

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2009015972001**

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

RE: Aactiva Capital Markets, Inc., Respondent
CRD No. 42619

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent 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 me alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent 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

Activa Capital Markets, Inc. ("Activa") has been a FINRA member since April 16, 1997. The firm is approved to conduct business in corporate debt securities, mutual funds, equities and private placements. The firm consists of 16 registered persons in two branch offices.

RELEVANT DISCIPLINARY HISTORY

Activa has no relevant disciplinary history.

OVERVIEW

From February 2007 through March 2009, Activa failed to implement an audit system that provided for review of a third-party vendor's handling of firm records required to be maintained and preserved to electronic storage media. As a result,

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from February 2007 through March 2009, the firm did not retain any electronic communications, in violation of Section 17(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), SEC Rule 17a-4, NASD Conduct Rules 3110 and 2110 and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

SEC Rules 17a-3 and 17a-4 and NASD Conduct Rule 3110 impose a general duty on member firms to maintain, keep current, and preserve certain books and records. SEC Rule 17a-4(b)(4) requires member firms to maintain and preserve, for a period of not less than three years, electronic and other communications relating to their business as a broker-dealer. In addition, Rule 17a-4 requires that the member, broker, or dealer must have in place an audit system providing for accountability regarding inputting of records required to be maintained and preserved to electronic storage media.

In February 2007, Activa contracted with a third-party vendor for purposes of retaining Activa's business-related electronic communications. After entering into this contract, Activa failed to implement an audit system regarding the third-party vendor's maintenance and preservation of Activa's electronic communications, and thus failed to discover that the third-party vendor had failed to adequately retain Activa's business-related electronic communications for the period of February 2007 through March 2009. As a result, Activa failed to maintain its business-related electronic communications during the period from February 2007 through March 2009.

Based on the foregoing, Activa violated Section 17(a) of the Exchange Act, SEC Rule 17a-4 and NASD Conduct Rule 3110. Activa also violated NASD Conduct Rule 2110 from February 2007 through December 14, 2008 and FINRA Rule 2010 from December 15, 2008 through March 2009.

B. Respondent also consents to the imposition of the following sanctions:

A censure and a fine of \$30,000.

Respondent agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. Respondent has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Respondent 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

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against me;
- 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, Respondent 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.

Respondent 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

Respondent 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 Respondent; and

C. If accepted:

1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against Respondent;
2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about my 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. Respondent 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. Respondent 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 my right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

D. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent 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.

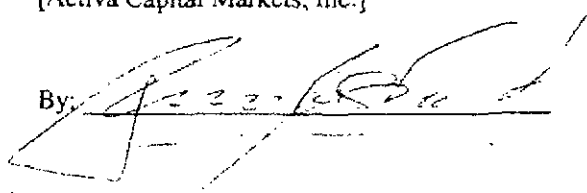
The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have agreed to its provisions voluntarily; and that no offer, threat, 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 me [the Firm] to submit it.

05/14/2010
Date (mm/dd/yyyy)

FRANCISCO CASTRO
Respondent

[Activa Capital Markets, Inc.]

Reviewed by:

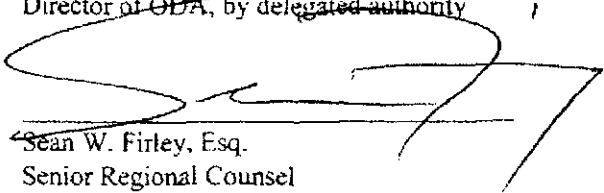
By: 

Charles L. Stutts, Esq.
Counsel for Respondent
Holland & Knight
100 North Tampa Street
Suite 4100
Tampa, FL 33601
813-227-6466
Charles.stutts@hklaw.com

Accepted by FINRA:

10/18/10
Date

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


Sean W. Firley, Esq.
Senior Regional Counsel
FINRA Department of Enforcement
2500 N. Military Trail
Suite 302
Boca Raton, FL 33431
Phone 561.443.8102; Fax Number 561.443.7995
Sean.firley@finra.org

The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have agreed to its 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 me [the Firm] to submit it.

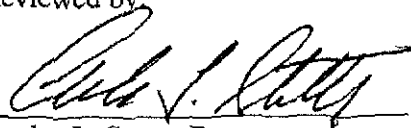
Date (mm/dd/yyyy)

Respondent

[Activa Capital Markets, Inc.]

