

**NASDAQ PHLX LLC  
NOTICE OF ACCEPTANCE OF AWC**

**Certified, Return Receipt Requested**

**TO:       Monadnock Capital Management, LP  
          Mr. Daniel C. Bigelow  
          President  
          291 West 9<sup>th</sup> Street  
          #220  
          Wilmington, DE 19801**

**FROM:     Nasdaq PHLX LLC (“PHLX”)  
          c/o Financial Industry Regulatory Authority (“FINRA”)  
          Department of Enforcement  
          9509 Key West Avenue  
          Rockville, MD 20850**

**DATE:     February 14, 2019**

**RE:       Notice of Acceptance of Letter of Acceptance, Waiver and Consent No. 2015046944501**

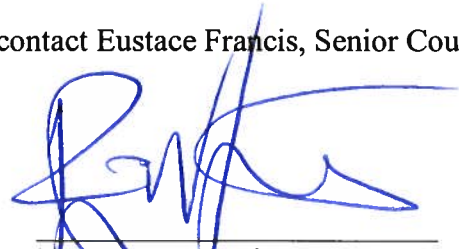
**Please be advised** that your above-referenced Letter of Acceptance, Waiver and Consent (“AWC”) has been accepted on **February 14, 2019** by the PHLX Review Council’s Review Subcommittee, or by the Office of Disciplinary Affairs on behalf of the PHLX Review Council, pursuant to PHLX Rule 9216. A copy of the AWC is enclosed herewith.

You are again reminded of your obligation, if currently registered, immediately to update your Uniform Application for Broker-Dealer Registration (“Form BD”) to reflect the conclusion of this disciplinary action. Additionally, you must also notify FINRA (or PHLX if you are not a member of FINRA) in writing of any change of address or other changes required to be made to your Form BD.

You will be notified by the Registration and Disclosure Department regarding sanctions if a suspension has been imposed and by Nasdaq’s Finance Department regarding the payment of any fine if a fine has been imposed.

Monadnock Capital Management, LP  
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If you have any questions concerning this matter, please contact Eustace Francis, Senior Counsel,  
at (215) 209-7002.



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Eustace T. Francis  
Senior Counsel  
Department of Enforcement, FINRA  
Signed on behalf of PHLX

Enclosure

FINRA District 9 – Philadelphia  
Michael Solomon  
Senior Vice President and Regional Director  
(via e-mail)

Marjorie J. Peerce, Esq.  
Ballard Spahr L.L.P.  
1675 Broadway – 19th Floor  
New York, New York 10019-5820

**NASDAQ PHLX LLC**  
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**  
**NO. 2015046944501**

**TO: Nasdaq PHLX LLC**  
**c/o Department of Enforcement**  
**Financial Industry Regulatory Authority ("FINRA")**

**RE: Monadnock Capital Management, LP, Respondent**  
**Broker-Dealer**  
**CRD No. 124605**

Pursuant to Rule 9216 of Nasdaq PHLX LLC ("PHLX") Code of Procedure, Monadnock Capital Management, LP (the "Firm" or "Respondent") 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, PHLX will not bring any future actions against the Respondent alleging violations based on the same factual findings described herein.

**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 PHLX, or to which PHLX 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 PHLX:**

**BACKGROUND**

The Firm has been a PHLX member since January 2, 2003, and its registration remains in effect. The Firm is headquartered in Wilmington, Delaware and operates as an options market-making firm. The Firm has eight Registered Options Traders. The Firm has no prior relevant disciplinary history.

**SUMMARY**

- 1. From on or about September 19, 2012 to on or about January 31, 2014 (the "Review Period"), the Firm entered and mismarked as "closing" 49 opening options transactions (involving 994 contracts) in five options classes on 16 separate trade dates that were restricted to closing-only transactions, in violation of Section 17 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), Exchange Act Rule 17a-3(a)(6)(i), and PHLX Rules 707, 760, and 785. The Firm also failed to establish and maintain a supervisory system and written supervisory procedures ("WSPs") that were reasonably designed to prevent and detect, insofar as practicable, the entry of opening orders in restricted options classes and the mismarking of options, in violation of PHLX Rules 748(h) and 707.**

## **FACTS AND VIOLATIVE CONDUCT**

2. The policy underlying the recordkeeping provisions of the federal securities laws and PHLX rules is to ensure that regulators have access to certain basic information about securities transactions to allow them to properly regulate the securities markets. Access to transaction records serves as an essential component for effective surveillance and examination of broker-dealers by PHLX and other self-regulatory organizations. Accurate recordkeeping, including the proper designation of orders as "opening" or "closing," helps to facilitate effective surveillance and oversight by regulators and ensure the integrity of member firm books and records.
3. Section 17 of the Exchange Act and Exchange Act Rule 17a-3(a)(6)(i) require broker-dealers, such as Respondent, to make and keep a "memorandum of each brokerage order, and of any other instructions, given or received for the purchase or sale of securities, whether executed or unexecuted." All information included on the memorandum, including whether the brokerage order is an "opening" or "closing" transaction, must be accurate.
4. PHLX Rule 707 prohibits member firms from engaging in conduct that is inconsistent with just and equitable principles of trade. Conduct that violates any U.S. Securities and Exchange Commission or self-regulatory organization rules or regulations constitute unjust and inequitable conduct.
5. PHLX Rule 760 requires member firms to make, keep current, and preserve books and records as prescribed by the Exchange Act.
6. PHLX Rule 748(h) requires member organizations to establish, maintain, and enforce WSPs, and a system for applying such procedures, that are reasonably designed to supervise the types of businesses and activities in which they and their associated persons engage, and to prevent and detect, insofar as practicable, violations of applicable securities laws and regulations, including the By-Laws and Rules of PHLX.
7. PHLX Rule 785 requires a member who effects or causes to be effected a proprietary transaction in options for an account in which it has a direct or indirect interest to submit or cause to be submitted in automated format to PHLX whether the options transaction is an open long or short transaction, or a close long or short transaction.
8. During the Review Period, the Firm entered and mismarked as "closing" 49 opening options transactions in options classes that were restricted to closing-only transactions. These mismarks resulted in the execution and clearing of 994 contracts in five separate options classes on 16 separate trade dates that should not have been executed. By mismarking these transactions as "closing," the Firm also failed to make and keep accurate records of instructions for the purchase and sale of these restricted options.
9. The conduct described in paragraph 8 constitutes violations of Exchange Act Rule 17a-3(a)(6)(i) and PHLX Rules 785, 707, and 760.

