

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20070083604-01**

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REGISTRATION & DISCLOSURE

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

RE: Biltmore International Corporation, Respondent
Broker/Dealer
CRD No. 21163

Pursuant to Rule 9216 of the FINRA Code of Procedure, Biltmore International Corporation ("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 March 4, 1988, and its registration remains in effect. The firm has the following relevant prior disciplinary history:

- On January 10, 2006, FINRA accepted an AWC in which the firm was fined \$5,000 for violations of NASD Marketplace Rule 6130(d) that occurred from October 25, 2002 through November 27, 2002.
- On September 20, 2004, FINRA accepted an AWC in which the firm was censured and fined \$7,000 for violations of NASD Marketplace Rule 6620 and NASD Conduct Rule 2110 that occurred from January 1, 2003 through April 30, 2003.

SUMMARY

The Trading and Market Making Surveillance staff of FINRA ("the staff") reviewed the trading activities of the firm, as set forth on Exhibit 1, for the trade dates February 12, 2007 through February 23, 2007 ("the review period"). The on-site portion of this examination was conducted by the staff on April 9, 2007 and April 10, 2007.

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VIOLATIVE CONDUCT BY RESPONDENT

1. The firm failed to report to the OTC Reporting Facility the correct symbol indicating whether the transaction was a buy, sell, sell short, or cross for 244 transactions in Reportable Securities; the contra side executing broker in 13 transactions in Reportable Securities; the correct security identification for two transactions in Reportable Securities; and the correct symbol indicating whether the firm executed one transaction in Reportable Securities in a principal or agency capacity. The conduct described in this paragraph constitutes separate and distinct violations of NASD Marketplace Rule 6130(d).
2. The firm incorrectly reported to the OTC Reporting Facility the contra capacity as "principal" when the contra capacity should have been reported as "agency" for 19 transactions in Reportable Securities. The conduct described in this paragraph constitutes separate and distinct violations of NASD Marketplace Rule 6620(d).
3. During the review period, 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 applicable Rules of NASD or the SEC. 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 [(a), (b), (c), and (d)]; best execution and trade reporting [(b), (c), and (d)]; and OATS reporting, books and records, and other trading rules [(b) and (d)]. 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, a fine of \$12,500 (consisting of \$7,500 for the trade reporting and transaction reporting 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 paragraph three above.

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, 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 paragraph three above; and (3) the date the revised procedures were implemented.

The firm agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments 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 the firm is unable to pay, now or at any time hereafter, the monetary sanctions 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 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.

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, 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 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 testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

- D. The firm understands that it may attach a Corrective Action Statement to this AWC, which is a statement by the firm of demonstrable corrective steps taken to prevent future misconduct. The firm may not deny the findings 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 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; 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.

9/11/08
Date

Biltmore International Corporation

By: [Signature]

Name: JOHN GUARDIA

Title: PRESIDENT

~~Reviewed by:~~

~~Counsel for Respondent~~

Accepted by FINRA:

9/30/08
Date

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

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

2007 MRE Exam Samples
Biltmore International Corporation ("BMIC")
Exam No.: 2007 0083604

<u>Sample Size:</u>	<u>Sample Description:</u>	<u>Sample Source/Period:</u>
5	Customer and proprietary sales, reviewed for compliance with SEC Rule 200(g) long/short/exempt sale recording requirements.	From trade dates February 12 to 23, 2007.
1	Customer and proprietary short sales, reviewed for compliance with SEC Rule 203(b) security location requirements.	From trade dates February 12 to 23, 2007.
285	Customer and proprietary sales reported to a TRF or OTCRF, for compliance with NASD Rules 6130, 4632 and 6620 sale indicator reporting requirements.	From trade dates February 12 to 23, 2007.
0	Customer and proprietary sales reported to the ADF/TRACS, for compliance with NASD Rule 4632A sale indicator reporting requirements.	From trade dates February 12 to 23, 2007.
0	Short sales in Nasdaq Global Market securities executed otherwise than on an exchange, for compliance with NASD Rule 5100 bid test requirements.	From trade dates February 12 to 23, 2007.
0	Short sales in exchange-listed securities executed otherwise than on an exchange, for compliance with SEC Rule 10a-1 tick test requirements.	From trade dates February 12 to 23, 2007.
0	Customer and proprietary sales entered into the Nasdaq Exchange execution systems, for compliance with Nasdaq Rule 4755 long/short/exempt sale indicator entry requirements.	From trade dates February 12 to 23, 2007.
9	Cancellations of trades reported to a TRF or OTCRF, for compliance with NASD Rules 4632(g), 6420(f), 6620(f) and 6130(f) trade report cancellation requirements.	From trade dates February 12 to 23, 2007.
9	Limit and market orders executed as principal, for compliance with the order protection and best execution requirements of NASD Rules 2110, IM-2110-2, 2111, 6541 and 2320, and Nasdaq Rules 2110, IM-2110-2, 2111 and 2320	From trade dates February 12 to 23, 2007.

