

FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20080136794-01

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

RE: **Jefferies & Company, Inc., Respondent**
Broker-Dealer
CRD No. 2347

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Jefferies & Company, Inc. ("JEFF" 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

JEFF has been a member of FINRA since March 1, 1963, and its registration remains in effect.

RELEVANT DISCIPLINARY HISTORY

JEFF has the following relevant disciplinary history:

- On December 18, 2007, an AWC became final in which the firm was censured and fined \$50,000 for violating NASD Rules 2110, 3010 and 3310 as a result of overstating its trade volume in one particular equity security that was advertised to three private service providers – Thomson AutEx BlockDATA ("AutEx"), Bloomberg and Reuters – in August 2006, and for related supervisory deficiencies.

SUMMARY

In connection with matter 20080136794, the staff of the Market Analysis Section of the Department of Market Regulation (the "staff") conducted an investigation of the apparent recurrence of overstating of advertised trade volume posted by JEFF traders during the period January 1, 2008 through August 31, 2008 (the "review period").

FACTS AND VIOLATIVE CONDUCT

1. As discussed above, JEFF was subject to a FINRA disciplinary action in December 2007 for overstating its advertised trade volume to AutEx, Bloomberg and Reuters, and for related supervisory deficiencies. Starting in January 2008 and continuing for approximately eight months through August 2008, in 248 separate instances involving 135 individual securities, the firm's aggregate trade volume advertised in AutEx, Bloomberg and/or Reuters substantially exceeded the firm's executed trade volume. For example, on one trade date when the firm did not execute any trades for a particular security, the firm published a trade volume of 277,777 in that security. The firm's advertised trade volume was published to the subscribers of AutEx, Bloomberg and Reuters. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rules 2110, 2210, 3310 and IM-3310.
2. Although JEFF did establish a supervisory system to review advertised trade volume in January 2007, prior to entering into the December 2007 AWC, the firm failed to implement the supervisory system during the review period to ensure compliance with regulatory requirements for accuracy in the firm's advertisements of executed trade volume. More specifically, the firm failed to pursue or redress a number of red flags as to potential overstatements of advertised trade volume by the firm's traders, including: (a) failing to take reasonable steps in response to the firm's December 2007 disciplinary action for instances of overstated advertisements, including failing to give appropriate training to the firm's traders and their supervisors regarding accurate advertised trade volume; and (b) failing to properly follow up on – and take appropriate remedial action with respect to – at least 15 instances of potential over-advertising detected during the review period by a trading supervisor. The conduct described in this paragraph constitutes a violation of NASD Rules 2110 and 3010.

OTHER FACTORS

Immediately upon receiving the staff's initial inquiry letter for this matter, JEFF, on its own accord, conducted an internal investigation; provided a written summation of the results of that investigation; allowed the staff access to related documentation; and imposed significant disciplinary actions against three traders responsible for the inflated advertisements and their designated supervisor. Consistent with Principal Consideration

12 of the Sanction Guidelines, and in direct accordance with Notice to Members 08-70, "FINRA Provides Guidance Regarding Credit for Extraordinary Cooperation" (Nov. 2008), the mitigated monetary sanction in this matter reflects the extraordinarily cooperative actions undertaken by JEFF, as described in this paragraph.

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

A censure and a fine of \$550,000.

The firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. The firm 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 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.

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 records;
 - 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.

1/19/12
Date

Respondent

Jefferies & Company, Inc.

By: [Signature]

Name: MICHAEL J. SHARP

Title: EVP, GC + Secy

Reviewed by:

Ivan B. Kramer
Counsel for Respondent

Accepted by FINRA:

2/15/12
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