

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20110260552-01**

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

RE: Cheevers & Company Inc., Respondent
Broker-Dealer
CRD No. 31312

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Cheevers & Company 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 June 15, 1994, and its registration remains in effect.

RELEVANT DISCIPLINARY HISTORY

On July 15, 2009, an AWC was accepted by FINRA in which the firm was fined \$5,000, for violations of NASD Rules 4632(a) and 2110, for conduct occurring from January 1, 2007 through April 30, 2007.

FACTS AND VIOLATIVE CONDUCT

In connection with Matter No. 20110260552, the Trading and Market Making Surveillance ("TMMS") Equity Section of the Department of Market Regulation (the "staff") conducted a review of the firm related to the items set forth on Exhibit 1, which is attached hereto and incorporated herein by reference, for trade dates December 28, 2010 and December 29, 2010 (the "review period").

In the course of this review, the staff found:

1. During the review period, the firm incorrectly designated as ".PRP" to the FINRA/Nasdaq Trade Reporting Facility fourteen (14) last sale reports of transactions in designated securities. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 6380A.
2. During the review period, the firm transmitted to the Order Audit Trail System ("OATS") seventeen (17) reports that contained inaccurate, incomplete or improperly formatted data. Specifically, for twelve (12) of the reports the firm failed to submit the Not Held (NH) special handling code, and for five (5) of the reports the firm failed to submit the Routing Firm MPID and correct member type code (M), to OATS. The conduct described in this paragraph represents separate and distinct violations of FINRA Rule 7450.
3. During the review period, the firm failed on ninety-five (95) occasions to provide written notification disclosing to its customer its correct capacity in the transaction. Specifically, the firm, on ninety-two (92) occasions incorrectly disclosed its capacity as both agent and principal, and failed on three (3) occasions to disclose its capacity, on the customer confirmation. Additionally, the firm, on five (5) occasions incorrectly identified the execution price as an average price, and on one (1) occasion failed to disclose the correct price, on the customer confirm. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 10b-10.
4. During the review period, 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 supervisory procedures, in the following subject areas:

- **Sale Transactions** (Procedures to ensure and review for compliance with requirements to monitor prompt delivery of sale transactions by settlement date [(d)], and procedures to ensure and review for compliance with requirements to refrain from accepting short sale orders after a fail occurs without first borrowing the security [(a) (b) (c) (d)]);
- **Clearly Erroneous Trade Filing** (Procedures to review and verify clearly erroneous transactions are being filed accurately and appropriately [(a) (b) (c) (d)]);
- **OATS** (Procedures to help ensure compliance, and to review for compliance, with the requirement that reported OATS data is accurate and timely, whether reported by the firm or by a third party on the member's behalf [(b)]); and
- **Sub-Penny Pricing Increments** (Operational policies and written supervisory procedures to ensure the member does not display, rank, or accept quotations, orders, or indications of interest in any NMS stock priced in an increment smaller than \$.01 if the quotation, order, or indication of interest is priced equal to or greater than \$1.00 per share [(a) (b) (c) (d)] and operational policies and written supervisory procedures to ensure the member does not display, rank, or accept quotations, orders, or indications of interest in any NMS stock priced in an increment smaller than \$.0001 if the quotation, order, or indication of interest is priced less than \$1.00 per share [(a) (b) (c) (d)]).

The conduct described in this paragraph constitutes violations of FINRA Rule 2010 and NASD Rule 3010.

5. During the review period, the firm failed to provide documentary evidence that on the trade dates reviewed in the TMMS examination it performed the supervisory reviews set forth in its written supervisory procedures concerning:

- **Trade Reporting** (Procedures to help ensure trades have been accurately reported on the member's behalf);
- **Sale Transactions** (Procedures to ensure and review for compliance with requirements to monitor prompt delivery of sale transactions by settlement date);
- **OATS** (Procedures to help ensure compliance, and to review for compliance, with the requirement that reported OATS data is accurate

and timely, whether reported by the firm or by a third party on the member's behalf); and

- **Electronic Communication** (Policies and procedures to ensure compliance and review for compliance of incoming, outgoing and internal electronic communications between and from the member's trading desk(s) (e.g., email, instant messaging, BlackBerry®, telephonic, cell phone, message boards, etc.)).

The conduct described in this paragraph constitutes violations of FINRA Rule 2010 and NASD Rule 3010.

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

A censure and fine of \$25,000 (which includes, a \$7,500 fine for the trade reporting violations, a \$7,500 fine for the OATS reporting violations, a \$2,500 for the customer confirmation violations, and a \$7,500 fine for the supervisory violations), and an undertaking to revise the firm's written supervisory procedures with respect to the areas described in paragraph 4 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 paragraph 4; and, (3) the date the revised procedures were implemented.

The firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is 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 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.

June 14, 2013
Date

Respondent
Cheevers & Company Inc.

By: Ryan Peterson

Name: Ryan Peterson

Title: CCO/GC

Reviewed by:

Richard G. Wallace

Richard G. Wallace
Counsel for Respondent
Foley & Lardner LLP
3000 K Street, N.W., Suite 600
Washington, DC 20007-5143
(202) 295-4049

Accepted by FINRA:

7/8/13
Date

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

Tina Salehi Gubb
Tina Salehi Gubb
Chief Counsel
Department of Market Regulation

2011 Market Regulation Examination Samples
Cheevers Company, Inc. ("CHBC")
Exam No. 20110260552
Sample Source/Period*: December 28-29, 2010

<u>Sample Size</u>	<u>Sample Description</u>
0	Sales reviewed for compliance with SEC Rule 200(g) long/short sale recording requirements
0	Short Sales reviewed for compliance with SEC Rule 203(b) security location requirements
0	Sales reviewed for compliance with SEC Rule 204 fail-to-deliver requirements
0	Sell trades reported to a TRF or OTCRF for compliance with sale indicator requirements, FINRA Rules 6182 or 6624
N/A	Sell orders entered into Nasdaq Exchange execution system for compliance with Nasdaq Rule 4755(a)(1)(A) long/short reporting requirements
N/A	Buy and Sell orders entered into Nasdaq Exchange execution system for compliance with Nasdaq Rule 4611 capacity reporting requirements
N/A	Sell orders entered into Nasdaq OMX BX execution system for compliance with Nasdaq OMX BX Rule 4755 long/short reporting requirements
N/A	Sell orders entered into Nasdaq OMX PHLX execution system for compliance with Nasdaq OMX PHLX Rule 3305 long/short reporting requirements
0	Sell orders entered into BATS Exchange execution system for compliance with BATS Rule 11.19 long/short reporting requirements
0	Sell orders entered into DirectEdge Exchange execution system for compliance with EDGA/EDGX Rule 11.15 long/short reporting requirements
N/A	Sell orders entered into NYSE-Arca execution system for compliance with NYSE-Arca Equity Rule 7.16 long/short reporting requirements
N/A	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
6	Orders for compliance with best execution requirements of NASD Rule 2320
0	Held orders from the Held Order Protection Review
0	Not Held orders from the Not Held Order Review
5	Order executed with a .PRP (Prior Reference Price) trade modifier
1	Customer orders in OTC equity securities for compliance with NASD Rule 3110(b) requirements to ascertain and document best interdealer market related to execution of orders
N/A	Orders for compliance with order protection requirements of NASD Rules 2110, IM-2110-2, 2111, and Nasdaq Rules 2110, IM-2110-2, and 2111
N/A	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
N/A	Order memoranda and Net Trading agreements for compliance with NASD Rule 2441 requirements
88	Orders in securities required to be submitted to OATS for compliance with FINRA Rules 7440 and 7450, and Nasdaq Rules 6954 and 6955 requirements, <u>includes trade dates February 7-8, 2011</u>

* unless otherwise noted

2009 Version 2.0 - September 1, 2009

Created By/Date: jfs/10.10.11

Last Updated By/Date: NDS/12.6.11

2011 Market Regulation Examination Samples
Cheevers Company, Inc. ("CHBC")
Exam No. 20110260552
Sample Source/Period*: December 28-29, 2010

SampleSizeSample Description

127	Customer confirmations prepared and maintained in connection with select samples for compliance with SEC Rule 10b-10
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 Month Year 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)
1	Quarterly Routing Report for compliance with SEC Rule 606 requirements
7	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
1	Customer orders in OTC equity securities for compliance with NASD Rule 3110(b) requirements to ascertain and document best interdealer market related to execution of orders
0	Disclosures to customers relating to trading in the Extended Hours session for compliance with FINRA Rule 2265 and Nasdaq Rule 4631
129	Records prepared and maintained in connection with the above samples for compliance with SEC Rules 17a-3 and 17a-4, and NASD Rule 3110
112	Trades reported to a TRF or OTCRF for compliance with FINRA Rules 6380A and 7230A or 6622 and 7330
N/A	Member's "Regular & Rigorous" review procedures regarding order execution quality for compliance with NASD Rules 2320 and 3010
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 Rule 611
All Provided	Member's supervisory system, written supervisory procedures ("WSPs") and documentation evidencing execution of the WSPs for compliance with NASD Rule 3010, BATS Rules 5.1/5.5, or EDGA/EDGX Rules 5.1/5.5 requirements
N/A	Trading Halts declared during the on-site portion of the examination for which FINRA Staff observed the operation of the ATS.
N/A	Trades reported to the ADF/TRACS for compliance with FINRA Rule 6282
N/A	ADF orders and quotes accessed by other market participants for compliance with FINRA Rule 6250 requirements to submit Order and Order Response reports

June 14, 2013

Douglas Jacoby, Esq.
FINRA Market Regulation
9509 Key West Ave
Rockville, MD 20850

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.

