

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

NO. 20080149138-01 | 2009 JUL -1 A 8 54

**FINRA
MARKET REGULATION**

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

**RE: B. Riley & Co., LLC, Respondent
Broker-Dealer
CRD No. 40355**

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, B. Riley & Co., LLC ("RILY" 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

RILY has been a member of FINRA since January 3, 1997, and its registration remains in effect.

RELEVANT DISCIPLINARY HISTORY

The firm has following relevant disciplinary history:

- In August 2007, FINRA accepted the firm's AWC, in which the firm was censured and fined \$265,000.00 for violations of SEC Rule 10b-10 and NASD Marketplace Rules 6130 and 6955 during the period August 1, 2005 through August 31, 2005.

000055224 2009

000124110 2011

SUMMARY

In connection with matter no. 20080149136, the Trading and Market Making Surveillance ("TMMS") staff reviewed the trading activity of the firm set forth in Exhibit 1 for trade dates August 27, 2008 through August 28, 2008 (the "review period"), unless otherwise noted.

FACTS AND VIOLATIVE CONDUCT

In connection with matter no. 20080149136,

1. During the review period, RILY transmitted to the Order Audit Trail System ("OATS") 19 reports that contained inaccurate or incomplete data. The conduct described in paragraph one above constitutes separate and distinct violations of NASD Marketplace Rule 6955(a).

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

A censure and a fine of \$10,000

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.

6/30/09
Date

Respondent
B. Riley & Co., LLC

By: [Signature]

Name: Bryant Riley

Title: Chairman

Reviewed by:

Counsel for Respondent

Accepted by FINRA:

8/10/09
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

2008 Market Regulation Examination Samples
B. Riley & Co., LLC ("RILY")
Exam No. 20080149136
Sample Source / Period*: August 27 & 28, 2008

Sample Size Sample Description

22	Sales reviewed for compliance with SEC Rule 200(g) long/short sale recording requirements
5	Short Sales reviewed for compliance with SEC Rule 203(b) security location requirements
285	Trades reported to a TRF or OTCTRF for compliance with NASD Rule 6130
218	for general trade reporting requirements
2	for Cancellation of reported trade requirements
0	for Principal, Riskless Principal, or Agency executions effected otherwise than on an exchange
0	for compliance with the use of the .PRP (Prior Reference Price) trade modifier
30	for compliance with the requirements of odd-lot trade reporting
0	for compliance with the use of the .RA trade modifier (prices away from the market)
0	for compliance with the use of the .RX trade modifier (exercise OTC options contract)
0	for compliance with SEC '34 Act Section 28(c) guidelines relating to Soft Dollar Agreements
35	for Sale Indicator requirements
1	Disclosures to customers relating to trading in the Extended Hours session for compliance with Nasdaq Rule 4631
10	Orders entered into Nasdaq Exchange execution systems for compliance with Nasdaq Rules 4755 and 2110
0	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
59	Orders for compliance with best execution requirements of NASD Rule 2320
0	Orders executed as principal for compliance NASD Rule 2320 and with the order protection requirements of NASD Rules 2110, IM-2110-2, 2111, 6541 and Nasdaq Rules 2110, IM-2110-2, and 2111
59	'Not Held' orders for compliance with NASD Rule 2320 and Nasdaq Rule 2320 best execution requirements
2	2 Customer orders in OTC equity securities for compliance with NASD Rules 2320 and 3110(b) requirements to ascertain and document best interdealer market related to execution of orders
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
0	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 NASD Rules 6954 and 6955 and Nasdaq Rules 6954 and 6955 requirements
 - 54 Customer confirmations prepared and maintained in connection with select samples
54 for compliance with SEC Rule 10b-10 disclosure requirements
0 for compliance with SEC '34 Act Section 28(e) guidelines relating to Soft Dollar Agreements
 - 0 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 August 2008 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)
 - 0 Orders underlying data sets reviewed for June 2008 for NMS securities in which the Firm acts as a market center for compliance with SEC Rule 605 order classification requirements
 - 1 Quarterly Routing Report for compliance with SEC Rule 606 requirements
 - 12 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 and Nasdaq Rule Series 1020, 1030, 1040
- All Provided Member's "Regular & Rigorous" review procedures regarding order execution quality for compliance with NASD Rules 2320 and 3010
- All Provided Member's supervisory system, written supervisory procedures ("WSPs") and documentation evidencing execution of the WSPs for compliance with NASD Rule 3010 requirements
- 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 Rules 610, 611, and 612
- 82 Records prepared and maintained in connection with the above samples for compliance with SEC Rules 17a-3 and 17a-4 and NASD Rule 3110

B RILEY

Research Trading
Investment Banking
Member FINRA and SIPC

June 30, 2009

VIA: Overnight Mail

FINRA Market Regulation
Attn: Joaquin W. Gubb
9509 Key West Avenue - 5th Floor
Rockville, MD 20850

Re: Letter of Acceptance, Waiver and Consent
STAR No. 20080149136

Dear Mr. Gubb:

This letter constitutes a Corrective Action Statement submitted by B. Riley & Co., LLC ("we" or the "Respondent") to be included with the above referenced Letter of Acceptance, Waiver and Consent (the "AWC").

Fifteen of the nineteen cited matters involve the creation of OATS desk reports showing activity between units of the company which, as we now understand it, FINRA would treat as a single aggregate unit under SEC Regulation SHO (SEC Rule 200(f)), thus eliminating the need for desk reports. Accordingly, we have ceased creation of desk reports in such instances.

Four of the cited matters are related to incorrect quantities reported in conjunction with the OATS special handling code "Add". This error originated with the widely used Bloomberg SSEOMS service that provides OATS reporting to us; we have noted the issue for Bloomberg and have their assurance that this is being resolved.

Two of the cited matters related to the Firm incorrectly recording sell transactions as long instead of short. These were inadvertent human error. The importance of this issue has been reiterated to all trading personnel including those that were responsible for the error. Further, since the TMMS exam, we have worked with our Bloomberg OMS to institute logic that is intended to prevent traders from selling short a stock that the firm has a long position in and vice-versa.

One of the cited matters involved the inadvertent use of "standard", rather than "military", time to enter an order. We have reminded all personnel of the importance of consistently using the military-time format for such matters.

If you have any questions or comments with regards to B. Riley & Co.'s response please don't hesitate to contact me.

Sincerely,



Allison Petchenick
Chief Compliance Officer

This Corrective Action Statement is submitted by the Respondent. It does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA, or its staff.

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