

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20070118356-01**

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

RE: Howe Barnes Hoefler & Arnett, Inc., Respondent
Broker-Dealer
CRD No. 2240

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Howe Barnes Hoefler & Arnett, Inc. ("HOWE" or 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

HOWE has been a member of FINRA, and its predecessor NASD, since October 16, 1936, and its registration remains in effect.

RELEVANT DISCIPLINARY HISTORY

The firm has no relevant disciplinary history.

SUMMARY

In connection with matter no. 20070118356, the Trading and Market Making Surveillance ("TMMS") staff reviewed the trading activity of the firm, set forth in Exhibit 1, for trade dates November 27, 2007 and November 28, 2007 (the "review period"), unless otherwise noted.

FACTS AND VIOLATIVE CONDUCT

In connection with matter no. 20070118356, the staff found that;

1. The firm incorrectly submitted data to the Order Audit Trail System ("OATS") in 41 instances. Specifically, the firm failed to: correctly submit the "Not Held" special handling code to OATS (one instance); correctly submit the "Proprietary" account type and the "M" member type to OATS (37 instances); correctly submit a "NW" report, the "Proprietary" account type and the "M" member type to OATS (one instance); correctly submit a cancel/replace report, the "Proprietary" account type and the "M" member type to OATS (one instance); correctly submit the "Not Held" special handling code, a cancel/replace report, the "Proprietary" account type and the "M" member type to OATS (one instance). This conduct constitutes separate and distinct violations of NASD Marketplace Rule 6955(a).
2. The firm failed to properly disclose, on 47 occasions, all pertinent information to a customer on the customer confirmation. Specifically, the firm failed to disclose: a commission equivalent or markup/markdown on the customer confirmation (26 instances); the correct capacity and a commission equivalent or markup/markdown on the customer confirmation (three instances); the correct price, a commission equivalent or markup/markdown and the correct capacity on the customer confirmation (16 instances); a commission equivalent or markup/markdown and the average price trade on the customer confirmation (one instance); and the correct capacity on the customer confirmation (one instance). The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 10b-10.
3. The firm failed to properly report 17 transactions in that the firm failed to: properly report media trades (four instances); failed to correctly report a riskless principal trade (three instances); failed to report a principal transaction (one instance); failed to report a cancellation (eight instances); and failed to append the .W modifier (one instance). This conduct constitutes separate and distinct violations of NASD Rule 6130.
4. 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 (b); Best Execution (b); Other Trading Rules (b); OATS (b); and Other Rules (b). In addition, the firm failed to provide documentary evidence that, during the review period, it performed the supervisory reviews set forth in its written supervisory procedures concerning Order Handling, Best Execution, Other Trading Rules, OATS, and Other Rules. The conduct described in this paragraph constitutes separate violations of NASD Rules 2110 and 3010.

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

A censure and a fine of \$20,000 comprised of the following fines: (1) \$5,000 for 41 violations of NASD Rule 6955(a); (2) \$5,000 for 47 violations of SEC Rule 10(b)-10; (3) \$5,000 for 17 violations of NASD Rule 6130; and (4) \$5,000 for violations of NASD Rules 2110 and 3010.

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:

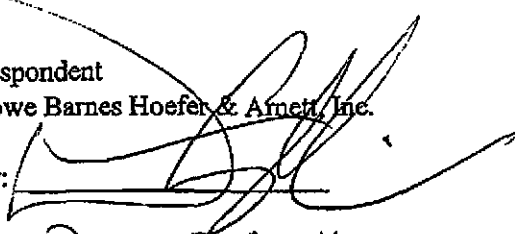
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will 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.

2-25-10
Date

Respondent
Howe Barnes Hoefel & Arnett, Inc.

By: 

Name: Daniel E. Cuglin

Title: President & CEO

Reviewed by:



Counsel for Respondent

Accepted by FINRA:

3/24/10
Date

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

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