

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2014041944901**

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

RE: G1 Execution Services, LLC (Respondent)
Member Firm
CRD No. 111528

Pursuant to FINRA Rule 9216, Respondent G1 Execution Services, LLC (“G1” 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 Respondent alleging violations based on the same factual findings described in this AWC.

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

G1 has been a FINRA member since June 2001. The firm is headquartered in Chicago, Illinois and is a market maker in Over-the-Counter (OTC) securities as well as National Market System securities, and it also executes orders on behalf of its broker-dealer customers. G1 has 59 FINRA registered individuals, and two branch offices. Respondent does not have any relevant disciplinary history.

OVERVIEW

During the period January 1, 2013 through January 31, 2016, the firm failed to provide best execution to 41,505 orders from its broker-dealer clients on behalf of their customers¹ in OTC securities by failing to use reasonable diligence to ascertain the best market for the subject securities and failing to buy or sell in such market so that the resultant prices to the customers were as favorable as possible under prevailing market conditions. As a result, the firm violated FINRA Rules 5310 and 2010.

¹ For simplicity, these orders are referred to herein as “customer orders.”

During the period January 1, 2013 through November 2, 2015, the firm failed to establish and maintain a supervisory system reasonably designed to achieve best execution for customer orders in OTC securities in violation of NASD Rule 3010(a) and FINRA Rules 3110(a) and 2010.²

In addition, between October 2017 and December 2019, G1 failed to immediately display, route, execute, or cancel 39 sampled customer limit orders, including 32 orders that would have locked or crossed a displayed quote, in violation of FINRA Rules 6460 and 2010. Further, the firm's supervisory system was not reasonably designed to achieve compliance with limit order display obligations in violation of FINRA Rules 3110(a) and 2010.

FACTS AND VIOLATIVE CONDUCT

G1 failed to meet its best execution obligation for certain OTC orders

1. FINRA Rule 5310 states, in relevant part, that “[i]n any transaction for or with a customer or a customer of another broker-dealer, a member and persons associated with a member shall use reasonable diligence to ascertain the best market for the subject security and buy or sell in such market so that the resultant price to the customer is as favorable as possible under prevailing market conditions.”
2. FINRA Rule 2010 requires members to observe high standards of commercial honor and just and equitable principles of trade. A violation of another FINRA Rule constitutes a violation of FINRA Rule 2010.
3. From January 1, 2013 through January 31, 2016, the firm acted as a market maker in OTC securities, including securities quoted on OTC Link LLC (“OTC Link”), an inter-dealer quotation system formerly referred to as the “Pink Sheets.” As a market maker that quoted on OTC Link, the firm had access to, and regularly used, an electronic messaging service. This electronic messaging service enabled the firm and other individual market makers to send each other messages (OTC Link messages) indicating an interest to buy or sell a specific number of shares of a security at a particular price.
4. During this period, the firm had a manual process for comparing customer orders it received in OTC securities with prices simultaneously available to it through messages in OTC Link. That process required the firm's traders to determine if there was a better priced message in the OTC Link system before executing a customer's order. As a result of this manual process, the firm, at times, missed better priced OTC Link messages, and thus did not execute the customer's order at the best available price.

² FINRA Rule 3110 superseded NASD Rule 3010 on December 1, 2014.

5. For example, on one day during the review period, the firm received a customer stop order to sell 15,000 shares of a stock at 8:25:39 a.m. At 9:32:36 a.m., the firm had received an incoming OTC Link message from another broker-dealer to buy 24,457 shares of the stock at a price of \$0.59. At 9:33:06 a.m., after having had both the customer order and the OTC Link message in its possession for nearly 30 seconds, the firm filled the customer order in full, buying 15,000 shares from the customer at a price of \$0.55 rather than providing the customer sell order the better price of \$0.59 available in the OTC Link message. At 9:33:09, the pending OTC Link message was cancelled.
6. From January 1, 2013 through January 31, 2016, as a result of the manual process described above, the firm failed to provide best execution with respect to 41,505 customer orders in OTC securities by failing to use reasonable diligence to ascertain the best market for the subject securities and failing to buy or sell in such market so that the resultant prices to the customers were as favorable as possible under prevailing market conditions.
7. Therefore, G1 violated FINRA Rules 5310 and 2010.

