

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
20050000977-01

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STERNE, AGEE & LEACH, INC.
MARKET REGULATION

TO: Market Regulation Department
NASD

RE: Sterne, Agee & Leach, Inc., Respondent
Broker-Dealer
CRD No. 791

Pursuant to Rule 9216 of NASD Code of Procedure, Sterne, Agee & Leach, Inc. ("SALI") 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 SALI alleging violations based on the same factual findings.

SALI 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 SALI; and
3. If accepted:
 - a. this AWC will become part of SALI's permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against SALI;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about SALI'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. SALI 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 SALI's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

SALI 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:

SALI has been a member of NASD since October 16, 1936 and its registration remains effective. SALI has the following relevant disciplinary history:

On July 18, 2005, NASD accepted an AWC (E052003008601) which censured and fined SALI \$25,000 for violations of SEC's Rule 11Ac1-4(B)(2), MSRB Rule G-14, Article V, Section 2 of NASD BYLAWS, NASD Rules 2110 and 3010.

On February 23, 2001, NASD accepted an AWC (C05010014) which censured and fined SALI \$12,5000 for violations of SEC's Rule 11Ac1-4, NASD Rules 4632(C)(3), 6130(D)(3), 6130(D)(6), 2110, IM-2110-2, MSRB Rules G-8(A)(XV) and G-36.

I.

WAIVER OF PROCEDURAL RIGHTS

SALI 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 SALI;
- 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, SALI 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.

SALI 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 20050000977 (MRD200341098), the staff of NASD's Department of Market Regulation (the "staff") conducted a review of SALI's compliance with the SEC's Limit Order Display Rule during the period of January 13, 2003 through March 31, 2003 (the "review period").

- A. SALI 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. On 56 occasions during the review period, SALI failed to display immediately 56 customer limit orders in Nasdaq securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each such security.
 2. The conduct described in paragraph one above constitutes separate and distinct violations of SEC Rule 11Ac1-4.
 3. SALI'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, concerning the Limit Order Display Rule. Specifically, the firm's written supervisory procedures providing for: (i) a statement of the supervisory step(s) to be taken by the identified person(s), and (ii) a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented.

4. The conduct described in paragraph three above constitutes separate and distinct violations of NASD Conduct Rules 2110 and 3010.

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

A censure and fine of \$20,000 (consisting of \$15,000 for display rule violations and \$5,000 for supervisory violations), and an undertaking to revise the firm's written supervisory procedures with respect to the areas described in paragraph three above. Within 30 business days of acceptance of this AWC by the NAC, a registered principal of the firm shall submit to the **COMPLIANCE ASSISTANT, LEGAL SECTION, MARKET REGULATION DEPARTMENT, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850**, a signed, dated letter, providing the following information: (1) reference to this matter; (2) a representation that the firm has revised its written supervisory procedures to address the deficiencies described in paragraph three above; and (3) the date the revised procedures were implemented.

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

III.

OTHER MATTERS

- A. SALI understands that SALI may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. SALI understands that SALI 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. SALI agrees to pay any monetary sanctions imposed on SALI 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 SALI proposes to pay any fine imposed.
- C. SALI specifically and voluntarily waives any right to claim that SALI is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

SALI certifies that SALI 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 SALI to submit it.

Sept. 7, 2005
Date

Respondent
Sterne, Agee & Leach, Inc.

By: Ronald G. DeLuca
Name: RONALD G. DELUCA
Title: CHIEF COUNSEL/CCO

Reviewed by:

Counsel for Respondent

Accepted by NASD:

10/31/05
Date

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

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