By: _____

Reviewed by:



Charles L. Stutts, Esq.
Counsel for Respondent
Holland & Knight
100 North Tampa Street
Suite 4100
Tampa, FL 33601
813-227-6466
Charles.stutts@hklaw.com

Accepted by FINRA:

Date

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

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Charles L. Stutts
813 227 6466
charles.stutts@hklaw.com

October 11, 2010

VIA EMAIL AND FEDEX

Sean W. Firley, Esquire
Senior Regional Counsel
FINRA Department of Enforcement
Crystal Corporate Center
2500 N. Military Trail, Suite 302
Boca Raton, FL 33431-6324

Re: Activa Capital Markets, Inc. (Examination No. 20090159720); Statement of
Corrective Action

Dear Mr. Firley:

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

Background

Activa Capital Markets ("Activa") has been a responsible member of FINRA (f/k/a the National Association of Securities Dealers or NASD). Except for the current disciplinary matter, Activa has not been the subject of any disciplinary action by FINRA, the SEC or any other federal or state regulatory agency or SRO for violation of an investment-related statute or regulation since becoming a FINRA member. Likewise, none of Activa's registered principals or representatives have been the subject of any disciplinary actions for violations of applicable law or regulation.

Upon being notified by FINRA of the inquiry into Activa's compliance with Conduct Rules 3110 and 2110 and SEC Rules 17a-3 and 17a-4, Activa fully cooperated with and provided assistance to FINRA in its examination of the matter, including producing all requested and available documents and responding to questions by FINRA regarding the firm's policies, procedures and customer accounts.

Atlanta • Bethesda • Boston • Chicago • Fort Lauderdale • Jacksonville • Los Angeles
Miami • New York • Northern Virginia • Orlando • Portland • San Francisco
Tallahassee • Tampa • Washington, D.C. • West Palm Beach
Beijing • Caracas* • Mexico City • Tel Aviv* • *Representative Office

Statement of Corrective Action

Activa has taken the following actions to correct the deficiencies identified in FINRA's examination of the firm with respect to Conduct Rules 3110 and 2110 and SEC Rules 17a-3 and 17a-4

1. Change of Third-Party Vendor for Storage of Electronic Communications.

On April 1, 2009, even prior to learning that Steil Technologies, Activa's independent third-party vendor retained specifically to provide storage of the firm's electronic communications, had deleted the electronic communications for the period from February 2007 through March 2009 that are the subject of the Acceptance, Waiver and Consent Agreement between the parties, Activa signed an agreement with Postini, an email security and archiving service provided by Google, Inc., to provide storage and retrieval services for the firm's electronic communications. The agreement provides that Postini will maintain the firm's electronic communications throughout the term of the agreement and, upon expiration or termination, will return the communications to Activa or such other party as the firm may direct.

2. Amendment of Activa's Written Supervisory Procedures

Activa's has amended its Written Supervisory Procedures to require the firm's Chief Compliance Officer to download all electronic communications from the Postini archiving facility on a daily basis for review and copying to a backup external hard drive located in the CCO's office. The external drive is password protected and the CCO's office is locked and accessible only to principals of the firm. The amendment to the WSPs ensures that duplicates of the firm's electronic communications are maintained by Postini and Activa, and thus provides protection against a potential destruction or deletion of the communications.

3. Appointment of New Chief Operations Officer and Chief Compliance Officer.

In conjunction with the move of its electronic storage facility to Google/Postini and amendment of WSPs, the firm also appointed new persons, Ms. Oilda Hernandez and Ms. Ana L. Chavarriaga, as its Chief Operations Officer and Chief Compliance Officer, respectively. Together, the firm's employment of these persons serves to upgrade Activa's overall supervisory and compliance functions, will help ensure future adherence to Conduct Rules 3110 and 2110 and SEC Rules 17a-3 and 17a-4.

Conclusion

As shown by the foregoing, Activa has been a conscientious member of FINRA with an exemplary compliance record. Once it learned of FINRA's concerns about potential violations of Conduct Rules 3110 and 2110 and SEC Rules 17a-3 and 17a-4, Activa not only fully cooperated

Sean W. Firley
October 11, 2010
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during FINRA's examination of the conduct at issue, but it also took a number of corrective actions designed to prevent additional violations and ensure future compliance. These actions included the engagement of a new third-party email security and archiving service, adoption of revised WSPs, and appointment of a new Chief Operations Officer and a new Chief Compliance Officer.

Activa appreciates FINRA's consideration of this Statement of Corrective Action and will be pleased to respond to any questions that it may regarding these matters.

Sincerely,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read "Charles L. Stutts", with a stylized flourish at the end.

Charles L. Stutts

cc: Activa Capital Markets