

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO: 20060062045-01**

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

RE: Assent LLC, Respondent
Broker-Dealer
CRD No. 104162

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Assent 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 since October 12, 2000 and its registration remains in effect. The firm has the following relevant prior disciplinary history:

On September 24, 2007, FINRA accepted an AWC in which the firm was censured and fined \$110,000. The fine included a \$105,000 fine for four separate Order Audit Trail System ("OATS") matters with review periods from October 2002 through June 30, 2005.

On March 15, 2007, FINRA accepted an Offer of Settlement in which the firm was censured and fined \$7,500 for OATS violations during the period July 1, 2004 through September 30, 2004.

SUMMARY

In connection with matter 20060062045, the Market Regulation Department staff (the "staff") reviewed the firm's compliance with short interest reporting requirements during the period March 2004 through September 2006 (the "short interest review period").

In connection with the 2009 Trading and Market Making Surveillance ("TMMS") examination, 20090170046, the staff reviewed the items set forth on Exhibit A, which is attached and incorporated by reference, primarily for trade dates March 24 and 25, 2009 (the "TMMS review period").

FACTS AND VIOLATIVE CONDUCT

Matter 20060062045

1. During the short interest review period, the firm submitted to NASD its short interest position reports in Nasdaq and OTC securities. These reports included 113 short interest positions totaling 763,848 shares when the firm should have reported 1,018 short interest positions totaling 2,351,362 shares. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 3360.
2. During the short interest review period, the firm submitted reports to NASD concerning AMEX short interest positions at the firm. These reports included 17 short interest positions totaling 182,387 shares, when they should have reported 28 short interest positions totaling 481,167 shares. The conduct described in this paragraph constitutes separate and distinct violations of NASD Conduct Rule 3360.
3. During the short interest review period, the firm submitted reports to NASD concerning NYSE-listed short interest positions at the firm. These reports included 24 short interest positions totaling 31,765 shares, when they should have reported 172 short interest positions totaling 249,666 shares. The conduct described in this paragraph constitutes separate and distinct violations of NASD Conduct Rule 3360.
4. 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, concerning short interest reporting. Specifically, the firm's supervisory system did not include written supervisory procedures providing for: (1) the identification of the person(s) responsible for supervision with respect to the applicable rules; (2) a statement of the supervisory step(s) to be taken by the identified person(s); (3) a statement as to how often such person(s) should take such step(s); and (4) 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 a violation of NASD Rules 2110 and 3010.

Matter 20090170046

5. During the TMMS review period, the firm transmitted to OATS 49 reports that contained inaccurate, incomplete, or improperly formatted data. Specifically, the reports did not include the special handling code. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 7440.
6. During the TMMS review period, the firm transmitted to OATS seven reports that contained inaccurate, incomplete, or improperly formatted data. Specifically, three reports contained inaccurate timestamps, and four reports contained inaccurate order receipt times. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 7450.
7. The firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to certain applicable securities laws and regulations, and/or the Rules of NASD. At a minimum, adequate written supervisory procedures addressing quality of markets topics should describe the following:
 - (a) specific identification of the individual(s) responsible for supervision;
 - (b) the supervisory steps and reviews to be taken by the appropriate supervisor;
 - (c) the frequency of such reviews; and
 - (d) how such reviews shall be documented.

The firm's written supervisory procedures failed to provide for one or more of the four above cited minimum requirements for adequate written supervisory procedures, in the following subject areas: Order Handling SEC Rules 606(b)(65) & (73) and 602(b)(1) & (4) [a, b, c, and d]; Best Execution NASD Rules 2320 & 3110 – Regular and Rigorous review [a, b, c, and d], Three Quote Rule [a, b, c and d]; Sales Transactions – Reg SHO Rule 204T [a, b, c and d]; SEC Rule 10b-21 [b]; Information Barriers – NASD Rule 3010 and FINRA Rule 2010, [a, b, c, and d]; and Books and Records – SEC Rules 17a-3 & 17a-4 and NASD Rule 3110 [b]. The conduct described in this paragraph constitutes a violation of FINRA Rule 2010 and NASD Rule 3010.

