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

NO. 20070119345-01

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

RE: Fox River Execution Technology, LLC, Respondent
Broker-Dealer
CRD No. 133549

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Fox River Execution Technology, 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 June 7, 2005, and its registration remains in effect. The firm has no relevant disciplinary history.

SUMMARY

In connection with matter no. 20070119345, the Market Making Analysis and Order Handling Section staff ("Order Handling staff") of the Department of Market Regulation reviewed the trading activity of the firm for the first half of 2007 ("first half of 2007").

In connection with matter no. 20080122873, Order Audit Trail System ("OATS") staff of the Department of Market Regulation reviewed the firm's reporting to OATS for the period July 1, 2007 through September 30, 2007 ("3Q 2007").

In connection with matter no. 20080127569, Trading and Market Making Surveillance ("TMMS") staff of the Department of Market Regulation reviewed the trading activity of

the firm, set forth in Exhibit 1, for the trade dates, March 18 through 19, 2008, unless otherwise noted ("2008 TMMS trade dates").

In connection with matter no. 20100215919, TMMS staff reviewed the trading activity of the firm, set forth in Exhibit 2, for trade date, February 18, 2010, unless otherwise noted ("2010 TMMS trade date").

FACTS AND VIOLATIVE CONDUCT

In connection with matter no. 20070119345:

- 1) During the first half of 2007, the firm effected 122 transactions in 57 securities while a trading halt was in effect with respect to each of the securities. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rules 2110 and 3340.

In connection with matter no. 20080122873:

- 2) During 3Q 2007, the firm transmitted to OATS 96 Execution or Combined Order/Execution Reports that contained inaccurate, incomplete, or improperly formatted data. Because of the inaccurate, missing, or improperly formatted data, the OATS system was unable to link the execution reports to the related trade reports in an NASD trade reporting system. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6955(a).
- 3) During 3Q 2007, the firm transmitted to OATS 96 reports that contained inaccurate, incomplete, or improperly formatted data. Specifically, the reports contained the incorrect Buy/Sell Code. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6955(a).
- 4) The firm failed to report to the FINRA/Nasdaq Trade Reporting Facility the correct symbol indicating the capacity in which the firm executed 63 transactions in Reportable Securities. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6130(d).

In connection with matter no. 20080127569:

- 5) During the 2008 TMMS trade dates, the firm executed four short sale transactions in Reportable Securities and failed to report each of these transactions to the FINRA/Nasdaq Trade Reporting Facility with the correct symbol indicating whether the transaction was a buy, sell, sell short, or cross.

The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6130(d).

- 6) 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: Sales Transactions (Order Marking, Short Sale Reporting [(a)-(d)], and Locate and Borrowing [(b)]); OATS (Accuracy of Submissions, OATS vs. TRF Reporting, Inter-firm routing [(b)]); and Other Rules (Books and Records [(a)-(d)]). The conduct described in this paragraph constitutes a violation of NASD Rules 2110 and 3010.

In connection with matter no. 20100215919:

- 7) During the 2010 TMMS trade date, the firm transmitted to OATS nine reports that contained inaccurate, incomplete, or improperly formatted data. Specifically, the firm incorrectly submitted a combined order-execution report and incorrectly submitted each with a reporting exception code of "A". The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 7450.
- 8) During the 2010 TMMS trade date, the firm transmitted to OATS five combined order-route reports and related subsequent reports where the timestamp for the related subsequent report occurred prior to the timestamp for the combined order-route report. Because of the inaccurate timestamps, the OATS system was unable to create an accurate, time-sequenced record from the receipt of the order through its resolution. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 7450.
- 9) 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: Trade Reporting (Trades reported on Member's Behalf [(a)-(d)]); and Sales Transactions (Order Marking [(a)-(d)] and Locate Requirements [(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 \$47,500 consisting of the following:

- 1) a \$12,500 fine for violations of NASD Rules 2110 and 3340 in connection with matter no. 20070119345;
- 2) a \$7,500 fine for violations of NASD Rule 6955(a) in connection with matter no. 20080122873;
- 3) a \$7,500 fine for violations of NASD Rule 6130(d) in connection with matter no. 20080122873;
- 4) a \$5,000 fine for violations of NASD Rule 6130(d) in connection with matter no. 20080127569;
- 5) a \$5,000 fine for violations of NASD Rules 3010 and 2110 in connection with matter no. 20080127569;
- 6) a \$5,000 fine for violations of FINRA Rule 7450 in connection with matter no. 20100215919; and
- 7) a \$5,000 fine for violations of NASD Rule 3010 and FINRA Rule 2010 in connection with matter no. 20100215919.

