

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
20050002993-01

TO: Market Regulation Department
NASD

RE: UBS Securities, LLC
CRD No. 7654

Pursuant to Rule 9216 of NASD Code of Procedure, UBS Securities, LLC ("UBSW") 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 UBSW alleging violations based on the same factual findings.

UBSW 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") Subcommittee or Office of Disciplinary Affairs ("ODA"), 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 UBSW; and
3. If accepted:
 - a. this AWC will become part of UBSW's disciplinary record and may be considered in any future actions brought by NASD or any other regulator against Respondent;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about UBSW'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. UBSW 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 UBSW's testimonial obligations

or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

UBSW 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:

UBSW entered the securities industry in August 17, 1978, as a member of the Association and remains registered.

On January 18, 2007, NASD accepted an AWC, 20042000144, imposing censure and a fine of \$65,000 for OATS reporting violations.

On March 23, 2006, NASD accepted an AWC, 20042000062, in which UBSW was censured and fined \$15,000 for violating SEC Rule 11Ac1-4 and \$5,000 for OATS reporting violations of NASD Marketplace Rule 6955.

On February 15, 2006, NASD accepted an AWC, 20042000143, imposing a fine of \$20,000 for OATS reporting violations.

On September 20, 2004, NASD accepted an AWC, CMS040147, imposing fines of \$7,500 for ACT reporting violations of NASD Marketplace Rule 4632 and \$10,000 for OATS reporting violations of NASD Marketplace Rule 6955.

I.

WAIVER OF PROCEDURAL RIGHTS

UBSW 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 Respondent;
- 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, UBSW 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.

UBSW 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 ("TMMS") Examination of UBSW, matter number 20050002993 (former MRD No. 200448310) the NASD Market Regulation Department staff ("the staff") reviewed the following for the trade dates of August 24 and 26, 2004 ("first review period"):

- one trade in NNM or SC securities reported with a .PRP modifier, for compliance with NASD Rules 4632 and 2320.
- 21 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.
- 20 security/size/order data statistics published on the firm's monthly order execution report, for compliance with SEC Rule 11Ac1-5.
- data published on the firm's quarterly order routing report, for compliance with SEC Rule 11Ac1-6.
- two customer transactions in OTCBB and OTC equity securities, for compliance with NASD Rules 3110(b) and 2320.
- 21 persons engaged in the firm's trading and market making activities, for compliance with NASD Registration rules.
- 200 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.
- 322 trades reported to ACT or TRACS in connection with the above samples, for general compliance with NASD Trade Reporting and ACT rules.
- 35 customer trade confirmations reviewed in connection with the above samples, for compliance with SEC Rule 10b-10.
- 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.
- the firm's establishment and implementation of a supervisory system and written supervisory procedures, for compliance with NASDS Rule 3010.
- 49 orders in NNM or SC securities submitted to OATS, for compliance with NASD Rule 6955.

In connection with the 2005 TMMS examination, matter number 20050027374, the staff reviewed the following for the trade dates of November 20 and 21, 2005 ("second review period"):

- 194 sale transactions, for compliance with SEC Rules 200(g) and/or 203(b).
- 351 customer and proprietary sales, for compliance with NASD Rule 6130.
- 37 short sales, for compliance with NASD Rule 3350 and SEC Rule a0a-1 (Tick Test).
- 50 limit orders executed as principal, for compliance with NASD Rules 2110 (and IM-2110-2), 6440, 6541 and 2320 and SEC Rules 11Ac-1 and 11Ac-4.
- 55 limit and market orders executed in a principal or riskless principal capacity, for compliance with capacity reporting under NASD Trade Reporting and ACT rules.
- 20 cancelled transactions for compliance with the requirement to cancel trade reports within 90 seconds of cancellation from books and records.
- 33 transactions for NASDAQ securities in soft dollar accounts for compliance with trade reporting rules and the safe harbor limitations of SEC Section 28(e).
- 25 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.
- 27 orders (four order type categories) of security/size/order data statistics published on the firm's monthly order execution report, for compliance with SEC Rule 11Ac1-6.
- 10 persons engaged in the firm's trading and market making activities, for compliance with NASD Registration rules.
- 312 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.
- 1,282 trades reported to ACT or TRACS in connection with the above samples, for general compliance with NASD Trade Reporting and ACT rules.
- 37 customer trade confirmations reviewed in connection with the above samples, for compliance with SEC Rule 10b-10.
- 50 orders in NNM or SC securities submitted to OATS, for compliance with NASD Rule 6955.
- 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.
- The firm's establishment and implementation of a supervisory system and written supervisory procedures, for compliance with NASD Rule 3010.

A. UBSW 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:

2004 TMMS (20050002993):

During the first review period:

1. UBSW failed in 22 instances to adjust open orders.
2. The conduct described in paragraph one constitutes separate and distinct violations of NASD Conduct Rules 2110 and 3220.
3. UBSW transmitted to OATS 36 reports that contained inaccurate, incomplete, or improperly formatted data. These inaccurate and/or incomplete reports represented 73% of the reports reviewed by the staff.
4. The conduct described in paragraph three constitutes separate and distinct violations of NASD Marketplace Rule 6955(a).
5. In four instances of four orders reviewed, UBSW failed to display immediately 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.
6. The conduct described in paragraph five constitutes separate and distinct violations of SEC Rule 11Ac1-4.

2005 TMMS (20050027374):

During the second review period:

7. UBSW'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 SEC Rules 606 and 605 and Maintenance and Retention of Books and Records. Specifically, the firm's supervisory system did not include written supervisory procedures providing for or did not reflect the actual procedures that the firm had for: (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.
8. The conduct described in paragraph seven constitutes separate and distinct violations of NASD Conduct Rules 2110 and 3010.

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

A censure and a fine of \$27,500 composed of the following:

\$5,000 for the violations of NASD Conduct Rule 3220;

\$10,000 for the OATS reporting violations of NASD Marketplace Rule 6955;

\$7,500 for the violations of SEC Rule 11Ac1-4;

\$5,000 for the violations of NASD Conduct Rule 3010;

and an undertaking to revise the firm's written supervisory procedures with respect to the areas described in paragraph II.A.7. Within 30 business days of acceptance of this AWC by ODA or the NAC, a registered principal of the Respondent shall submit to the **COMPLIANCE ASSISTANT, LEGAL SECTION, MARKET REGULATION DEPARTMENT 9509 KEY WEST AVE., ROCKVILLE, MD 20850**, a signed, dated letter providing the following information: (1) a reference to this matter; (2) a representation that the Respondent has revised its written supervisory procedures to address the deficiencies described in paragraph II.A.1; 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. UBSW understands that it may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. UBSW 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 NASD, nor does it reflect the views of NASD or its staff.
- B. UBSW agrees to pay any monetary sanctions imposed 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 I propose to pay any fine imposed.

UBSW certifies that it 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 UBSW to submit it.

UBS Securities, LLC

2-20-07
Date

By: Judith Romaine

Title: Executive Director

Accepted by NASD:

3/29/07
Date

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

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

Attachment:

Standard Election of Payment Form