

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT**

NO. 20060040925-01

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Department of Market Regulation
Financial Industry Regulatory Authority ("FINRA")

Lazard Capital Markets LLC, Respondent
Broker/Dealer

RD No. 134736

NASD, INC. REG. INC.
MARKET REGULATION

Pursuant to Rule 9216 of the FINRA Code of Procedure, Lazard Capital Markets 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 below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against the firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- 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 FINRA, or to which FINRA 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 FINRA:

BACKGROUND

The firm has been a member of FINRA (f/k/a NASD) since April 15, 2005, and its registration remains in effect. The firm has no relevant disciplinary history.

VIOLATIVE CONDUCT BY RESPONDENT

The Trading and Market Making Surveillance staff reviewed the trading activity of the firm set forth in Exhibit 1 for trade dates January 3 through January 6, 2006, unless otherwise noted.

1. For the period from May through November 2005, the firm made available reports on the covered orders in National Market System securities that it received for execution from any person. These reports included incorrect information as to

not held orders. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 605 of Regulation NMS.

2. On trade dates January 3 through January 6, 2006, the firm submitted incorrect reports to the Order Audit Trail System ("OATS") for 47 orders. The 47 instances of incorrect reports represented 94 percent of the sample of orders 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 Marketplace Rule 6955(a).
3. On 10 occasions on trade dates January 3 through January 6, 2006, the firm 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 documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 203(b)(1) of Regulation SHO.
4. During January 2006, 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 and the SEC, concerning limit order protection, limit order display and quote dissemination, and short sale reporting. 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 the person(s) responsible for supervision with respect to the applicable rules; and (2) 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 Conduct Rules 2110 and 3010.
5. The firm failed to provide documentary evidence that during January 2006 it performed the supervisory reviews set forth in its written supervisory procedures concerning disclosure of order routing information, disclosure of order execution information, and OATS reporting. The conduct described in this paragraph constitutes violations of NASD Conduct Rules 2110 and 3010.

B. The firm also consents to the imposition of the following sanctions:

A censure and a fine of \$30,000 (\$10,000 for the SEC Rule 605 violations, \$7,500 for the OATS violations, \$7,500 for the short sale violations, and \$5,000 for the supervisory violations), and an undertaking to revise the firm's written supervisory procedures with respect to the areas described in paragraphs I.A.4 and 5 above.

In addition, within 30 business days of acceptance of this AWC by the *National Adjudicatory Council* ("NAC"), a registered principal of the

firm 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 I.A.4 and 5; and (3) the date the revised procedures were implemented.

The firm agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. It has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

The firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

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

II.

WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under FINRA'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 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.

III.

OTHER MATTERS

The firm understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to NASD Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the firm; and
- C. If accepted:
 - 1. this AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against the firm;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about the firm's disciplinary record;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-3; and
 - 4. 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. The firm may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

- D. 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 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 FINRA, nor does it reflect the views of FINRA or its staff.

The firm 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; that it has agreed to the AWC's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

March 7, 2008
Date

Respondent
Lazard Capital Markets LLC

By: [Signature]

Name: Robert K. Lagan

Title: General Counsel

Reviewed by:

[Signature]
Counsel for Respondent

Accepted by FINRA:

4/2/08
Date

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

[Signature]
Thomas R. Gira
Executive Vice President
Department of Market Regulation

Exhibit #1
Lazard Capital Markets LLC
Exam No. 20060040925

Scope of the Trading and Market Making Surveillance Examination

FINRA staff reviewed the following samples during the examination:

- 179 customer and proprietary sell orders, for compliance with SEC Rules 200(g) and/or 203(b).
- 169 customer and proprietary sales, for compliance with NASD Rule 6130.
- 10 short sales, for compliance with NASD Rule 3350 and SEC Rule 10a-1.
- 253 limit and market orders executed in a principal or riskless principal capacity, for compliance with capacity reporting under NASD Trade Reporting and ACT rules.
- 2 cancelled transactions, for compliance with the requirement to cancel trade reports within ninety seconds of cancellation from books and records.
- 1 order 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 605.
- Security/size/order data statistics published on the firm's monthly order execution reports from May 2005 through November 2005, for compliance with SEC Rule 605.
- Data published on the firm's quarterly order routing report for the fourth quarter of 2005, for compliance with SEC Rule 606.
- 15 customer transactions in OTCBB and OTC equity securities, for compliance with NASD Rules 3110(b) and 2320.
- 10 persons engaged in the firm's trading and market making activities during January 2006, for compliance with NASD Registration rules.
- 260 order/trade records, for general compliance with NASD Rule 3110 and SEC Rules 17a-3 and 17a-4.
- 253 trades reported to ACT or TRACS, for general compliance with NASD Trade Reporting and ACT rules.
- 99 customer trade confirmations, 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 during January 2006 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 during January 2006 of a supervisory system and written supervisory procedures, for compliance with NASD Rule 3010.