

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
DEPARTMENT OF MARKET REGULATION

2005000264801

TO: Department of Market Regulation
NASD

RE: Domestic Securities, Inc., d/b/a The Attain ECN, Respondent
Broker/Dealer
CRD Number 34721

Pursuant to Rule 9216 of NASD Code of Procedure, Domestic Securities, Inc. ("DOMS"), d/b/a The Attain ECN ("ATTN" 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 the firm;
 - 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, 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 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 relevant history are as follows:

DOMS has been a member of NASD since May 1994, and its registration remains in effect. DOMS owns and operates ATTN. DOMS has the following relevant disciplinary history:

- On February 9, 2004, an AWC became final in which DOMS was censured and fined \$10,000 for violations by ATTN of SEC Rule 11Ac1-5 and NASD Conduct Rules 2110 and 3010.

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

In connection with the 2004 Trading and Market Making Examination of ATTN, MRD200448391, the staff reviewed the following items from August 19, 2004:

- 20 customer (subscriber) sales for compliance with NASD Rule 6130;
- 61 limit orders for compliance with SEC Rules 11Ac1-1 and 11Ac1-4;
- 37 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;
- security/size/order data statistics published on the firm's July 2004 monthly order execution report for compliance with SEC Rule 11Ac1-5;
- The registration status of the firm's supervisory personnel as of August 2004 for trading for compliance with NASD Conduct Rules 1021 and 1022;
- 185 trades reported to the Nasdaq Market Center or the Trade Reporting and Confirmation Service ("TRACS") for compliance with NASD trade reporting and Automated Confirmation Transaction Service ("ACT") rules;
- 50 orders in Nasdaq National Market ("NNM") or Nasdaq SmallCap "(SC)" securities submitted to the Order Audit Trail System ("OATS") for compliance with NASD Rule 6955;
- 21 Alternative Display Facility ("ADF") orders for compliance with NASD Rules 4300A and 6955;
- The firm's written supervisory procedures in effect in August 2004 for compliance with NASD Conduct Rule 3010; and
- 192 order/trade records prepared and maintained on various trade dates in July and August 2004 for compliance with NASD Rule 3110 and SEC Rules 17a-3 and 17a-4.

A. DOMS 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. In two instances on August 19, 2004, ATTN incorrectly classified an order to sell short as a "covered" order in connection with the firm's SEC Rule 11Ac1-5 data disclosures.
2. The conduct described in paragraph one constitutes separate and distinct violations of SEC Rule 11Ac1-5.

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

A censure and a fine of \$10,000.

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

III.

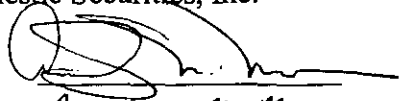
OTHER MATTERS

- A. DOMS understands that it may attach a Corrective Action Statement to this AWC, which is a statement by the Respondent of demonstrable corrective steps taken to prevent future misconduct. Respondent 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 it upon notice that this AWC has been accepted and that such payments are due and payable, and have attached the election of payment form showing the method by which it 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.

Domestic Securities, Inc. certifies that a duly authorized officer has read and understood 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.

Date: June 27, 2005

By: 
Name: ANTHONY M. MONACO
Title: EVP/CCO

Reviewed by:

Counsel for Respondent

Accepted by NASD:

8/9/05
Date

Thomas R. Gira
Thomas R. Gira
Executive Vice President & Deputy
Market Regulation

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

Attachments:
Standard Election of Payment Form