2007 MRE Exam Samples
Biltmore International Corporation ("BMIC")
Exam No.: 2007 0083604

<u>Sample Size:</u>	<u>Sample Description:</u>	<u>Sample Source/Period:</u>
0	Limit orders for NMS stocks in which the member acts as an exchange or OTC market maker, for compliance with the display requirements of SEC Rule 604, 604 and Nasdaq Rule 3390.	From trade dates February 12 to 23, 2007.
0	Market orders with "not held" terms or from institutional customers, for compliance with NASD Rule 2320 and Nasdaq Rule 2320 best execution requirements.	From trade dates February 12 to 23, 2007.
0	Market orders executed as principal, for compliance with NASD Rule 2320 and Nasdaq Rule 2320 best execution requirements.	From trade dates February 12 to 23, 2007.
0	Order memoranda for net trades effected by non-institutional and institutional customers, for compliance with NASD Rule 2441 documentation requirements.	From trade dates February 12 to 23, 2007.
0	Net trading agreements with institutional customers, for compliance with NASD Rule 2441 documentation requirements.	From trade dates February 12 to 23, 2007.
17	Principal and riskless principal trade executions effected otherwise than on an exchange for 12 limit or market orders, for compliance with NASD Rules 4632, 6420, 6620 and 6130 requirements for TRF and OTCRF reporting.	From trade dates February 12 to 23, 2007.
0	Principal and riskless principal trade executions effected otherwise than on an exchange for 0 limit or market orders, for compliance with NASD Rule 4632A requirements for ADF/TRACS reporting.	From trade dates February 12 to 23, 2007.
0	NASD Market Surveillance breaks for principal and riskless principal trades, for compliance with NASD Rules 4632, 6420, 6620, 6130 and 4632A requirements for TRF, OTCRF and ADF/TRACS reporting.	From trade dates February 12 to 23, 2007.

2007 MRE Exam Samples
Biltmore International Corporation ("BMIC")
Exam No.: 2007 0083604

<u>Sample Size:</u>	<u>Sample Description:</u>	<u>Sample Source/Period:</u>
N/A	Trade executions effected otherwise than on an exchange for orders in Nasdaq-listed or exchange listed securities, received from customers with accounts subject to a soft dollar agreement, for compliance with the SEC '34 Act section 28(e) safe harbor which limits the accrual of soft dollar credits for riskless principal transactions to those reporting in compliance with NASD Rules 4632 and 6420.	N/A
0	Open limit orders to buy and/or open stop orders to sell securities that traded ex-dividend, for compliance with NASD Rule 3220 and Nasdaq Rule 4761.	For ex-dividend dates February 12 to 23, 2007.
0	Trades reported to a TRF or OTCRF with a PRP modifier, for compliance with NASD Rules 4632, 6420, 6620 and 2320.	From trade dates February 12 to 23, 2007.
N/A	Orders for NMS stocks in which the firm acts as a market center, for compliance with SEC Rule 605 order classification requirements.	N/A
N/A	Datasets published for on the monthly order execution report, for compliance with SEC Rule 605 requirement to publish accurate data. (A "dataset" is all required statistical data for a single order category, with each category representing a single unique combination of a security, order type and order size, as described in Rule 605.)	N/A
N/A	Quarterly order routing report, for compliance with SEC Rule 606 requirements.	N/A
9	Customer orders in OTC equity securities, for compliance with NASD Rules 2320(g) and 3110(b) requirements to ascertain and document the best interdealer market for transactions in such securities.	From trade dates February 12 to 23, 2007.

