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LETTER OF ACCEPTANCE, WAIVER AND CONSENT
DEPARTMENT OF MARKET REGULATION

REGISTRATION & DISCLOSURE

20050031503-01

TO: **Department of Market Regulation**
NASD

RE: **First Clearing, LLC**, Respondent
Broker/Dealer
CRD Number 17344

Pursuant to Rule 9216 of NASD Code of Procedure, First Clearing, LLC ("FCCP" or "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 FCCP alleging violations based on the same factual findings.

FCCP 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 FCCP; and
3. If accepted:
 - a. this AWC will become part of FCCP'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 FCCP'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

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- d. FCCP 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 FCCP's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

FCCP 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:

FCCP has been a member of NASD since May 1986 and its registration remains in effect. The firm does not have any relevant disciplinary history.

I.

WAIVER OF PROCEDURAL RIGHTS

FCCP 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 FCCP;
- 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, FCCP 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.

FCCP 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 20050031503, the staff of the Department of Market Regulation of NASD (the "staff") conducted a review of FCCP's compliance with the short sale requirements of SEC Regulation SHO during the period July 1, 2005 through September 30, 2005 ("the review period").

- A. FCCP hereby accepts and consents, without admitting or denying the findings, 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. FCCP had a fail to deliver in ComCam, Inc. ("CMCA"), a threshold security, at a registered clearing agency for thirteen consecutive days as of September 15, 2005, and failed to immediately thereafter close out the fail to deliver position by purchasing securities of like kind and quantity.
 2. The conduct described in paragraph one constitutes separate and distinct violations of SEC Rule 203(b)(3).
 3. FCCP'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 Rule 203(b)(3) of Regulation SHO. Specifically, the firm's written supervisory procedures did not reflect the actual procedures that the firm had for: (1) the step(s) that the person(s) responsible at the firm to ensure compliance with Rule 203(b) should take to ensure compliance therewith; (2) how often such person(s) should take such step(s); and (3) how enforcement of such written supervisory procedures should be documented at the firm.
 4. The conduct described in paragraph three constitutes a violation of NASD Conduct Rules 2110 and 3010.
- B. FCCP also consents to the imposition, at a maximum, of the following sanctions:
- A censure and a fine of \$12,500 (comprised of a \$7,500 fine for the Regulation SHO violations and a \$5,000 fine for the supervision violation).**

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

III.

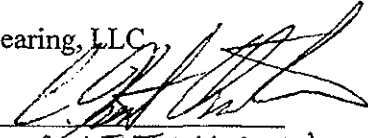
OTHER MATTERS

- A. FCCP 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. FCCP 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. FCCP specifically and voluntarily waives any right to claim that FCCP is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

First Clearing, LLC 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 FCCP to submit it.

Date: 04/09/07

First Clearing, LLC

By: 

Name: C. KENT CHRISTIAN

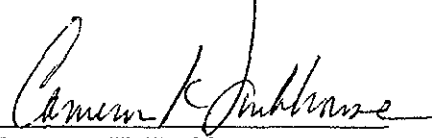
Title: President & CEO

Reviewed by:

Kevin B. Humley
Counsel for Respondent

Accepted by NASD:

5/1/07
Date


Cameron K. Funkhouser
Senior Vice President
Department of Market Regulation

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

Attachments:
Standard Election of Payment Form