

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. E1020040486-01

TO: Department of Enforcement
NASD

RE: **E*TRADE Securities LLC**, Respondent
CRD No. 29106

Pursuant to Rule 9216 of NASD Code of Procedure, the undersigned ("Respondent" 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 Respondent alleging violations based on the same factual findings.

Respondent 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 Enforcement and National Adjudicatory Council ["NAC"] Review Subcommittee or Office of Disciplinary Affairs ("ODA"), 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 its 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 public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any allegation in this AWC or creating 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 the firm's disciplinary history may be considered in deciding whether to accept this AWC. That experience and history are as follows:

The firm became a member of NASD in February 1992 and its membership is current. The firm has been the subject of four previous disciplinary actions relating to transaction reporting. In December 1999, the firm was fined \$4,000.00 for failing to report municipal securities transactions timely and accurately. In October 2002, the firm was fined \$7,500.00 for late and inaccurate reporting to the Fixed Income Pricing System. In April 2003, the firm was fined \$5,000.00 for the failure to establish a supervisory system reasonably designed to achieve compliance with ACT short sale reporting rules and, in December 2003, the firm was fined \$11,000.00 for violations relating to OATS reporting.

I.

WAIVER OF PROCEDURAL RIGHTS

Respondent 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, Respondent 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.

Respondent 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

- 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. Between July 13, 2004 and August 31, 2004, Respondent was reporting its municipal securities transactions manually. As a result of the inadvertent transposition of information when the trade reports were entered, 446 transactions were reported inaccurately, in that the purchaser was reported as the seller and the seller was reported as the purchaser. This constituted a violation of MSRB Rule G-14 by Respondent.
 2. Between October 22, 2004 and October 25, 2004, Respondent reported to the MSRV trade reporting system as actual transactions five transactions that should have been reported as "test" trades.
- B. The firm also consents to the imposition, at a maximum, of the following sanctions:

A fine of \$15,000.00.

The sanctions 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 which is a statement by the Respondent 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.

The firm certifies that the firm has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it, and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce the firm to submit it.

3/15/06
Date

E*TRADE Securities LLC

By: James E. Ballou

Its: Associate General Counsel

Accepted by NASD:

April 06, 2006
Date

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

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