

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20100243598-01**

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

RE: Essex Radez LLC, Respondent
Broker-Dealer
CRD No. 34649

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Essex Radez 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 on August 9, 2000, and its registration remains in effect.

RELEVANT DISCIPLINARY HISTORY

The firm has no relevant disciplinary history.

SUMMARY

In connection with matter 20100243598, the Short Sales Team of the Department of Market Regulation reviewed the firm's compliance with close out and order marking requirements during the period from June 22, 2009 through December 15, 2011.

In connection with matter 20130358313, the Trading and Market Making Surveillance ("TMMS") staff of the Department of Market Regulation reviewed the firm's trading and market making activities, as set forth on Exhibit 1 which is attached, on the trade dates February 27 and 28, 2013.

FACTS AND VIOLATIVE CONDUCT

In connection with review 20100243598:

1. During the period June 22, 2009 through December 15, 2011, the firm, in 18 instances, had a fail-to-deliver position at a registered clearing agency in an equity security that resulted from bona fide market making activity, and did not close the fail-to-deliver position by purchasing securities of like kind and quantity within the time frame prescribed by SEC Rule 204(a)(3). The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 204(a)(3) of Regulation SHO.
2. The firm, in 349 instances, effected a short sale for its own account without first borrowing the security, or entering into a bona fide arrangement to borrow the security, while it had a fail to deliver position at a registered clearing agency that had not been closed out in accordance with the requirements of SEC Rule 204(a). The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 204(b) of Regulation SHO.
3. The firm executed 14 short sale orders and failed to properly mark the orders as short. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 200(g) of Regulation SHO.

In connection with review 20130358313:

4. On the February 27 and 28, 2013 trade dates, the firm incorrectly submitted to the Order Audit Trail System ("OATS") the Special Handling Code of "ISO" and the ISO Flag as "Y" in 30 instances; incorrectly submitted the Cancel Type Flag as "F" for a partial cancellation, the Special Handling Code of "ISO," and the ISO Flag as "Y" in 16 instances; submitted the incorrect Order Receipt Time and incorrectly submitted the Cancel Flag Type as "F," the Special Handling Code of "ISO," and the ISO Flag as "Y" in one instance; incorrectly submitted the Cancel Flag Type as "F," the Special Handling Code of "ISO," and the ISO Flag as "Y" in one instance; and failed to submit the Special Handling Code of "IOC" and incorrectly submitted the Special Handling Code of "ISO" and the ISO Flag as "Y" in two instances. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 7450.
5. 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 FINRA. 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: Supervisory System, Procedures & Qualifications: (Proper Registration of Personnel) [(d)]; Sale Transactions: (Order Marking Requirements, Locate Requirements, Monitoring Prompt Delivery of Sales, Accepting Short Sales after Aged Fails Occur) [(b)]; Other Trading Rules: (Trading Halts, Maintain Physical Security of Equipment) [(a), (b), (c), (d)]; OATS: (Clock Synchronization, Accurate and Timely Submissions of OATS data) [(a) and (b)]; Algorithmic Trading: (Testing and Implementation of Algorithms, Risk Management Controls and Procedures to Monitor Algorithms, Monitor Proper Functioning of Algorithms, Proper Functioning of Algorithms During Market Volatility) [(a), (b), (c), (d)]; Use of Multiple Market Participant Identifiers ("MPIDs"): (Supervisory System and Procedures) [(a), (b), (c), (d)]. The conduct described in this paragraph constitutes a violation of FINRA Rule 2010 and NASD Rule 3010.

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

A censure; a fine of \$57,500 (consisting of a \$45,000 fine for the Regulation SHO violations identified in 20100243598; and a \$5,000 fine for the OATS violations and a \$7,500 fine for the supervision violation identified in 20120316428); and an undertaking to revise the firm's written supervisory procedures with respect to the areas described in paragraph I.A.5. 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 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: (i) testimonial obligations; or (ii) 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.

4/7/14
Date

By: Mark DeRolf
Name: Mark DeRolf
Title: CCO

Counsel for Respondent

5/1/14
Date


Gerard P. Finn
Chief Counsel
Department of Market Regulation