acceptance of this AWC by the NAC.

III.**OTHER MATTERS**

- A. I understand that I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I 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. I understand that if I am barred or suspended from association with any NASD member, I become subject to a statutory disqualification as that term is defined in Section 3(a)(39) of the Securities Exchange Act of 1934, as amended. Accordingly, I may not be associated with any NASD member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension. (See NASD Rule 8310 and IM-8310-1.)

I certify that I have read and understand all of the provisions of this AWC and have 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 me to submit it.

April 6, 2005
Date

Gregory Martin Power
Gregory Martin Power
Respondent

Reviewed by:

[Signature]
Counsel for Respondent

Accepted by NASD:

7/18/05
Date

Thomas R. Gira
Thomas R. Gira
Executive Vice President

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