Dear Mr. Jacoby,

Re: Corrective Action Statement
Star No: 20110260552

Cheevers and Company, Inc ("Cheevers, or the Firm") is submitting this Corrective Action Statement along with its Letter of Acceptance, Waiver and Consent ("AWC") as part of its settlement. Please find below Cheevers Corrective Action Statement.

1. During the review period, the firm incorrectly designated as ".PRP" to the FINRA/Nasdaq Trade Reporting Facility fourteen (14) last sale reports of transactions in designated securities.

Prior to FINRA's guidance in Trade Reporting Frequently Asked Questions ("FAQ") section 309, the Firm used .PRP modifier when making adjustments to trades on the Trade Reporting Facility ("TRF"). As soon as FINRA provided guidance in as to how to use the .PRP modifier, the Firm adjusted its procedures to use the .PRP modifier only when making *price* adjustments to trades on the TRF as described in the FAQ. The Firm has instructed its brokers as well as added written procedures to only use the .PRP modifier as described by FINRA's FAQ Section 309. Furthermore, the Firm also reviews its daily submissions to the TRF to ensure that the Firm is using the correct trade modifiers for its executions and adjustments.

2. During the review period, the firm transmitted to the Order Audit Trail System ("OATS") seventeen (17) reports that contained inaccurate, incomplete or improperly formatted data. Specifically, for twelve (12) of the reports the firm failed to submit the Not Held (NH) special handling code, and for five (5) of the reports the firm failed to submit the Routing Firm MPID and correct member type code (M), to OATS.

The Firm has consulted with its third party Order Sending Organizations ("OSO") to ensure that the Firm's OATS files are being properly reported. Specifically, when the Firm discovered that the NH special handling code not populating on some OATS reports the Firm corrected the issue immediately and notified the examiners of the correction during the exam. Furthermore, the Firm also performs a review of its OATS reports to ensure that the proper special handling codes are being reported.

3. During the review period, the Firm failed on ninety-five (95) occasions to provide written notification disclosing to its customer its correct capacity in the transaction. Specifically, the Firm, on ninety-two (92) occasions incorrectly disclosed its capacity as both agent and principal, and failed on three (3) occasions to disclose its capacity, on the customer confirmation. Additionally, the firm, on five (5) occasions incorrectly identified the execution price as an average price, and on one (1) occasion failed to disclose the correct price, on the customer confirm.

The Firm has clarified with its clearing firm the correct capacity code for its confirmations. In addition, the Firm also performs a spot check of confirmations sent out to clients to review for any potential incorrect disclosures. If any incorrect disclosures are discovered, the Firm will contact its clearing firm immediately to correct its disclosures.

4. 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.

The Written Supervisory Procedures were updated and submitted to the examiners while the exam was still in progress.

5. During the review period, the firm failed to provide documentary evidence that on the trade dates reviewed in the TMSS examination it performed the supervisory reviews set forth in its written supervisory procedures.

Trade Reporting - A review of the Firm's TRF transactions are reviewed to ensure the proper modifiers are being used when executing an equity cross on the TRF. Any inconsistencies are brought to the attention of the trading desk.

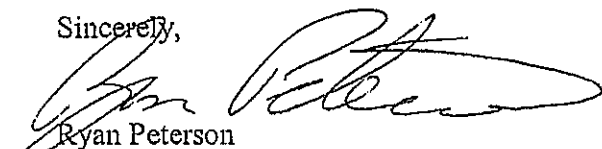
Sale Transactions - The Firm's back office reviews all delivery requirements and will notify the Chief Compliance Officer ("CCO") via e-mail of any delinquent deliveries.

OATS - The OATS file is checked at the end of day before submission as well as the next day in the event there is a reject or mismatch. In the case of an OATS reject or mismatch the Firm will open a case with FINRA and submit a corrected submission, if applicable, with FINRA through the OATS CRD application.

Electronic Communications - The Firm reviews a set percentage of random e-mails and IMs for all Firm designated e-mail and IM accounts. This review is noted in a spreadsheet, indicating the dates reviewed and the amount of emails reviewed.

If you have any questions please feel free to contact me at (312) 663-2799 or via email at rpeterson@chx.com.

Sincerely,



Ryan Peterson
Chief Compliance Officer/General Counsel