

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20090170171-01**

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

RE: Wilson-Davis & Co., Inc.; Respondent
Broker-Dealer
CRD No. 3777

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Wilson-Davis & Co., Inc. (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 December 23, 1968, and its registration remains in effect.

RELEVANT DISCIPLINARY HISTORY

The firm has the following relevant disciplinary history:

- On January 9, 2007, an AWC was accepted in which the firm was censured and fined \$25,000 for violations of, among other things, inadequate written supervisory procedures with respect to books and records.

SUMMARY

In connection with the firm's 2009 Trading and Market Making Surveillance ("TMMS") Exam, matter no. 20090170171, the staff of FINRA's Department of Market Regulation (the "staff") reviewed the trading activity of the firm set forth in Exhibit A for trade dates April 6, 2009 through April 17, 2009 (the "review period"), unless otherwise noted.

FACTS AND VIOLATIVE CONDUCT

1. During the review period, the firm: (a) failed in 11 instances to submit a proprietary order in a non-market making security to the Order Audit Trail System ("OATS"); (b) failed in six instances to submit the correct account type code "E" to OATS; and (c) failed in five instances to submit the correct order receipt time to OATS. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 7450.
2. For the month of March 2009, the firm made available a report on the covered orders in national market system securities that it received for execution from any person. This report included incorrect information as to average realized and effective spreads and outside the quote average amount and time. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 605 of Regulation NMS.
3. During April 2009, 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: order handling (disclosure of order routing information and order execution information) and short sales (prompt delivery of sale transactions by settlement date, reporting accurate short sale indicators, accepting short sale orders under SEC Rule 204T of Regulation SHO, and naked short selling anti-fraud rule) [(b)]; and books and records, use of multiple market participant identifiers, and sub-penny price increments [(a), (b), (c), and (d)]. The conduct described in this paragraph constitutes a violation of NASD Rule 3010 and FINRA Rule 2010.

4. The firm failed to provide documentary evidence that on the trade date(s) reviewed in the TMMS examination it performed the supervisory reviews set forth in its written supervisory procedures concerning short sales (order marking requirements, prompt delivery of sale transactions by settlement date, accepting short sale orders under SEC Rule 204T of Regulation SHO, and naked short selling anti-fraud rule), trading halts, OATS (accuracy and timeliness of OATS data, OATS information is consistent with information submitted to a trade reporting facility, rejected OATS data, and routed order identification numbers are consistent with numbers from sending/receiving member), and order handling (disclosure of order routing information and order execution information). The conduct described in this paragraph constitutes violations of NASD Rule 3010 and FINRA Rule 2010.

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

A censure, a fine of \$22,000 (\$6,000 for OATS reporting violations, \$6,000 for violations of SEC Rule 605 of Regulation NMS, and \$10,000 for supervisory violations), and an undertaking to revise the firm's written supervisory procedures with respect to the areas described in paragraph three. 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 paragraph three; 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 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.

6/22/12
Date

Respondent
Wilson-Davis & Co., Inc.

By: [Signature]
Name: Lyle W Davis
Title: Sec/Treas

Reviewed by:

[Signature]
Counsel for Respondent

Accepted by FINRA:

8/14/12
Date

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

[Signature]
Thomas R. Gira
Executive Vice President
Department of Market Regulation