The firm also consents to an undertaking to revise the firm's written supervisory procedures with respect to the areas described in paragraphs 6) and 9). 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 paragraphs 6) and 9); 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

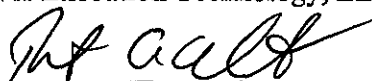
The firm understands that:

- 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.

10/26/2011
Date

Respondent
Fox River Execution Technology, LLC

By: 

Name: Robert Santella

Title: Chief Executive Officer

Reviewed by:

Attorney Name
Counsel for Respondent

Accepted by FINRA:

12/2/11
Date

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


Thomas R. Gira
Executive Vice President
Department of Market Regulation

2008 MRE Exam Samples
Fox River Execution Technology, LLC ("FREX")
Exam No. 20080127569
Trade Dates: March 18-19, 2008

<u>Sample Size:</u>	<u>Sample Description:</u>
406	Customer and/or proprietary sales, reviewed for compliance with SEC Rule 200(g) long/short/exempt sale recording requirements.
15	Customer and/or proprietary short sales, reviewed for compliance with SEC Rule 203(b) security location requirements.
36	Customer and/or proprietary sales reported to a TRF or OTCRF, for compliance with NASD Rules 6130, 4632 and 6620 sale indicator reporting requirements.
N/A	Customer and/or proprietary sales reported to the ADF/TRACS, for compliance with NASD Rule 4632A sale indicator reporting requirements.
190	Customer and/or proprietary sales entered into the Nasdaq Exchange execution systems, for compliance with Nasdaq Rule 4755 long/short/exempt sale indicator entry requirements.
0	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.
N/A	Cancellations of trades reported to ADF/TRACS, for compliance with NASD Rule 4632A(l) trade report cancellation requirements.
N/A	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
N/A	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 and Nasdaq Rule 3390.
0	Market orders with "not held" terms or from institutional customers, for compliance with NASD Rule 2320 and Nasdaq Rule 2320 best execution requirements.
N/A	Market orders executed as principal, for compliance with NASD Rule 2320 and Nasdaq Rule 2320 best execution requirements.
0	Order memoranda for net trades effected by non-institutional and institutional customers, for compliance with NASD Rule 2441 documentation requirements.
0	Net trading agreements with institutional customers, for compliance with NASD Rule 2441 documentation requirements.
36	Principal and riskless principal trade executions effected otherwise than on an exchange for limit or market orders, for compliance with NASD Rules 4632, 6420, 6620 and 6130 requirements for TRF and OTCRF reporting.
N/A	Principal and riskless principal trade executions effected otherwise than on an exchange for limit or market orders, for compliance with NASD Rule 4632A requirements for ADF/TRACS reporting.

2008 MRE Exam Samples
Fox River Execution Technology, LLC ("FREX")
Exam No. 20080127569
Trade Dates: March 18-19, 2008

<u>Sample Size:</u>	<u>Sample Description:</u>
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.
0	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	Open limit order to buy and/or open stop orders to sell securities that traded ex-dividend, for compliance with NASD Rule 3220 and Nasdaq Rule 4761.
0	Trades reported to a TRF or OTCRF with a .PRP modifier, for compliance with NASD Rules 4632, 6420, 6620 and 2320.
N/A	Trades reported to ADF/TRACS with a .PRP modifier, for compliance with NASD Rule 4632A.
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	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.)
0	Quarterly order routing report, for compliance with SEC Rule 606 requirements.
N/A	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.
50	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.
N/A	ADF orders and/or quotes which were accessed by others, for compliance with NASD Rule 4300A requirements to submit Order and Order Response reports.
85	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.
36	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.
0	Customer confirmations prepared and maintained in connection with the above samples, for compliance with SEC Rule 10b-10 disclosure requirements.