G1's supervisory system was not reasonably designed to achieve compliance with its best execution obligations

8. FINRA Rule 3110(a)—like its predecessor, NASD Rule 3110(a)—provides, in relevant part, that “[e]ach member shall establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.”
9. From January 1, 2013 through November 2, 2015, the firm's supervisory system for best execution in OTC securities compared the executions prices that customer orders received to the disseminated National Best Bid Best Offer available in the firm's order management system at the time of the execution. However, the firm's supervisory system failed to account for price opportunities available through OTC Link messages when evaluating the execution quality of the customer orders. Because the firm's supervisory system excluded reviews of prices available in OTC Link messages, it had no way to determine if its customer orders received an inferior execution to one available via OTC Link messages. As a result, the firm did not have a system to reasonably supervise its best execution obligations for customer orders in OTC securities.

10. Therefore, G1 violated NASD Rule 3010(a) and FINRA Rules 3110(a) and 2010.³

G1 failed to immediately display, route, execute, or cancel certain OTC orders

11. FINRA Rule 6460 requires each OTC Market Maker displaying a priced quotation in any OTC Equity Security in an inter-dealer quotation system to publish immediately a bid or offer that reflects: (1) the price and the full size of each customer limit order held by the OTC Market Maker that is at a price that would improve the bid or offer of such OTC Market Maker in such security; and (2) the full size of each customer limit order held by the OTC Market Maker that: (A) is priced equal to the bid or offer of such OTC Market Maker for such security, (B) is priced equal to the best bid or best offer of the inter-dealer quotation system in which the OTC Market Maker is quoting, and (C) represents more than a de minimis change in relation to the size associated with the OTC Market Maker's bid or offer. Absent an exception, firms must display customer limit orders as soon as practicable after receipt, which under normal market conditions would require display no later than 30 seconds after receipt.
12. OTC market makers are also expected to establish and maintain policies and procedures to require the quoting participant to make reasonable efforts to first contact or route an order to execute against the full displayed size of any quotation before locking and crossing that quotation.
13. Between October 2017 and December 2019, G1 either failed to make reasonable efforts to execute against the market maker's quotation within 30 seconds of receipt of the customer's order which would have allowed the firm to display the customer limit order, or take alternative steps of immediately routing, executing or canceling the customer order for 33 orders that would have locked or crossed the firm's quote or another firm's' quote.
14. G1 had a system in place to automatically handle orders that would lock or cross another firm's quote, but the system was not triggered if a trader took any initial action on the order within 25 seconds of receipt, such as sending an OTC Link message or if part of the order was principally executed. Further, the system did not address quotes that locked or crossed G1's displayed quote. Because of these system constraints, the 33 sampled orders were not immediately displayed, routed, executed, or cancelled.
15. Further, G1 also failed to immediately display six sample customer orders that did not lock or cross a displayed quote due to technology issues.

³ On November 3, 2015, the firm took corrective action by implementing a new supervisory review in the form of an exception report that considered OTC Link messages when assessing customer execution quality in OTC securities.

16. Therefore, G1 violated FINRA Rules 6460 and 2010.⁴

G1's supervisory system was not reasonably designed to achieve compliance with its limit order display obligations.

17. G1 supervised compliance with its limit order display obligations by reviewing a daily exception report. The firm's supervisory system was not reasonable because these reports did not include orders that would have locked or crossed the market, orders that had an initial action taken within 30 seconds or orders that were received before 9:32 am. As a result, orders that could lead to violations were not being reviewed.

