

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20050001741-02**

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REGISTRATION & DISCLOSURE

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

RE: **Eric W. Mason**, Respondent
Registered Representative
CRD No. 4637122

Pursuant to NASD Rule 9216 of the FINRA Code of Procedure, I, Eric W. Mason, submit 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 me alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. I hereby accept and consent, 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

I entered the securities industry in February 2003 as an employee of Great Point Capital LLC ("Great Point"), a member of FINRA, formerly known as NASD. In March 2003, I became registered as a general securities representative and equity trader at Great Point. These registrations remain in effect.

RELEVANT PRIOR DISCIPLINARY HISTORY

I do not have any relevant disciplinary history.

SUMMARY

This matter, 20050001741, arose out of an investigation conducted by the staff of the Market Regulation Department (the "staff") of pre-open trading activity at Great Point during the period June 1, 2004 through October 17, 2004 (the "review period").

FACTS AND VIOLATIVE CONDUCT

1. During the review period, while employed as a proprietary trader at Great Point, in at least 20 instances I entered a priced limit order in a Nasdaq security for a proprietary account at Great Point into the Nasdaq Market Center ("Nasdaq") using the SIZE MPID. These priced limit orders involved nine different Nasdaq securities.
2. These displayed orders were at prices that were intended to impact the pre-opening Best Bid or Offer ("BBO") in such securities by creating a new inside bid (offer) that was a departure from the previous day's closing price in the security¹. I knew that the full price and size of such orders would be reflected in the public quotation system as the best prices and sizes at which a market participant was willing to buy or sell such securities. In entering these displayed orders, I also intended to induce, and did induce, other market participants to reflect bids (offers) similar to the price of the displayed limit orders.
3. After having entered such orders into Nasdaq, I knowingly and intentionally entered non-displayable odd lot limit orders, most of which were for 99 shares, to buy or sell shares of such securities into Nasdaq on the opposite side of the market as the displayed limit orders described in paragraphs one and two. These non-displayed odd lot orders created a crossed market with the displayed orders. I knew and intended that the non-displayed orders would be executed against other market participants' quotations during the pre-opening spin, and did buy and sell, such securities on an automated basis during the pre-opening spin. After the displayed quotations had induced other market participants to enter similar quotations, and prior to the pre-opening

¹ Based on the official Nasdaq closing price in the security, adjusted for any applicable cash or stock dividends.

spin,² I intentionally and knowingly canceled most of the displayed priced limit orders that I had entered into Nasdaq. In some instances, I updated the original displayed order with another displayed order, cancelling the original displayed order. All of these displayed orders were entered prior to the pre-opening spin.

4. By knowingly and intentionally engaging in this course of conduct, I bought (sold) shares of these securities at prices that were lower (higher) than I would otherwise have been able to buy (sell) shares of these securities, but for my entry of the displayed orders referenced in paragraphs one and two above into Nasdaq.
5. In all, I bought and sold these nine Nasdaq securities, in the manner described in paragraphs one through four, in at least 20 instances, whereby I received a financial benefit of approximately \$157,832.58.
6. The conduct described in paragraphs one through five constitutes separate and distinct violations of NASD Conduct Rules 2110, 2120, 3310 and IM-3310 as well as Section 10(b) of the Securities Exchange Act of 1934, and Rule 10b-5 promulgated thereunder.

B. I also consent to the imposition of the following sanctions:

A suspension from associating with any member of FINRA in any capacity for a period of one year, and a fine of \$175,000.³

I agree to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. I have submitted an Election of Payment form showing the method by which I propose to pay the fine imposed.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

² NASD Marketplace Rule 4710 during the review period stated read, in part, as follows: "Locked/Crossed Quotes/Orders Immediately Before the Open – If the market is locked or crossed at 9:29:30 a.m., Eastern Time, the NNMS will clear the locked and/or crossed Quotes/Order by executing (or delivering for execution) the highest bid against the lowest offer(s) against which it is marketable, at the price of the newer in time of the two quotes/orders. This process will be repeated until an un-locked and un-crossed market condition is achieved." This process was referred to as the "pre-opening spin".

³ The fine amount includes disgorgement.

I understand that if I am barred or suspended from associating with any FINRA 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 FINRA 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.)

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

II.

WAIVER OF PROCEDURAL RIGHTS

I specifically and voluntarily waive the following rights granted under FINRA'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 National Adjudicatory Council ("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 NASD Rule 9143 or the separation of functions prohibitions of NASD 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

I understand 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 me; and
- C. If accepted:
 - 1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about my 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. 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 finding in this AWC or create the impression that the AWC is without factual basis. I 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 my right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. 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 FINRA, nor does it reflect the views of FINRA or its staff.

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; that I have agreed to its 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 me to submit it.

2/27/08
Date

Respondent

By: Eric W. Mason
Eric W. Mason

Reviewed by:

Phillip L. Stern
Phillip L. Stern
Counsel for Respondent
Neal, Gerber & Eisenberg LLP
Two North LaSalle Street
Chicago, IL 60602-3801
(312) 269-8488

Accepted by FINRA:

4/3/08
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