2007 MRE Exam Samples
Biltmore International Corporation ("BMIC")
Exam No.: 2007 0083604

<u>Sample Size:</u>	<u>Sample Description:</u>	<u>Sample Source/Period:</u>
5	Orders in securities required to be submitted to OATS, for compliance with NASD Rules 6954 and 6955, and Nasdaq Rules 6954 and 6955 requirement to submit OATS information.	From trade dates throughout February 2007.
89	Order/Trade records prepared and maintained in connection with the above samples, for general compliance with requirements of NASD Rule 3110 and SEC Rules 17a-3 and 17a-4.	From trade dates throughout February 2007.
101	Trades reported to a TRF, OTCRF or ADF/TRACS in connection with the above samples, for general compliance with requirements of NASD Trade Reporting and ADF rules.	From trade dates throughout February 2007.
5	Customer confirmations prepared and maintained in connection with the above samples, for compliance with SEC Rule 10b-10 disclosure requirements.	From trade dates February 12 to 23, 2007.
6	CRD registration records for persons conducting and/or supervising the member's trading and market making activities, for compliance with NASD Rule Series 1020, 1030 and 1040, and Nasdaq Rule Series 1020, 1030 and 1040.	List of trading personnel for February 2007.
All, as provided by the member	The member's supervisory system, written supervisory procedures ("WSPs") and documents evidencing the implementation of the WSPs, for compliance with NASD Rule 3010 requirements to establish an implement a system that is reasonably designed to prevent and detect violations of applicable securities rules.	WSPs provided by the member as those in effect during February 2007, and documentation of supervisory reviews conducted for February 2007.
N/A	The member's "Regular & Rigorous" review procedures (for assessing the execution quality of orders sent to other trading centers and/or internalized, for compliance with NASD Rules 2320 and 3010.	Procedures provided by the member as those in effect during February 2007.

CORRECTIVE ACTION STATEMENT

TO: Market Regulation Department
FINRA

SUBMITTED BY: Biltmore International Corporation
Broker-Dealer
CRD No. 21163

DATED: September 11, 2008

This Corrective Action Statement is submitted by the Respondent, Biltmore International Corporation ("BMIC"). It does not constitute factual or legal findings by FINRA, nor does it reflect the views of the FINRA, or its staff. BMIC submits this Statement to provide information as to corrective actions already taken.

The general nature of the FINRA violations at issue allege that, for the reporting period February 12, 2007 through February 23, 2007, BMIC failed to report to the OTC Reporting Facility the correct symbol indication whether the transaction was a buy, sell, sell short or cross for transactions in Reportable Securities in violation of NASD Marketplace Rule 6130 (d). In addition, BMIC allegedly incorrectly reported the contra capacity as "principal" when the contra capacity should have been reported as "agency" for 19 transactions in reportable securities, which is a violation of NASD Marketplace Rule 6620(d). Biltmore's written supervisory procedures failed to provide for adequate supervisory procedures in the areas of order handling, best execution and trade reporting, OATS reporting, and other trading rules in violation of NASD conduct rules 2110 and 3010.

All of the trades in question were OTC Bulletin Board or Pink Sheet securities executed through the Pink Link OTC Dealer System. Due to a software change in Biltmore's order management system provided by NYFIX, the system was not correctly marking short sales with a short sale modifier. As a consequence, all sales were inadvertently being reported as long sales.

The order management system also had a problem in that it failed to accurately designate the capacity of the contra party for certain transactions during the examination time period.

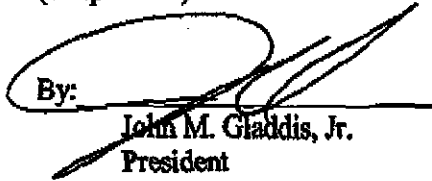
When these issues were brought to our attention, we immediately contacted NYFIX. On June 11, 2007 NYFIX rolled out a software upgrade correcting the reporting issues.

Biltmore has modified its Written Supervisory Procedures to include an audit of these issues to prevent them from reoccurring. Specifically, the Written Supervisory Procedures now provide that a random comparison will be done of Biltmore's executions to compare them to NASDAQ's TRF reports to insure that they are being reported accurately by the order management system.

In addition to this modification, Biltmore updated its Written Supervisory Procedures in July of 2007 to address the items identified in your audit. For each such item, the Procedures now detail how often a review will be performed, what documents will be reviewed, what evidence of the review will be maintained, and who will conduct the review.

Respectfully submitted,

Biltmore International Corporation
(Respondent)

By: 

John M. Gladdis, Jr.
President