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REGISTRATION & DISCLOSURE

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
20050036195-01

TO: Department of Market Regulation
NASD

RE: ITG Inc., Respondent
Broker-Dealer
CRD No. 29299

Pursuant to Rule 9216 of NASD Code of Procedure, ITG Inc. (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 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 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 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;

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- 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 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 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:

The firm entered the securities industry on January 8, 1992 as a member of NASD and its registration remains in effect. The firm has no prior 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.

Further, 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 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 20050036195, the staff of NASD's Department of Market Regulation (the "staff") conducted a review of the firm's compliance with SEC Rule 203(b)(1) in CQS securities during the period July 1, 2005 through October 31, 2005 (the "CQS review period").

In connection with 20060042200, the staff conducted a review of the firm's compliance with SEC Rule 203(b)(1) in Nasdaq National Market ("NNM") securities during the period July 1, 2005 through October 31, 2005 (the "NNM review period").

In connection with 20060054965, the staff conducted a review of the firm's compliance with NASD Conduct Rule 3370 in certain securities during the period August 10, 2004 through August 12, 2004 (the "August 2004 review period").

- 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:

20050036195

1. During the CQS review period, the firm, on 29 occasions, accepted a short sale order in an equity security from another person, or effected a short sale in an equity security for its own account, without (1) borrowing the security, or entering into a bona-fide arrangement to borrow the security; or (2) reasonable grounds to believe that the security can be borrowed so that it can be delivered on the date delivery is due; and (3) documented compliance with SEC Rule 203 (b)(1) of Regulation SHO.

20060042200

2. During the NNM review period, the firm, on 24 occasions, accepted a short sale order in an equity security from another person, or effected a short sale in an equity security for its own account, without (1) borrowing the security, or entering into a bona-fide arrangement to borrow the security; or (2) reasonable grounds to believe that the security can be borrowed so that it can be delivered on the date delivery is due; and (3) documented

compliance with SEC Rule 203 (b)(1) of Regulation SHO.

20060054965

4. During the August 2004 review period, the firm accepted 26 customer short sale orders in certain securities and, for each order, failed to make/annotate an affirmative determination that the firm would receive delivery of the security on behalf of the customer or that the firm could borrow the security on behalf of the customer for delivery by settlement date. The conduct described in this paragraph constitutes separate and distinct violations of NASD Conduct Rule 3370.
- B. The firm also consents to the imposition, at a maximum, of the following sanctions:

A censure and a fine of \$15,000 (consisting of a \$5,000 fine for the Regulation SHO violations in 20050036195; a \$5,000 fine for the Regulation SHO violations in 20060042200 and a \$5,000 fine for the affirmative determination violations in 20060054965).

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

III.

OTHER MATTERS

- A. The firm understands that the firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The firm understands that the firm 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 the firm 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 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

The firm 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.

Respondent,
ITG Inc.

4/24/2007
Date

By: P. Mats Goebels

Name: P. MATS GOEBELS
MANAGING DIRECTOR
Title: LEGAL COUNSEL AND SECRETARY

Reviewed by:

Laura S. Prietto / GM
Counsel for Respondent

Accepted by NASD:

5/23/07
Date

Cameron K. Funkhouser
Cameron K. Funkhouser
Senior Vice President
Department of Market Regulation

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

Re: Letter of Acceptance, Waiver and Consent
Investigation Nos. 20050036195, 20060042200, and 20060054965

This Corrective Action Statement is submitted by the Respondent. It does not constitute factual or legal finding by NASD, nor does it reflect the views of NASD, or its staff.

Statement of Corrective Action

ITG clients send short sale orders to ITG through either ITG-sponsored front-end order entry and routing systems or through third-party systems utilizing various versions of the FIX protocol. With respect to ITG-sponsored systems, the client's custodian for locate purposes is currently identified on the screen each time the client enters a short sale order and the client confirms that identity each time it sends an order. ITG is in the process of implementing changes to the order entry template and related software in its front-end systems such that the identity of the client's locate will be explicitly included in the short sale order information sent to ITG on an order-by-order basis and ITG can document receipt of this information. This will be in addition to the morning pop-up through which clients using ITG front-end systems currently confirm the identity of their locate for short sale orders submitted throughout the day.

With respect to ITG clients submitting short sale orders to ITG through systems utilizing the FIX protocol, ITG is in the process of implementing systems changes such that, if a client does not explicitly populate an agreed-upon field with the identity of its locate, ITG may conduct a locate for that client by reference to an ETB list that ITG will obtain daily from another broker-dealer engaged in the securities lending business. If the short sale order relates to a security on that ETB list, ITG will accept the short sale order for execution. If the security is not on the ETB list, and the client has not otherwise identified a locate on the order or ITG has not itself conducted a locate of that security, ITG will reject that short sale order. ITG will maintain records of the locate information, including whether the client provided the locate or ITG conducted the locate.