

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
20050016956-01

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TO: Market Regulation Department
NASD

RE: **B-Trade Services, LLC**, Respondent
CRD No. 41262

Pursuant to Rule 9216 of the NASD Code of Procedure, B-Trade Services, LLC ("BTRD" 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 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-8310-2; 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

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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.

BTRD 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. That experience and history are as follows:

BTRD has been a member of NASD since November 8, 1996 and its registration remains in effect. BTRD has no prior relevant disciplinary history.

I.

WAIVER OF PROCEDURAL RIGHTS

BTRD 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.

Further, BTRD 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.

BTRD 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 20050016956, the Market Regulation Department staff (the "staff") conducted a review of BTRD's compliance with the SEC's and NASD's Firm Quote Rules and BTRD's supervisory system and written supervisory procedures with respect to such rules during the period of May 2 through May 17, 2005 (the "review period").

A. BTRD 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:

1. During the review period, BTRD was a responsible broker or dealer as defined in SEC Rule 11Ac1-1(a)(21). In 196,163 instances during the review period, BTRD failed to execute an order to buy or sell a subject security for the purposes of SEC Rule 11Ac1-1, presented to it by another broker or dealer, at a price at least as favorable to such buyer or seller as BTRD's published bid or published offer in any amount up to its published quotation size.
2. During the review period, BTRD was a registered market maker for the purposes of NASD Marketplace Rule 4613. In 196,163 instances, BTRD received an offer to buy or sell from another member of NASD but failed to execute a transaction for at least a normal unit of trading at its displayed quotation as disseminated in the Nasdaq Stock Market at the time of receipt of any such offer.
3. In 196,163 instances during the review period, BTRD made offers to buy or sell a security at a stated price without purchasing or selling, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell.
4. The above-referenced conduct was the result of BTRD's failure to properly enable one broker-dealer subscriber's acronym for access to BTRD through the Nasdaq Stock Market's SuperMontage system.
5. The conduct described in paragraphs one through four constitutes separate and distinct violations of SEC Rule 11Ac1-1, NASD Conduct Rules 2110 and 3320, and NASD Marketplace Rule 4613(b), with each order constituting a separate and distinct violation.
6. BTRD'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 firm quote compliance, including, but not limited to, the process by which BTRD enabled broker-dealer subscriber access to BTRD. Specifically, the firm's supervisory system did not include written supervisory procedures providing for: (1) a statement of the supervisory step(s) to be taken by responsible person(s); (2) a statement as to how often such person(s) should take such step(s); and (3) a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented.

7. The conduct described in paragraph six constitutes a violation of NASD Conduct Rules 2110 and 3010.

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

A censure and a \$20,000 fine (composed of a \$10,000 fine for the violations of the SEC's and NASD's firm quote rule and a \$10,000 fine for the supervision violations), and an undertaking to revise the firm's written supervisory procedures with respect to the areas described in paragraph five. 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 five; 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. BTRD 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. BTRD 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. BTRD 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. BTRD specifically and voluntarily waives any right to claim that BTRD is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

BTRD 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 BTRD to submit it.

Date: May 17, 2006

Robert M. Santry
B-Trade Services, LLC

Respondent

By: Robert M. Santry

Name: Robert M. Santry
Title: Chief Compliance Officer

Reviewed by:

[Signature]
Counsel for Respondent

Accepted by NASD

7/7/06
Date

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

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

Attachment:
Standard Election of Payment Form



1633 Broadway, 48th Floor, New York, NY 10019

May 17, 2006

Mr. Peter D. Santori
Assistant Chief Counsel
NASD Market Regulation
9509 Key West Ave
Rockville MD 20850-3329

Re: Statement of Corrective Action - Transmittal of Letter of Acceptance, Waiver, and Consent. (20050016956)

This Corrective Action Statement is submitted by B-Trade Services LLC. It does not constitute factual or legal findings by the NASD, nor does it reflect the views of NASD, or its staff.

This statement is in response to the NASD Transmittal of Letter of Acceptance, Waiver, and Consent ("AWC") forwarded to B-Trade Services LLC ("B-Trade") on March 30, 2006. The AWC regarded potential Firm Quote Rule violations by B-Trade and was provided to us as a result of a review conducted by your staff in which it appears that our firm violated NASD Conduct Rules 3320, 3010, and 2110, in addition to SEC Rule 11Ac1-1 by failing to execute in excess of 196,000 orders. These potential violations relate to NASDAQ SuperMontage orders received by B-Trade from UBS Securities LLC ("UBSS").

As you may be aware, Bloomberg Tradebook LLC ("Tradebook") and B-Trade divide between themselves functions with respect to operating the Bloomberg Tradebook System ("Tradebook System"). One such function is the enablement of firms to access the System. Whenever an unrecognized acronym attempts to take liquidity from the Tradebook System the unrecognized acronym is denied access to the system and an e-mail is automatically generated by Tradebook to notify B-Trade Services that this situation has occurred. These e-mails result in B-Trade contacting the firm to determine if they wish to become a B-Trade participant. If the firm does not wish to be a B-Trade participant, their acronym would remain unrecognized by the Tradebook System.

The "UBSS" (UBS Securities) acronym was once enabled as an access broker on the Tradebook System. In 2002, UBSS refusal to pay access broker fees to B-Trade resulted in the disablement of the "UBSS" acronym on the Tradebook System. Subsequently, UBS Warburg became a client of B-Trade using the "UBSW" Market Maker Identification "MMID". UBS then wished to activate another acronym, "UBSS" (UBS Schwab).

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Solutions from The Bank of New York



The Tradebook System has a two part ("bit") process for enabling participants and a one bit process for the enablement of access brokers. To enable a participant, one bit is controlled ("flipped") by the Tradebook Contracts Department upon completion of our client contractual paperwork and the other bit is flipped by B-Trade upon completion of their credit and operational approval process. To enable an access broker, the bit is flipped by B-Trade. The UBSS acronym was enabled as a participant by Tradebook on April 28, 2005 and by B-Trade Services on April 29, 2005, however B-Trade Services did not enable the MMID (UBSS) as an access broker. An automated e-mail was not generated in this case as "UBSS" was not a new acronym, but rather an existing, disabled acronym. In effect this meant that UBSS could access quotes through our system but could not access quotes when they came to us through SuperMontage.

Tradebook and B-Trade Services have changed their policies to ensure that all broker/dealer clients that are enabled on the Tradebook System as system participants (i.e. "clients") will also be enabled as access brokers.

B-Trade and Tradebook understand and take seriously our obligations to comply with all regulatory rules and procedures. B-Trade and Tradebook also proactively strive to continuously check and update its computer system to ensure compliance with NASD rules. Please note that B-Trade did not "back away" from any quotations. Our quotes were firm, however the problem was that the "UBSS" acronym was not enabled to trade on the Tradebook System.

B-Trade requests that this letter and any response by the NASD, as well as any documents related thereto, be treated as confidential material. Such material may contain, among other things, trade secrets, know-how, ideas, concepts and other information concerning the operations and business affairs of B-Trade.

If I can be of further assistance, please contact me at 212-448-5683.

Sincerely,

Robert M. Santry
Director of Compliance