10. The Firm also failed to establish and maintain a supervisory system and WSPs that were reasonably designed to prevent and detect, insofar as practicable, the entry of opening orders in restricted options classes and the mismarking of opening orders as closing orders. While the Firm's WSPs listed the relevant PHLX rules and federal securities laws that governed restricted trading and related activities, the Firm failed to: (i) provide guidelines, procedures, or controls reasonably designed to detect or prevent trading in restricted options classes or the mismarking of options orders; (ii) address whether supervisors should review for trading in, and mismarking of, restricted option classes; how to review for such activities, and what escalation or remedial actions, if any, to take if such activities are discovered; and (iii) monitor and review for restricted trading and mismarking activities. Given these deficiencies, during the Review Period, the Firm's supervisory system and WSPs were not reasonably designed to achieve compliance with, or to detect and prevent violations of, the applicable order marking and restricted trading provisions of the federal securities laws and PHLX rules. However, the Firm has since updated its WSPs to memorialize system improvements the Firm has implemented with respect to the entry of opening options orders in restricted options classes and the mismarking of opening options orders as closing options orders.
11. Additionally, during the Review Period, the Firm failed to reasonably respond to inquiries from its clearing firm with respect to trading in restricted securities and the mismarking of opening orders as closing. On at least two occasions during the Review Period, its clearing firm notified the Firm that the Firm may have mismarked options orders and entered opening transactions in "closing-only" options classes. Despite these inquiries, the Firm failed to: (i) investigate whether its traders had engaged in restricted trading or had mismarked options orders; (ii) discuss with its traders the potential restricted trading or mismarking activity flagged by its clearing firm or to review their trades for such activity; and (iii) timely implement procedures or controls designed to detect and prevent such activities. Given these circumstances, the Firm failed to supervise its associated persons or their trading activities in a manner reasonably designed to achieve compliance with, or to detect and prevent violations of, the applicable order marking and restricted trading provisions of the federal securities laws and PHLX rules.
12. The conduct described in paragraphs 10 and 11 constitutes violations of PHLX Rules 748(h) and 707.

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

A censure; a total fine of \$35,000 (\$25,000 for the trading and books and records violations and \$10,000 for the supervision violations); disgorgement in the amount of \$1,263.

Respondent agrees to pay the monetary sanction in accordance with its executed Election of Payment Form.

Respondent 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

Respondent specifically and voluntarily waives the following rights granted under PHLX'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 PHLX Review Council 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 prejudice of the Chief Regulatory Officer, the PHLX Review Council, or any member of the PHLX Review Council, 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.

## 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 FINRA's Department of Enforcement and the PHLX Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs ("ODA"), pursuant to PHLX 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 Respondent; and

**C. If accepted:**

- 1. This AWC will become part of the Respondent's permanent disciplinary record and may be considered in any future actions brought by PHLX or any other regulator against the Respondent;**
- 2. PHLX may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with PHLX Rule 8310 and IM-8310-3; and**
- 3. 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 PHLX, or to which PHLX is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the Respondent's right to take legal or factual positions in litigation or other legal proceedings in which PHLX 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 PHLX, nor does it reflect the views of PHLX or its staff.**

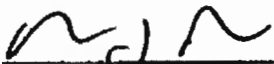
The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the Firm has agreed to the AWC's provisions voluntarily; and that no offer, 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.

2/13/2019  
Date

Monadnock Capital Management, LP  
Respondent


By: Daniel C. Bigelow  
Name: Daniel C. Bigelow  
Title: President

Reviewed by:

  
Marjorie J. Peerce  
Counsel for Respondent  
Ballard Spahr LLP  
1675 Broadway - 19<sup>th</sup> Floor  
New York, NY 10019-5820

Accepted by PHLX:

2/14/19  
Date

  
Eustace T. Francis, Esq.  
Senior Counsel  
Department of Enforcement

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



### ELECTION OF PAYMENT FORM

The Firm intends to pay the fine proposed in the attached Letter of Acceptance, Waiver and Consent by the following method (check one):

- A Firm check or bank check for the full amount  
 Wire transfer

Respectfully submitted,

Respondent

Monadnock Capital Management, LP

2/13/2019  
Date

By: David C. Bigelow  
Name: David C. Bigelow  
Title: President

### Billing and Payment Contact

Please enter the billing contact information below. Nasdaq MarketWatch will contact you with billing options and payment instructions. **Please DO NOT submit payment until Nasdaq has sent you an invoice.**

Billing Contact Name: Kate Chuprin  
Billing Contact Address: 950 Chesterville Rd, #130, Lewisville, PA 19351  
Billing Contact Email: Kchuprin@mcmoptions.com  
Billing Contact Phone Number: 215-990-4813