

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
20050009836-01

TO: Market Regulation Department
NASD

RE: **Dresdner Kleinwort Wasserstein Securities LLC**, Respondent
CRD No. 41957

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REGISTRATION & DISCLOSURE

Pursuant to NASD Rule 9216, Dresdner Kleinwort Wasserstein Securities LLC (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 the firm alleging violations based on the same factual findings.

The firm 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 Market Regulation Department and National Adjudicatory Council ("NAC") Review 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 the firm; and
3. If accepted:
 - a. this AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by the 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 the firm'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-8310-3; and
 - d. the firm 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. Nothing in this provision affects the firm's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

The firm also understands that the firm's experience in the securities industry and the firm's disciplinary history may be factors that will be considered in deciding whether to accept this AWC. The firm has the following relevant disciplinary history:

The firm has been a member of NASD since December 17, 1996, and its registration remains in effect. The firm has no relevant disciplinary history.

I.

WAIVER OF PROCEDURAL RIGHTS

The firm 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 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 NAC and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

The firm 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.

The firm specifically and voluntarily waives 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.

II.

ACCEPTANCE AND CONSENT

In the 2005 Trading and Market Making Examination ("TMMS") of the firm, 20050009836, the staff reviewed the items listed in Appendix 1, for trade dates February 7 through February 18, 2005.

In 20050000100/MRD200449389, the staff conducted a review of the firm's compliance with NASD's OATS Rules for the period July 1, 2004 through September 30, 2004.

- A. The firm 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:

20050009836

1. During the review period, the firm transmitted to OATS 20 reports that contained inaccurate, incomplete, or improperly formatted data. Specifically, the reports contained inaccurate cancel/replace times and incorrect Routed Order IDs. These inaccurate and/or incomplete reports represented 40 percent of the sample of reports reviewed in the TMMS examination that the firm transmitted during the review period. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6955(a).
2. The firm, on 21 occasions, failed to provide written notification to its customer regarding one or more of the following: (1) the average price of the transaction executed; (2) the correct price of the transaction executed; (3) that details of the average price were available upon request; and (4) the correct capacity in which the firm acted. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 10b-10.
3. The firm'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 11Ac1-5 (now SEC Rule 605); SEC Rule 11Ac1-6 (now SEC Rule 606); best execution; trade reporting; sale transactions; trading halts, employee registration, anti-intimidation/coordination, soft dollar accounts, books & records and OATS. Specifically, the firm's supervisory system did not include written supervisory procedures providing for: (1) the 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. The conduct described in this paragraph constitutes violations of NASD Rules 2110 and 3010.

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4. During the review period, the firm failed to timely report to OATS 73,927 Reportable Order Events ("ROEs"). These late ROEs represented 21 percent of all ROEs (347,929) submitted by the firm to OATS during the review period. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6955(a).
5. During the review period, the firm submitted to OATS 2,093 reports with respect to equity securities traded on the Nasdaq Stock Market (the "subject reports") that were not in the electronic form prescribed by NASD and were repairable. The subject reports were rejected by the OATS system and notice of such rejection was made available to the firm on the OATS website. The firm did not correct or replace 2,078 of the subject reports, or 99 percent of the subject reports. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6955(a).
6. During the review period, the firm reported to OATS 219 execution reports that contained inaccurate, incomplete, or improperly formatted data. Because of the inaccurate, missing, or improperly formatted data, the OATS system was unable to link the execution reports to the related trade reports in an NASD trade reporting system. These inaccurate and/or incomplete execution reports represented approximately three percent of all match-eligible execution reports (7,651) transmitted by the firm to OATS during the review period. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6955(a).
7. The firm'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 OATS. Specifically, the firm's supervisory system did not include written supervisory procedures providing for: (1) the 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. The conduct described in this paragraph constitutes violations of NASD Rules 2110 and 3010.

B. The firm also consents to the imposition, at a maximum, of the following sanctions:

A censure, a fine of \$21,000 (consisting of \$2,500 for the SEC 10b-10 violations, \$6,000 for the OATS violations in 20050009836 and \$7,500 for the OATS violations in 20050000100/MRD200449389 and \$5,000 for the supervision violations in both cases) and an undertaking to revise the firm's written supervisory procedures with respect to the areas described in paragraphs II. A. 3 and 7. 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 paragraphs II. A. 3 and 7; 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. The firm understands that it may attach a Corrective Action Statement to this AWC which 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 NASD nor does it reflect the views of NASD or its staff.
- B. The firm 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 has attached the Election of Payment form showing the method by which the firm proposes to pay any fine imposed.
- C. The firm specifically and voluntarily waives any right to claim that the firm is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

Dresdner Kleinwort Wasserstein Securities LLC 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, and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce the firm to submit it.

July 16, 2007
Date

Dresdner Kleinwort Wasserstein Securities LLC
Respondent

By: DCA Susan Dingilian
Name: D. CHRISTIAN SOUTHWICK SUSAN DINGILIAN
Title: DIRECTOR, COMPLIANCE MANAGING DIRECTOR,
CEO

Reviewed by:

Robert L. Sells
Counsel for Respondent

Accepted by NASD

8/20/07
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
Appendix 1 Description of Reviews

Dresdner Kleinwort Wasserstein Securities LLC

In connection with 20050009836, the 2005 Trading and Market Making Examination ("TMMS") of the firm, the staff reviewed the following for trade dates February 7 -18, 2005, unless otherwise noted:

- 246 customer and proprietary sale transactions, for compliance with SEC Rules 200(g) and/or 203(b);
- 97 customer and proprietary sales, for compliance with NASD Rule 6130;
- seven limit orders executed as principal, for compliance with NASD Rules 2110 (and IM-2110-2), 6440, 6541 and 2320, and SEC Rules 11Ac1-1 (now SEC Rule 602) and 11Ac1-4 (now SEC Rule 604);
- one institutional "not held" market order reviewed for compliance with NASD Rule 2320;
- 25 limit and market orders and 51 related trades executed in a principal or riskless principal capacity, for compliance with capacity reporting under NASD Trade Reporting and Automated Confirmation Transaction Service ("ACT") Rules (now the Nasdaq Market Center "NMC");
- five orders for NASDAQ securities in soft dollar accounts and 50 related executions, for compliance with trade reporting rules and the safe harbor limitations of SEC Section 28(e);
- 23 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 (now SEC Rule 605);
- four security, size and order data statistics published on the firm's monthly order execution report of February 2005, for compliance with SEC Rule 11Ac1-5 (now SEC Rule 605)¹;
- data published on the firm's quarterly order routing report, for compliance with SEC Rule 11Ac1-6 (now Sec Rule 606)²;
- 24 customer transactions in over-the-counter bulletin board ("OTCBB") and over the counter ("OTC") equity securities, for compliance with NASD Rules 3110(b) and 2320;
- 14 persons engaged in the firm's trading and market making activities, for compliance with NASD Registration Rules;
- 174 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-4³;
- 234 trades reported to ACT or the Trade Reporting and Comparison Service ("TRACS") in connection with the above samples, for general compliance with NASD Trade Reporting and ACT Rules⁴;

¹ From the month of January 2005.

² From the quarter ending March 2005.

³ Includes various trade dates in January 2005.

- 44 customer trade confirmations reviewed in connection with the above samples, for compliance with SEC Rule 10b-10;
- 50 orders in Nasdaq National Market ("NNM") or Small Cap ("SC") securities submitted to the Order Audit Trail System ("OATS"), for compliance with NASD Rule 6955; and
- 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.

⁴ Includes various trade dates in January 2005.