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

A censure and fine of \$65,000 comprised of:

- \$55,000 fine for the violations in connection with matter 20060062045 consisting of a \$50,000 fine for the short interest reporting violations and a \$5,000 fine for deficient supervisory procedures;
- \$10,000 fine for the violations in connection with matter 20090170046 consisting of a \$5,000 fine for the OATS violations and a \$5,000 fine for deficient supervisory procedures; and

an undertaking to revise the firm's written supervisory procedures with respect to the areas described in paragraph seven. 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, or an e-mail from a work-related account of the registered principal to **MarketRegulationComp@finra.org**, 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 this paragraph seven; 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 Complaint issued specifying the allegations against the firm;
- B. To be notified of the 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 National Adjudicatory Council ("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 FINRA Rule 9143 or the separation of functions prohibitions of FINRA 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 FINRA 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 FINRA Rule 8313; 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 undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf 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.

July 19, 2010
Date

Assent LLC

By: [Signature]

Name: James Weber

Title: CEO

Reviewed by:

Andrew B. O'Connell, Jr.

Attorney Name

Counsel for Respondent

VP-Legal & Assistant General Counsel
SunBoard Data Systems Inc.

Accepted by FINRA:

Signed on behalf of the

Director of ODA, by delegated authority

9/23/10
Date

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

2009 TMMS Exam Samples

Assent LLC

Exam No.: 20090170046

<u>Sample Size</u>	<u>Sample Description</u>
77	Sales reviewed for compliance with SEC Rule 200(g) long/short sale recording requirements
294	Short Sales reviewed for compliance with SEC Rule 203(b) security location requirements
26	Sell trades reported to a TRF or OTCRF for compliance with sale indicator requirements, FINRA Rules 6182 or 6624
62	Sell orders entered into Nasdaq Exchange execution system for compliance with Nasdaq Rule 4755(a)(1)(A) long/short reporting requirements
63	Buy and Sell orders entered into Nasdaq Exchange execution system for compliance with Nasdaq Rule 4611 capacity reporting requirements
9	Orders for compliance with best execution requirements of NASD Rule 2320 Customer orders in OTC equity securities for compliance with NASD Rule 3110(b) requirements to ascertain and document best interdealer market related to execution of orders
50	Orders in securities required to be submitted to OATS for compliance with FINRA Rules 7440 and 7450, and Nasdaq Rules 6954 and 6955 requirements
30	Customer confirmations prepared and maintained in connection with select samples for compliance with SEC Rule 10b-10
1	Quarterly Routing Report for compliance with SEC Rule 606 requirements
12	CRD registration records for persons conducting and/or supervising Firm's trading and/or market making activities for compliance with NASD Rule Series 1020, 1030, 1040; Nasdaq Rule Series 1020, 1030, 1040; and BATS Rule 11.4
9	Customer orders in OTC equity securities for compliance with NASD Rule 3110(b) requirements to ascertain and document best interdealer market related to execution of orders
1	Disclosures to customers relating to trading in the Extended Hours session for compliance with FINRA Rule 2265 and Nasdaq Rule 4631

- 93 Records prepared and maintained in connection with the above samples for compliance with SEC Rules 17a-3 and 17a-4, and NASD Rule 3110
- 26 *Trades reported to a TRF or OTCRF for compliance with FINRA Rules 6380A and 7230A or 6622 and 7330*
- All
Provided Member's "Regular & Rigorous" review procedures regarding order execution quality for compliance with NASD Rules 2320 and 3010
- All
Provided Member's supervisory and operational policies and procedures and documentation evidencing execution of the policies and procedures for compliance with SEC Regulation NMS Rule 611
- All
Provided Member's supervisory system, written supervisory procedures ("WSPs") and documentation evidencing execution of the WSPs for compliance with NASD Rule 3010, Nasdaq Rule 3010, or BATS Rule 5.1 requirements