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FINRA/REGULATORY AFFAIRS

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20080140831-02**

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

RE: UBS Securities LLC, Respondent
Broker-Dealer
CRD No. 7654

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, UBS Securities 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 became a member of FINRA in 1978, and its registration remains in effect. It has the following relevant disciplinary history:

- In June 2008, FINRA accepted the firm's AWC (20041000004) in which it agreed to a censure and a total fine of \$116,000, which included a \$5,000 fine for violations of NASD Rule 6130(d) from April 1 to June 30, 2003, a \$16,000 fine for Order Audit Trail System ("OATS") violations from October 1 to December 31, 2005, and in July 2006, and a \$20,000 fine for having inadequate written supervisory procedures for short sales compliance from January to September 2004 and for compliance with rules relating to order handling, best execution, soft dollar accounts and trading, and books and records in July 2006.

- In January 2008, FINRA accepted the firm's AWC (20050001318) in which it agreed to a censure and a total fine of \$12,500, which included a \$5,000 fine for failing to maintain adequate written supervisory procedures for compliance with limit order display rules from April 1 to September 30, 2004.
- In March 2007, FINRA accepted the firm's AWC (20050002993) in which it agreed to a censure and a total fine of \$27,500, which included a \$10,000 fine for OATS violations in August 2004 and a \$5,000 fine for deficient written supervisory procedures in November 2005.
- In January 2007, FINRA accepted the firm's AWC (20042000144) in which it agreed to a censure and a fine of \$65,000 for OATS violations from April 1 to June 30, 2003, January 1 to March 31, 2004, and July 1 to December 31, 2004.
- In March 2006, FINRA accepted the firm's AWC (20042000062) in which it agreed to a censure and a total fine of \$22,000, which included a \$5,000 fine for OATS violations from October 1 to December 31, 2002.
- In February 2006, FINRA accepted the firm's AWC (20042000143) in which it agreed to a censure and a fine of \$20,000 for OATS violations in September 2003.

SUMMARY

This matter is the result of the firm's 2008 Trading and Market Making Surveillance examination. The on-site portion of the TMMS examination took place on September 15 - 19, 2008. Attached as an exhibit is a list of the items the staff reviewed during the on-site examination for trade date July 8, 2008.

1. On July 8, 2008, the firm failed to report to the FINRA/Nasdaq Trade Reporting Facility the correct symbol indicating whether the transaction was a buy, sell, sell short, or cross for 220 transactions in Reportable Securities. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6130(d).
2. On July 8, 2008, the firm transmitted to OATS 17 reports that contained inaccurate, incomplete, or improperly formatted data. Specifically, the firm failed to transmit, or incorrectly transmitted, execution reports, desk reports, cancel reports, or route reports. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6955(a).
3. For the month of May 2008, the firm made available a report on the covered orders in national market system securities that it received for execution from any person. In three instances, the firm incorrectly classified a not held order as covered. In one instance, covering Marketable Limit Orders between 5,000 and 9,999 shares, it failed to publish accurate statistics. In seven instances, the firm

failed to provide adequate documentary evidence of how it classified an order. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 605 of Regulation NMS.

4. During July 2008, 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 order handling, best execution, sales transactions, anti-intimidation/coordination, and other rules, including the maintenance of appropriate books and records. Specifically, the firm's supervisory system did not include written supervisory procedures providing for: (1) the identification of the persons responsible for supervision with respect to the applicable rules; (2) a statement of the supervisory steps to be taken by the identified persons; (3) a statement as to how often such persons should take such steps; and (4) a statement as to how the completion of the steps included in the written supervisory procedures should be documented. The conduct described in this paragraph constitutes violations of NASD Rules 2110 and 3010.
5. The firm failed to provide documentary evidence that on July 8, 2008, the trade date reviewed in the TMMS examination, it performed the supervisory reviews set forth in its written supervisory procedures concerning best execution, trade reporting, sales transactions (long/short determination and marking), trading halts, OATS (accurate and timely OATS submissions and repairing rejected Reportable Order Events), and books and records. The conduct described in this paragraph constitutes violations of NASD Rules 2110 and 3010.

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

A censure, a fine of \$60,000, and an undertaking to revise the firm's written supervisory procedures with respect to the areas described in paragraphs I.A.4 and I.A.5 above. Within 30 business days of acceptance of this AWC by the National Adjudicatory Council ("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; 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. 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 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 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 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.

Dec. 11, 2009
Date

Respondent
UBS Securities LLC

By: Judith Romaine

Name: Judith Romaine

Title: Executive Director

Reviewed by:

Judith Romaine
Counsel for Respondent

Accepted by FINRA:

1/19/10
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