

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT

Case #: 2005000264301

TO: Market Regulation Department
NASD

RE: Domestic Securities, Inc., Respondent
Broker-Dealer
CRD No. 34721

Pursuant to Rule 9216 of NASD Code of Procedure, Domestic Securities, Inc. ("DOMS" 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 DOMS alleging violations based on the same factual findings.

DOMS 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 DOMS; and
3. If accepted:
 - a. this AWC will become part of DOMS's permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against DOMS;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about DOMS'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. DOMS may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise,

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denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Nothing in this provision affects DOMS's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

DOMS 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:

DOMS has been a member of NASD since May 6, 1994. DOMS owns and operates The Attain ECN ("ATTN"). On February 9, 2004, an AWC became final wherein DOMS was censured and fined \$10,000 for violations by ATTN of SEC Rule 11Ac1-5 and NASD Conduct Rules 2110 and 3010. On May 8, 2003, an AWC became final wherein DOMS was fined \$5,000 for record keeping and supervision violations. On April 21, 2003, an AWC became final wherein DOMS was censured, fined \$22,500 and required to update its written supervisory procedures for OATS and supervision violations by ATTN as well as violations of SEC Rule 11Ac1-5 by ATTN.

I.

WAIVER OF PROCEDURAL RIGHTS

DOMS 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 DOMS;
- 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, DOMS 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.

DOMS 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

This matter arose out of the following reviews conducted by the staff of NASD's Department of Market Regulation:

MRD200448390 / 20050002643¹, the 2004 Trading and Market Making Surveillance Examination of DOMS, a review the following items:²

- 13 proprietary sale transactions, for compliance with NASD Rule 3370 and SEC Rule 10a-1 (Marking the ticket long/short);
- 103 proprietary sale transactions, for compliance with NASD Rule 6130;
- one short sale in a Nasdaq National Market ("NNM") security, for compliance with NASD Rule 3350;
- six short sales in CQS securities, for compliance with SEC Rule 10a-1 (Tick Test);
- 49 limit orders executed as principal, for compliance with NASD Rule 6541;
- 48 limit and market order transactions executed in a principal or riskless principal capacity, for compliance with capacity reporting under NASD Trade Reporting and ACT rules;
- ten orders in securities for which the firm was a market center, for compliance with the order size/type classification requirements of SEC Rule 11Ac1-5;
- four security/size/order data statistics published on the firm's monthly order execution report, for compliance with SEC Rule 11Ac1-5;
- 11 persons engaged in the firm's trading and market making activities, for compliance with NASD Registration rules;
- 204 order/trade records prepared and maintained in connection with the above samples, for general compliance with NASD Rule 3110 and SEC Rules 17a-3 and 17a-4;
- 240 trades reported to ACT or TRACS in connection with the above samples, for general compliance with NASD Trade Reporting and ACT rules;
- 50 orders in NNM or SC securities submitted to OATS, for compliance with NASD Rule 6955;

¹ On January 3, 2005 the NASD implemented a new matter tracking system. The new number assigned to this matter is referenced above following the original number assigned by the previous tracking system.

² Unless stated otherwise, samples were from trade dates August 9, 2004 through August 20, 2004 ("2004 TMMS review period").

- the firm's establishment and implementation of "regular & rigorous" reviews of the execution quality of orders sent to other market centers and internalized, for compliance with NASD Rules 2320 and 3010; and
- the firm's establishment and implementation of a supervisory system and written supervisory procedures, for compliance with NASD Rule 3010.

20050026680, the 2005 Trading and Market Making Surveillance Examination of DOMS, a review the following items:³

- 50 proprietary sale transactions, for compliance with SEC Rules 200(g) and/or 203(b);
- 50 proprietary sale transactions, for compliance with NASD Rule 6130;
- 10 short sales in NNM securities, for compliance with NASD Rule 3350;
- 50 limit orders executed as principal, for compliance with NASD Rules 2110 (and IM-2110-2), 6440, 6541 and 2320, and SEC Rule 804;
- seven "non displayed" limit orders and one marketable order while holding the "non-displayed" orders, for compliance with NASD Rule 2320;
- 23 limit and market orders executed in a principal or riskless principal capacity, for compliance with capacity reporting under NASD Trade Reporting and ACT rules;
- 25 orders in securities for which the firm was a market center, for compliance with the order size/type classification requirements of SEC Rule 605;
- four security/size/order data statistics published on the firm's monthly order execution report, for compliance with SEC Rule 605;
- 31 cancelled orders for compliance with NASD Rules 4632(g), 4642(g), 4652(g), 6420(f), and 6620(f) and SEC Rule 17a-3(a)(6) and (a)(7);
- 214 order/trade records prepared and maintained in connection with the above samples, for general compliance with NASD Rule 3110 and SEC Rules 17a-3 and 17a-4;
- 27 persons engaged in the firm's trading and market making activities, for compliance with NASD Registration rules;
- 310 trades reported to ACT or TRACS in connection with the above samples, for general compliance with NASD Trade Reporting and ACT rules;
- 50 orders submitted to OATS, for compliance with NASD Rule 6955;
- DOMS's establishment and implementation of regular & rigorous reviews of the execution quality of orders sent to other market centers and internalized, for compliance with NASD Rules 2320 and 3010; and
- DOMS's establishment and implementation of a supervisory system and written supervisory procedures for compliance with NASD Conduct Rule 3010.