18. Therefore, G1 violated FINRA Rules 3110(a) and 2010.⁵

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

1. A censure;
2. Fines in the amount of \$550,000 (\$375,000 for violations of FINRA Rules 5310 and 2010, \$175,000 for violations of NASD Rule 3010(a) and FINRA Rules 3110(a) and 2010 related to the firm's best execution supervisory system), and \$25,000 (\$15,000 for violations for FINRA Rules 6460 and 2010 and \$10,000 for violations of FINRA Rules 3110(a) and 2010 related to the firm's limit order display supervisory system); and
3. Restitution of \$816,618.75 for the 41,505 orders described in Paragraph 6 herein, plus interest as described below.

Restitution is ordered to be paid to each corresponding firm client for the customer orders in the total amount of \$816,618.75 plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. § 6621(a)(2). The interest amount shall be calculated based on the date that restitution amounts for each respective customer were first incurred until the date this AWC is accepted by the National Adjudicatory Council (NAC).

Within 60 calendar days of the Notice of Acceptance of this AWC, the firm will submit to FINRA a schedule of each firm client identified for restitution and include the details of the total dollar amounts of restitution that will be provided to each firm client using the methodology previously reviewed by FINRA. For each order, the firm will provide restitution, plus interest, from the date of order execution through the date this AWC is accepted by the National Adjudicatory Council (NAC) at the rate set forth in Section 6621(a)(2) of the Internal Revenue

⁴ The firm subsequently fixed the system issues that caused the orders to be manually handled.

⁵ The firm subsequently updated its exception reports to include this information.

Code, 26 U.S.C. 6621(a)(2).

A registered principal on behalf of the firm shall submit satisfactory proof of payment of restitution and pre-judgment interest (separately specifying the date and amount paid to each firm client for each order) or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted by email to EnforcementNotice@FINRA.org from a work-related account of a registered principal of G1. The email must identify the firm and the case number, and include a copy of the check, money order or other method of payment. This proof shall be provided by email to EnforcementNotice@FINRA.org no later than 120 calendar days after the Notice of Acceptance of this AWC.

The firm shall request that each client: (1) make reasonable and documented efforts to locate and provide restitution to each customer associated with an order; (2) forward any undistributed restitution and interest to the appropriate escheat, unclaimed property or abandoned property fund for the state in which the customer is last known to have resided; and (3) provide written confirmation to G1 within 150 calendar days after the Notice of Acceptance of this AWC that the client has (a) made such reasonable and documented efforts, and (b) forwarded undistributed restitution and interest to the appropriate state authority, if applicable. Within 180 calendar days after the Notice of Acceptance of this AWC, or such additional period agreed to by a FINRA staff member in writing, the firm shall provide such written confirmations to FINRA in the manner described above.

The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

Restitution payments shall be preceded or accompanied by a letter, not unacceptable to FINRA staff, describing the reason for the payment and the fact that the payment is being made pursuant to a settlement with FINRA and as a term of this AWC.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is 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 an inability to pay, now or at any time after the execution of this AWC, the monetary sanction imposed in this matter.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

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 it;
- 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, Respondent specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Legal Officer, 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 its acceptance or rejection.

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 action brought by FINRA or any other regulator against Respondent;
 - 2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
 - 3. FINRA may make a public announcement concerning this agreement and its subject matter 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 Respondent's testimonial obligations or 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.

The undersigned, on behalf of Respondent, certifies that a person duly authorized to act on Respondent's 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 Respondent 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 in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce Respondent to submit this AWC.

May 20, 2021

Date

Brian Sopinsky

G1 Execution Services, LLC
Respondent

Print Name: Brian Sopinsky

Title: Secretary

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

June 9, 2021

Date

Elisabeth Grippando

Elisabeth Grippando
Principal Counsel
FINRA
Department of Enforcement
15200 Omega Drive, Suite 300
Rockville, MD 20850-3241