

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT**

NO. **** 20050001683-03

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ACTION & DISCLOSURE

TO: Department of Market Regulation
Financial Industry Regulatory Authority ("FINRA")

RE: Jefferies & Company, Inc., Respondent
Broker-Dealer
CRD No. 2347

Pursuant to NASD Rule 9216 of the FINRA Code of Procedure, Respondent, Jefferies & Company, Inc. ("JEFF" 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 below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against JEFF alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

In connection with 20050001683/MRD200446867, the staff of FINRA's Department of Market Regulation reviewed certain transactions executed by traders on JEFF's high-yield and distressed-bond desk between November 1, 2002 and March 31, 2004 (the "review period"), for compliance with the rules and regulations relating to fair pricing and FINRA's Markup Policy.

- A. JEFF 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 FINRA, or to which FINRA 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 FINRA:

BACKGROUND

JEFF has been a member of FINRA, formerly NASD, since March 1, 1963, and its registration remains in effect. The firm has no relevant disciplinary history.

FACTS AND VIOLATIVE CONDUCT

1. On January 13, 2003, JEFF bought a distressed corporate debt security for its own account from a customer in the amount of 3,325 bonds, at the price of 20.00 per bond. On January 14, 2003, JEFF sold the same security for its own account to another customer in the same quantity, at the price of 35.00 per bond, and at a price differential of 75 percent. In so doing, JEFF failed to sell the security at a price that was fair, taking into consideration all

relevant circumstances, including market conditions with respect to that security at the time of the transaction, the expense involved and that the firm was entitled to a profit. The conduct described in this paragraph constitutes a violation of NASD Conduct Rule 2110.

2. During the review period, JEFF in its fixed-income area (a) failed in many instances to create and maintain memoranda of brokerage orders for orders that did not result in an execution; (b) failed to reflect the accurate order entry time and/or order execution time on the memorandum of eight brokerage orders; (c) failed to reflect any order entry time and/or order execution time on the memorandum of 19 brokerage orders; and (d) failed to create and maintain any memorandum for three brokerage orders. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rules 17a-3 and/or 17a-4 and NASD Conduct Rule 3110.
3. During the review period, JEFF failed in many instances to provide to customers, either at or before the completion of a transaction in a debt security subject to redemption before maturity, a statement to the effect that such debt security may be redeemed in whole or in part before maturity, that such a redemption could affect the yield represented and the fact that additional information was available upon request. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 10b-10(a)(4).
4. During the review period, JEFF failed to report to the Trade Reporting And Compliance Engine ("TRACE") (a) the correct execution time for two transactions in TRACE-eligible securities; and (b) the correct number of bonds for one transaction in a TRACE-eligible security. In another instance, JEFF reported to TRACE one transaction in a TRACE-eligible security with a special price modifier not applicable to the transaction. The conduct described in this paragraph constitutes separate and distinct violations of NASD Marketplace Rule 6230(c).
5. JEFF's supervisory system for its high-yield and distressed-bond desk did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and NASD Rules, concerning recordkeeping, trade confirmations to customers, and fair pricing and FINRA's Markup Policy. Specifically, the firm's supervisory system did not include written supervisory procedures providing for one or more of the following: (a) identification of the person(s) responsible for supervision with respect to the applicable rules; (b) a statement of the supervisory step(s) to be taken by the identified person(s); (c) a statement as to how often such person(s) should take such step(s); and/or (d) a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented. In addition, in certain instances, JEFF could not produce any documentation indicating that any supervisory review relating to fair pricing and FINRA's Markup Policy had been conducted. The conduct described in this paragraph constitutes separate and distinct violations of NASD Conduct Rules 2110 and 3010.

