

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND
CONSENT NO. 2022076480801**

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

RE: HRT Financial LP (Respondent)
Member Firm
CRD No. 152144

Pursuant to FINRA Rule 9216, Respondent HRT Financial LP 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 accepts and consents to the following findings by FINRA without admitting or denying them:

BACKGROUND

HRT has been a member of FINRA since March 2022. HRT has approximately 230 registered individuals and is based in New York, New York. HRT is a market making and proprietary trading firm that trades and clears transactions exclusively for its proprietary accounts.¹

OVERVIEW

On August 31, 2022, HRT violated Securities Exchange Act of 1934 Rule 14e-4, “Prohibited Transactions in Connection with Partial Tender Offers,” and FINRA Rule 2010 by over-tendering 185,080 shares in the partial tender offer (PTO) of Company 1. From August 2022 through December 2022, HRT violated FINRA Rules 3110(a) and (b) and 2010 by failing to have a supervisory system, including written supervisory procedures (WSPs), reasonably designed to achieve compliance with Exchange Act Rule 14e-4.

¹ For more information about the firm, including prior regulatory events, visit BrokerCheck® at www.finra.org/brokercheck.

FACTS AND VIOLATIVE CONDUCT

Exchange Act Rule 14e-4

Exchange Act Rule 14e-4(b)(1)(i) provides that “it shall be unlawful for any person² acting alone or in concert with others, directly or indirectly, to tender any subject security in a partial tender offer ... [f]or his own account unless at the time of tender, and at the end of the proration period or period during which securities are accepted by lot (including any extensions thereof), he has a net long position equal to or greater than the amount tendered in ... [t]he subject security.”

A PTO is defined in Exchange Act Rule 14e-4(a)(5) as “a tender offer or request or invitation for tenders for less than all of the outstanding securities subject to the offer in which tenders are accepted either by lot or on a *pro rata* basis for a specified period, or a tender offer for all of the outstanding shares that offers a choice of consideration in which tenders for different forms of consideration may be accepted either by lot or on a *pro rata* basis for a specified period.”

Under Exchange Act Rule 14e-4, a person’s “net long position” in a subject security or an equivalent security equals the excess, if any, of such person’s “long position” over a person’s “short position.”³ The calculation of the net long position must be done both at the time of tender and at the end of the proration period, or the period during which securities are accepted by lot, including any extension thereof.

A PTO involves “proration risk,” that is, a risk to shareholders of the subject security that less than all of the securities tendered will be accepted. Accordingly, short tendering is proscribed by Exchange Act Rule 14e-4 because the practice unfairly decreases the short tendering person’s proration risk at the expense of other tenderers, who will have proportionately fewer shares accepted.

A violation of the federal securities laws or FINRA’s rules also constitutes a violation of FINRA Rule 2010, which requires member firms in the conduct of their business to “observe high standards of commercial honor and just and equitable principles of trade.”

HRT violated Exchange Act Rule 14e-4

On August 4, 2022, Company 1 announced its PTO with an expiration date of August 31, 2022. On August 31, 2022, HRT had a net long position of 164,920 Company 1 shares. However, HRT tendered 350,000 Company 1 shares without accurately calculating HRT’s net long position in the security. Instead, the firm relied solely on the long equities position that it held in the aggregation unit that was involved in the tender offer.

² Under the Exchange Act, the term “person” means a natural person, company, government, or political subdivision, agency, or instrumentality of a government. Exchange Act §3(a)(9).

³ Exchange Act Rule 14e-4 defines an equivalent security as including certain options, warrants, or other rights to purchase the subject security.

Consequently, HRT over-tendered 185,080 Company A shares in the PTO. After applying the proration factor, 13,569 of HRT's over-tendered shares were accepted, resulting in ill-gotten gains for HRT of \$233,445.

By tendering more shares than it was entitled to tender in the Company 1 PTO, HRT violated Exchange Act Rule 14e-4 and FINRA Rule 2010.

HRT had no supervisory system for achieving compliance with Exchange Act Rule 14e-4

FINRA Rule 3110(a) requires each member to 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. FINRA Rule 3110(b) requires each member to establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.

From August 2022 through December 2022, HRT did not have a supervisory system, including written supervisory procedures, concerning Exchange Act Rule 14e-4. Therefore, HRT violated FINRA Rules 3110(a) and (b) and 2010.

In December 2022, HRT implemented written supervisory procedures to achieve compliance with Exchange Act Rule 14e-4.

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

- a censure;
- a \$110,000 fine, of which \$36,667 is payable to FINRA; and
- disgorgement of \$233,445, of which \$77,815 is payable to FINRA, plus interest as described below.⁴

Acceptance of this AWC is conditioned upon acceptance of parallel settlement agreements in the same matter between the Firm and NYSE American and the Firm and NYSE Arca.

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.

⁴ The remainder of the fine and disgorgement shall be allocated evenly between the NYSE American LLC ("NYSE American") and NYSE Arca, Inc. ("NYSE Arca").

Disgorgement of a portion of unlawful profits is ordered to be paid to FINRA in the amount of \$77,815 plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. § 6621 from August 31, 2022, until the date this AWC is accepted by the National Adjudicatory Council (NAC).

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;

- [REDACTED]
- 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 right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.
 - 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

Date

Print Name: Adam Nunes
Title: Chief Executive Officer

Accepted by FINRA:

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

Date

Kevin McGee
Kevin McGee
Senior Counsel
FINRA
Department of Enforcement
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