

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT

CLG050061

TO: Market Regulation Department
NASD

RE: Electronic Brokerage Systems, LLC, Respondent
Broker-Dealer
CRD No. 104031

Pursuant to Rule 9216 of NASD Code of Procedure, Electronic Brokerage Systems, LLC ("BELZ" 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 in Part II below. This AWC is submitted on the condition that, if accepted, NASD will not bring any future actions against the firm alleging violations based on the same factual findings.

The firm understands that:

1. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by NASD's Department of Market Regulation and National Adjudicatory Council ("NAC") Review Subcommittee or Office of Disciplinary Affairs, pursuant to NASD Rule 9216;
2. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the firm; and
3. If accepted:
 - a. this AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against the firm;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about the firm's disciplinary record;
 - c. NASD may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-2; and
 - d. the firm may not take any action or make or permit to be made any

20050000037 (kc)
(formerly, MRD200447435)

public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any allegation in this AWC or create the impression that the AWC is without factual basis. Nothing in this provision affects the firm's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

The firm also understands that its experience in the securities industry and disciplinary history may be factors that will be considered in deciding whether to accept this AWC. That experience and history are as follows:

BELZ has been a member of NASD since March 26, 2001 and its registration remains in effect. It has no disciplinary history.

I.

WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the firm;
- B. To be notified of the Formal 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 Rule 9143 or the separation of functions prohibitions of 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.

II.

ACCEPTANCE AND CONSENT

This matter arose out of a review, 20050000037 (formerly, MRD200447435), conducted by the staff of NASD's Department of Market Regulation for compliance with the Order Audit Trail System ("OATS") rules, NASD Marketplace Rule 6950 et seq., during the second quarter of 2004.

A. The firm hereby accepts and consents, without admitting or denying the allegations or findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of NASD, or to which NASD 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 NASD:

1. During the review period BELZ failed to include all required information in route reports to SuperMontage. Specifically, reports routed to SuperMontage omitted User Order ID numbers. As a result, OATS was not able to match 11,829 reports to the related order in SuperMontage.
2. ~~The conduct described in paragraph one above constitutes separate and distinct violations of NASD Marketplace Rule 6955(a) and a violation of Conduct Rule 2110.~~
3. ~~During the review period, the firm failed to enforce its written supervisory procedures, which specified that it would monitor to ensure that routed order ID numbers were included when routing orders away from the firm.~~
4. The conduct described in paragraph three constitutes a violation of NASD Conduct Rules 2110 and 3010.

- B. The firm also consents to the imposition, at a maximum, of the following " sanction:**

A censure and a fine of \$10,000 (consisting of \$5,000 for the OATS violations and \$5,000 for the supervisory violations).

The sanction imposed herein shall be effective on a date set by NASD staff.

III.

OTHER MATTERS

- A. The firm understands that it 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 NASD, nor does it reflect the views of NASD or its staff.**
- B. The firm agrees to pay any monetary sanctions imposed on it upon notice that this AWC has been accepted and that such payments are due and payable and has attached an Election of Payment form showing the method by which it proposes to pay any fine imposed.**
- C. The firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.**

Date _____

Bý:

Date

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