³ Unless stated otherwise, samples were from trade dates September 20, 2005 and September 21, 2005 ("2005 TMMS review period").

- A. DOMS 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 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:

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1. During the period August 9, 2004 through August 20, 2004, DOMS executed 12 short sale transactions and failed to report each of these transactions to Nasdaq Market Center with a short sale modifier.
2. The conduct described in paragraph one constitutes separate and distinct violations of NASD Marketplace Rule 6130.
3. DOMS'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 limit order display, limit order protection, the three quote rule, best execution, SEC Rule 11Ac1-5 (now known as SEC Rule 605), anticompetitive practices, trade reporting, short sales, and record keeping. Specifically, DOMS's supervisory system did not include written supervisory procedures providing for one or more of the following: (1) identification of the person(s) responsible for supervision with respect to the applicable rules; (2) a statement of the supervisory step(s) to be taken by the identified person(s); (3) a statement as to how often such person(s) should take such step(s); and (4) 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 constitutes a violation of NASD Conduct Rules 2110 and 3010.
5. During August 2004, DOMS failed to enforce its written supervisory procedures with respect to the following areas: registration, OATS clock synchronization, and OATS accuracy. DOMS's documentation failed to evidence that DOMS conducted the reviews described in its written supervisory procedures.
6. The conduct described in paragraph five constitutes a violation of NASD Conduct Rules 2110 and 3010.

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7. During September 2005, DOMS failed to enforce its written supervisory procedures with respect to riskless principal trade reporting. DOMS's documentation failed to evidence that DOMS conducted the reviews described in its written supervisory procedures.
 8. The conduct described in paragraph seven constitutes a violation of NASD Conduct Rules 2110 and 3010.
 9. DOMS failed to report to Nasdaq Market Center the correct symbol indicating whether DOMS executed seven transactions in eligible securities in a principal or agency capacity.
 10. The conduct described in paragraph nine constitutes separate and distinct violations of NASD Marketplace Rule 6130(d).
 11. DOMS incorrectly reported to ACT the first leg of 32 "riskless" principal transactions in Nasdaq National Market securities and incorrectly designated the capacity of each such transaction as agent.
 12. DOMS incorrectly reported to ACT the second leg of seven "riskless" principal transactions in Nasdaq National Market securities by failing to submit the transaction reports as clearing-only reports or non-tape, non-clearing reports.
 13. The conduct described in paragraphs 11 and 12 constitutes separate and distinct violations of NASD Marketplace Rule 4632(d).
 14. DOMS incorrectly reported to ACT a "riskless" principal transaction in an OTC Equity Security by incorrectly reporting the entire amount of the transaction as "riskless" when only a portion of the transaction was a "riskless" principal transaction.
 15. The conduct described in paragraph 14 constitutes a violation of NASD Marketplace Rule 6620(d).
- B. DOMS also consents to the imposition, at a maximum, of the following sanctions:
- A censure;
 - A fine of \$28,000 (composed of a \$5,000 fine for the ACT reporting violations in 20050002643, a \$8,000 fine for the supervision violations in 20050002643, a \$5,000 fine for the trade reporting violations in

20050026680, a \$5,000 fine for the supervision violation in 20050026680, and a \$5,000 fine for the ACT reporting violations in 20050026680); and

- An undertaking to revise DOMS's written supervisory procedures with respect to the areas described in paragraph three. Within 30 business days of acceptance of this AWC by the NAC, a registered principal of the Respondent 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) a reference to this matter; (2) a representation that the firm has revised its written supervisory procedures to address the deficiencies described in paragraph three; and, (3) the date the revised procedures were implemented.

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

DOMS certifies that DOMS 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 DOMS to submit it.

Domestic Securities, Inc.

11-16-06
Date

By: Mack Shefts
Name: MAC K SHEFTS
Title: PRESIDENT

Reviewed by:

Richard Horowitz
Counsel for Respondent
Heller, Horowitz & Fiedt, P.C.

Accepted by NASD:

1/9/07
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