

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
20042000267-01

TO: Market Regulation Department
NASD

RE: CyberTrader, Inc., Respondent
Broker Dealer
CRD Number 44523

Pursuant to Rule 9216 of NASD Code of Procedure, CyberTrader, Inc. ("CYBR" or "the firm") 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 CYBR alleging violations based on the same factual findings.

CYBR 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 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 CYBR; and
3. If accepted:
 - a. this AWC will become part of CYBR's permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against CYBR;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about CYBR'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. CYBR 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 impression that the AWC is without factual basis. Nothing in this provision affects CYBR's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

CYBR also understands that its 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:

CYBR entered the securities industry on January 20, 1998. On January 30, 2003, NASD accepted an AWC that found that the firm had violated the rules applicable to the Order Audit Trail System ("OATS") and imposed a sanction of a \$5,000 fine.

I.

WAIVER OF PROCEDURAL RIGHTS

CYBR 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 CYBR;
- 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, CYBR 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.

CYBR 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

In connection with 20042000267 (formerly MRD200446140), the staff of the Market Regulation Department of NASD (the "staff") conducted a review of CYBR's compliance with the rules applicable to OATS during the period January 1, 2004 through March 31, 2004.

- A. CYBR hereby accepts and consents, 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. During the review period, the firm submitted to OATS 1,287 reports with respect to equity securities traded on the Nasdaq Stock Market (the "subject reports") that were not in the electronic form prescribed by NASD and were repairable. The subject reports were rejected by the OATS system and notice of such rejection was made available to the firm on the OATS website. The firm did not correct or replace 1,287 of the subject reports, or 100 percent of the subject reports.
 - 2. The conduct described in paragraph one above constitutes separate and distinct violations of NASD Marketplace Rule 6955(a) and a violation of NASD Conduct Rule 2110.
 - 3. During the review period the firm failed to enforce its written supervisory procedures, which specified that ROE rejections must be repaired by the OATS Administrator.
 - 4. The conduct described in paragraph three constitutes a violation of NASD Conduct Rules 2110 and 3010.

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

A censure and a fine of \$10,000, consisting of a fine of \$5,000 for the OATS violations and a fine of \$5,000 for the supervision violations.

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

III.

OTHER MATTERS

- A. CYBR understands that CYBR may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. CYBR understands that CYBR 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. CYBR agrees to pay any monetary sanctions imposed on CYBR upon notice that this AWC has been accepted and that such payments are due and payable and has attached an Election of Payment form showing the method by which CYBR proposes to pay any fine imposed.
- C. CYBR specifically and voluntarily waives any right to claim that CYBR is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

CyberTrader, Inc. certifies that CyberTrader, Inc. 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 CYBR to submit it.

1/9/06
Date

CyberTrader, Inc.
Respondent

By: [Signature]
Name: VERNON H. JONES JR
Title: S/R

Reviewed by:

[Signature]
Counsel for Respondent

Accepted by NASD:

2/15/06
Date

Thomas R. Gira
Thomas R. Gira
Executive Vice President and Deputy
Department of Market Regulation

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