

FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT

NO. 20060042927-01

RECEIVED
2006 NOV 10 P 3:51
REGISTRATION & DISCLOSURE

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

RE: Sterne Agee & Leach, Inc., Respondent
Broker-Dealer
CRD No. 791

Pursuant to NASD Rule 9216 of FINRA Code of Procedure, Sterne Agee & Leach, 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 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 since October 16, 1936.

RELEVANT PRIOR DISCIPLINARY HISTORY

On March 10, 2005, an AWC became final in which the firm was censured and fined \$11,000 for violations of NASD Rules 2110, 3010 and 6955(a).

On July 18, 2005, an AWC became final in which the firm was censured and fined \$25,000 for violations of SEC Rule 604 (f/k/a 11Ac-1-4), MSRB Rule G-14, and NASD Rules 2110 and 3010.

SUMMARY

In connection with the firm's 2006 Trading and Market Making Surveillance Examination, 20060042927, the staff of FINRA's Department of Market Regulation (the "staff") reviewed the items listed in Exhibit 1 for trade dates January 25 and January 26, 2006.

In connection with the firm's 2007 Trading and Market Making Surveillance Examination, 20070080772, the staff reviewed the items listed in Exhibit 2 for trade dates January 10 and January 11, 2007.

In connection with Matter No. 20060066617, the staff conducted a review of the firm's compliance with the rules applicable to TRACE during the period July 1, 2006 through September 30, 2006.

In connection with Matter No. 20060068054, the staff conducted a review of the firm's compliance with the MSRB rules applicable to transaction reporting during the period July 1, 2006 through September 30, 2006.

In connection with Matter No. 20070107409, the staff conducted a review of the firm's compliance with the MSRB rules applicable to transaction reporting during the period April 1, 2007 through June 30, 2007.

FACTS AND VIOLATIVE CONDUCT

20060042927

1. In two order type/size categories, the firm failed to publish accurate order execution information. In five instances the firm failed to accurately classify orders for the purpose of calculating order execution information. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 605 of Regulation NMS.
2. The firm failed to transmit required information to OATS for eight orders. The firm failed to transmit two Combined New Order/Order Execution Reports to OATS. The firm failed to transmit one Execution Report and four New Order Reports to OATS. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6955(a).
3. The firm, on nine occasions, when it acted as a principal, failed to provide written notification disclosing to its customer the commission equivalent. The firm, on two occasions, when it acted as principal for its own account, failed to provide written notification disclosing to its customer the commission equivalent, the reported price and that it was a market maker in each such security. The firm, on one occasion, when it acted as principal for its own account, failed to provide written notification

disclosing to its customer the commission equivalent and its correct capacity in the transaction. The firm incorrectly disclosed to its customer that the transaction was executed at an average price. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 10b-10.

4. The firm, on eight occasions, when it acted in an agency capacity failed to provide written notification separately disclosing commission and transaction fees. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 10b-10.

20070080772

5. In two order type/size categories, the firm failed to publish accurate order execution information. In three instances, the firm failed to classify orders for the purposes of calculating SEC Rule 605 data. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 605 of Regulation NMS.
6. The firm transmitted to OATS 35 reports that contained inaccurate data. Specifically, the reports contained inaccurate execution times. These inaccurate reports represented 59 percent of the sample of reports that the firm transmitted to OATS on the trade date(s) reviewed in the TMMS examination. In one instance, the firm failed to transmit cancel/replace events related to an order to OATS. In one instance, the firm erroneously submitted a Route Report to OATS. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6955(a).
7. The firm, on five occasions, when it acted as a principal, failed to provide written notification disclosing to its customer the commission equivalent. The firm, on one occasion, when it acted as principal for its own account, failed to provide written notification disclosing to its customer the commission equivalent and that the transaction was executed at an average price. The firm, on one occasion, when it acted as a principal, failed to provide written notification disclosing to its customer the commission equivalent and failed to denote the correct price. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 10b-10.