2008 MRE Exam Samples
Fox River Execution Technology, LLC ("FREX")
Exam No. 20080127569
Trade Dates: March 18-19, 2008

<u>Sample Size:</u>	<u>Sample Description:</u>
4	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.
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.
All, as provided by the member	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.
N/A	Trades reported by the ATS/ECN to a TRF, OTCRF or ADF/TRACS in connection with the above samples, for compliance with requirements of NASD Rules 6130(c)(5) and/or 6130A(b)(5).
N/A	Trading halts declared during the on-site portion of the examination, for which NASD staff observed the operation of the ATS.

2010 Market Regulation Examination Samples
 Fox River Technology, LLC
 ("FREX")
 Exam No. 20100215919
 Sample Source/Period*: February 18, 2010

<u>Sample Size</u>	<u>Sample Description</u>
1120	Sales reviewed for compliance with SEC Rule 200(g) long/short sale recording requirements
1172	Short Sales reviewed for compliance with SEC Rule 203(b) security location requirements
0	Sales reviewed for compliance with SEC Rule 204 fail-to-deliver requirements
57	Sell trades reported to a TRF or OTCRF for compliance with sale indicator requirements, FINRA Rules 6182 or 6624
363	Sell orders entered into Nasdaq Exchange execution system for compliance with Nasdaq Rule 4755(a)(1)(A) long/short reporting requirements
489	Buy and Sell orders entered into Nasdaq Exchange execution system for compliance with Nasdaq Rule 4611 capacity reporting requirements
0	Sell orders entered into BATS Exchange execution system for compliance with BATS Rule 11.19 long/short reporting requirements
N/A	Limit orders for NMS securities in which the member acts as an exchange market maker for compliance with the display requirements of SEC Rules 602 and 604, and Nasdaq Rule 3390
N/A	Orders for compliance with best execution requirements of NASD Rule 2320 X Held orders from the Held Order Protection Review X Not Held orders from the Not Held Order Review X Order executed with a .PRP (Prior Reference Price) trade modifier X 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
N/A	Orders for compliance with order protection requirements of NASD Rules 2110, IM-2110-2, 2111, and Nasdaq Rules 2110, IM-2110-2, and 2111
N/A	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
N/A	Order memoranda and Net Trading agreements for compliance with NASD Rule 2441 requirements
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
N/A	Customer confirmations prepared and maintained in connection with select samples for compliance with SEC Rule 10b-10
N/A	Orders for NMS securities in which the Firm acts as a market center for compliance with SEC Rule 605 order classification requirements
0	Data sets published for Month Year monthly order execution report for compliance with SEC Rule 605 requirement to publish accurate data (a 'data set' encompasses all required statistical data for single security and order type/size category as described in SEC Rule 605)
1	Quarterly Routing Report for compliance with SEC Rule 606 requirements
7	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

* unless otherwise noted 1.4
 2009 Version 2.0 - September 1, 2009
 Created By/Date: Jason Siv/7.20.10
 Last Updated By/Date: Nadja Skellon/7.30.10

2010 Market Regulation Examination Samples
 Fox River Technology, LLC
 ("FREX")
 Exam No. 20100215919
 Sample Source/Period*: February 18, 2010

<u>Sample Size</u>	<u>Sample Description</u>
0	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
N/A	Disclosures to customers relating to trading in the Extended Hours session for compliance with FINRA Rule 2265 and Nasdaq Rule 4631
100	Records prepared and maintained in connection with the above samples for compliance with SEC Rules 17a-3 and 17a-4, and NASD Rule 3110
49	Trades reported to a TRF or OTCRF for compliance with FINRA Rules 6380A and 7230A or 6622 and 7330
N/A	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
N/A	Trading Halts declared during the on-site portion of the examination for which FINRA Staff observed the operation of the ATS.
N/A	Trades reported to the ADF/TRACS for compliance with FINRA Rule 6282
N/A	ADF orders and quotes accessed by other market participants for compliance with FINRA Rule 6250 requirements to submit Order and Order Response reports

MULTIPLE MPID REVIEW

14	Sell orders entered into Nasdaq Exchange execution system for compliance with Nasdaq Rule 4755(a)(1)(A) long/short reporting requirements
78	Buy and Sell orders entered into Nasdaq Exchange execution system for compliance with Nasdaq Rule 4611 capacity reporting requirements
20	Orders in securities required to be submitted to OATS for compliance with FINRA Rules 7440 and 7450, and Nasdaq Rules 6954 and 6955 requirements
25	Records prepared and maintained in connection with the above samples for compliance with SEC Rules 17a-3 and 17a-4, and NASD Rule 3110