B. JEFF also consents to the imposition of the following sanctions:

A censure; a fine of \$500,000; payment of restitution in the amount of \$450,511.66 plus

prejudgment interest as set out below; and an undertaking to revise the firm's supervisory procedures with respect to the deficiencies described in paragraph I.A.5. Within 30 business days of acceptance of this AWC by the NAC, a registered principal of JEFF shall submit to the COMPLIANCE ASSISTANT, LEGAL SECTION, DEPARTMENT OF MARKET REGULATION, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850 a signed, dated letter, providing the following information: (1) a reference to this matter; (2) a representation that the firm has revised its supervisory procedures to address the deficiencies described in paragraph I.A.5; and (3) the date(s) on which the revised procedures were implemented.

Restitution shall be paid by JEFF to the customer involved in the sales transaction described in paragraph I.A.1 in the amount of \$450,511.66 plus prejudgment interest in the amount of \$60,000. The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude such customer from pursuing its own action to obtain restitution or other remedies.

If, for any reason, JEFF cannot locate the customer involved in the sales transaction described in paragraph I.A.1 after reasonable and documented efforts within the period of 45 days following acceptance of this AWC, or such additional period agreed to by the staff, JEFF shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed-property or abandoned-property fund for the state(s) in which the customer is last known to have resided.

Satisfactory proof of payment of the restitution or of reasonable and documented efforts undertaken to effect restitution shall be provided to FINRA staff no later than 45 days after acceptance of this AWC. More specifically, no later than 45 days after acceptance of this AWC, a registered principal of the firm shall submit to the COMPLIANCE ASSISTANT, LEGAL SECTION, DEPARTMENT OF MARKET REGULATION, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850:

- (1) A letter showing (a) the amount of restitution paid to such customer, (b) the amount of interest paid to such customer, (c) the date on which restitution and interest were paid, or (d) the amount paid to escheat, unclaimed-property or abandoned-property funds; and
- (2) Satisfactory proof of payment as detailed in (1), or of reasonable and documented efforts undertaken to effect restitution prior to making payment to escheat, unclaimed-property or abandoned-property funds.

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

JEFF agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. JEFF has submitted an Election of Payment form showing the method by which the firm proposes to pay the fines imposed. JEFF specifically and voluntarily waives any right to claim that the firm is unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

II.

WAIVER OF PROCEDURAL RIGHTS

JEFF specifically and voluntarily waives the following rights granted under FINRA'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 National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, JEFF 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.

JEFF 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.

III.

OTHER MATTERS

JEFF understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to NASD Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the firm; and
- C. If accepted:
 - 1. This AWC will become part of JEFF's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against the firm;
 - 2. This AWC will be made available through FINRA's public disclosure program in response to public inquiries about JEFF's disciplinary record;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-3; and
 - 4. JEFF 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. JEFF may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects JEFF's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. JEFF may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The firm 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 FINRA, nor does it reflect the views of FINRA or its staff.

JEFF certifies that the firm has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the firm has agreed to the AWC's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

1/14/08
Date

Respondent
Jefferies & Company, Inc.

By: Lloyd H. Feller

Name: LLOYD H. FELLER

Title: General Counsel

Reviewed by:

Robert C. Mendelson
Counsel for Jefferies & Company, Inc.
Robert C. Mendelson, Esq.
Morgan, Lewis & Bockius LLP
101 Park Avenue
New York, NY 10178-0060

Accepted by FINRA:

4/25/08
Date

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

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

Corrective Action Statement by Jefferies & Company, Inc.
Accompanying
Letter of Acceptance, Waiver and Consent in matter
STAR No. 20050001683

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

Jefferies & Company, Inc. has already adopted policies and supervisory procedures addressing the deficiencies set forth in paragraph I.A.5. of the foregoing Letter of Acceptance, Waiver and Consent. In particular, it has adopted written supervisory procedures providing for (a) identification of the person(s) responsible for supervision with respect to applicable rules, (b) the supervisory steps to be taken by the identified persons, (c) how often those steps are to be taken by the identified persons and (d) how completion of those steps is to be documented and retained.