20060066617

8. During the period July 1, 2006 through September 30, 2006, the firm failed to report to TRACE 289 transactions in TRACE-eligible securities within 15 minutes of the time of execution. These late transactions constituted eight percent of all transactions in TRACE-eligible securities that the firm was required to report to TRACE during the period July 1, 2006 through September 30, 2006. The conduct described in this paragraph constitutes separate and distinct violations of NASD Marketplace Rule 6230(a) and a pattern or practice of late reporting without exceptional circumstances in violation of NASD Conduct Rule 2110.

9. During the period July 1, 2006 through September 30, 2006, the firm reported to TRACE 20 transactions in TRACE-eligible securities that it was not required to report. The conduct described in this paragraph constitutes separate and distinct violations of NASD Marketplace Rule 6230(e).

20060068054

10. During the period July 1, 2006 through September 30, 2006, the firm failed to report information regarding 136 purchase and sale transactions effected in municipal securities to the Real-time Transaction Reporting System ("RTRS") in the manner prescribed by Rule G-14 RTRS Procedures and the RTRS Users Manual. Specifically, the firm failed to report information about such transactions within 15 minutes of Time of Trade to an RTRS Portal. These late transactions constituted 5.9 percent of all transactions in securities that the firm was required to report to the Municipal Securities Rulemaking Board during the period July 1, 2006 through September 30, 2006. The conduct described in this paragraph constitutes separate and distinct violations of MSRB Rule G-14.
11. During the period July 1, 2006 through September 30, 2006, the firm failed to report information regarding 18 purchase and sale transactions effected in municipal securities to the Real-time Transaction Reporting System ("RTRS") in the manner prescribed by Rule G-14 RTRS Procedures and the RTRS Users Manual. Specifically, in transactions with customers, the firm failed to include specific items of information listed for such transactions in the Specifications for Real-Time Reporting of Municipal Securities Transactions, namely Special Condition Indicator. The conduct described in this paragraph constitutes separate and distinct violations of MSRB Rule G-14.
12. During the period July 1, 2006 through September 30, 2006, in five instances, the firm improperly reported information to the Real-time Transaction Reporting System ("RTRS") that it should not have. Specifically, the firm improperly reported five "purchase and sale transactions effected in municipal securities" to the RTRS, when the inter-dealer deliveries were "step outs" and thus, were not inter-dealer transactions reportable to the RTRS. The conduct described in this paragraph constitutes separate and distinct violations of MSRB Rule G-14.

20070107409

13. During the period April 1, 2007 through June 30, 2007, the firm failed to report information regarding 158 purchase and sale transactions effected in municipal securities to the Real-time Transaction Reporting System ("RTRS") in the manner prescribed by Rule G-14 RTRS Procedures and the RTRS Users Manual. Specifically, the firm failed to report information about such transactions within 15 minutes of Time of Trade to an RTRS Portal. These late transactions constituted three percent of all transactions in securities that the firm was required to report to the MSRB during the period July 1, 2006 through September 30, 2006. The conduct described in this paragraph constitutes separate and distinct violations of MSRB Rule G-14.

- B. The firm also consents to the imposition of the following sanctions: A censure and a fine of \$53,000 (comprised of \$12,500 for the SEC Rule 605 of Regulation NMS violations (\$5,000 for the SEC Rule 605 of Regulation NMS violations stemming from the 2006 TMMS Exam and \$7,500 for the SEC Rule 605 of Regulation NMS violations stemming from the 2007 TMMS Exam), \$10,000 for the OATS violations (\$2,500 for the OATS violations stemming from the 2006 TMMS Exam and \$7,500 for the OATS violations stemming from the 2007 TMMS Exam), \$5,000 for the SEC Rule 10b-10 violations, \$7,500 for the TRACE violations and \$18,000 for the MSRB violations).

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.

9-29-2008
Date

By: Lois St. Pierre

Name: RONALD G DE LA CA

Title: GENERAL COUNSEL

Counsel for Respondent

11/6/08
Date

Thomas R. Gira
Thomas R. Gira
Executive Vice President
Department of Market Regulation