

**THE NASDAQ STOCK MARKET LLC
NOTICE OF ACCEPTANCE OF AWC**

Certified, Return Receipt Requested

**TO: Cantor Fitzgerald & Co.
Heidi Olson
Chief Operating Officer
110 East 59th Street
4th Floor
New York, NY 10022**

**FROM: The NASDAQ Stock Market LLC ("Nasdaq")
c/o Financial Industry Regulatory Authority ("FINRA")
Department of Market Regulation
9509 Key West Avenue
Rockville, MD 20850**

DATE: December 23, 2010

RE: Notice of Acceptance of Letter of Acceptance, Waiver and Consent No 20080123329-01

Please be advised that your above-referenced Letter of Acceptance, Waiver and Consent ("AWC") has been accepted by the Nasdaq Review Council's Review Subcommittee, or by the Office of Disciplinary Affairs on behalf of the Nasdaq Review Council, pursuant to Nasdaq Rule 9216. A copy of the AWC is enclosed herewith.

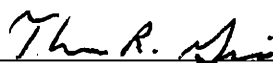
You are again reminded of your obligation, if currently registered, immediately to update your Uniform Application for Broker-Dealer Registration ("Form BD") to reflect the conclusion of this disciplinary action. Additionally, you must also notify FINRA (or NASDAQ if you are not a member of FINRA) in 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, and NASDAQ's Finance Department will send you an invoice regarding the payment of any fine.

Cantor Fitzgerald & Co.

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If you have any questions concerning this matter, please call Russell Fecteau, Counsel, (240) 386-5061.



Thomas R. Gira
Executive Vice President
Department of Market Regulation, FINRA

Signed on behalf of NASDAQ

Enclosure

FINRA District 10 – New York
Hans L. Reich
Regional Director
165 Broadway
52nd Floor
New York, NY 10006-1400

Gary Distell
Vice President and Assistant General Counsel
Cantor Fitzgerald & Co.
110 East 59th Street
7th Floor
New York, NY 10002

Edward S. Knight, Chief Regulatory Officer
The NASDAQ Stock Market LLC
9600 Blackwell Road
Rockville, MD 20850

THE NASDAQ STOCK MARKET LLC
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20080123329-01

FINRA

2011 NOV 19 PM 12: 21

TO: The NASDAQ Stock Market LLC
c/o Department of Market Regulation
Financial Industry Regulatory Authority ("FINRA")

RE: Cantor Fitzgerald & Co., Respondent
Broker-Dealer
CRD No. 134

Pursuant to Rule 9216 of The NASDAQ Stock Market LLC ("Nasdaq") Code of Procedure, Cantor Fitzgerald & Co. (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, Nasdaq will not bring any future actions against the firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

A. The firm 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 Nasdaq, or to which Nasdaq 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 Nasdaq:

BACKGROUND

The firm has been a member of FINRA since February 16, 1945, and a member of Nasdaq since July 12, 2006, and its registrations remain in effect.

RELEVANT PRIOR DISCIPLINARY HISTORY

On August 11, 2009, Nasdaq accepted an AWC that imposed a censure and a \$10,000 fine for Nasdaq Rule 4755 violations.

SUMMARY

In connection with the 2008 Trading and Market Making Surveillance Examination, 20080150454, the staff of FINRA's Department of Market Regulation reviewed the items set forth on Exhibit A, which is attached and incorporated by referenced, primarily for trade dates September 24 and 25, 2008.

FACTS AND VIOLATIVE CONDUCT

The firm entered 682 orders into the Nasdaq Market Center that failed to correctly indicate whether the orders were a buy, short sale or long sale. The conduct described in this paragraph constitutes separate and distinct violations of Nasdaq Rule 4755.

B. The firm also consents to the imposition of the following sanctions:

A censure and a \$10,000 fine.

The firm agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. It has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

The firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

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

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.

III.

OTHER MATTERS

The firm 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 Market Regulation and the Nasdaq Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs ("ODA"), pursuant to Nasdaq 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 firm; and
- C. If accepted:
 - 1. this AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by Nasdaq or any other regulator against the firm;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about the firm's disciplinary record;
 - 3. Nasdaq may make a public announcement concerning this agreement and the subject matter thereof in accordance with Nasdaq Rule 8310 and IM-8310-3; and

4. 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 finding in this AWC or create the impression that the AWC is without factual basis. The firm may not take any position in any proceeding brought by or on behalf of Nasdaq, or to which Nasdaq is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm's right to take legal or factual positions in litigation or other legal proceedings in which Nasdaq is not a party.

D. The firm 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 Nasdaq, nor does it reflect the views of Nasdaq or its staff.

The firm certifies that it has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that it 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.

11/19/10
Date

Cantor Fitzgerald & Co.
Respondent

By: 

HEIDI OLSON

Name: **CHIEF OPERATING OFFICER**
EQUITY CAPITAL MARKETS

Title: _____

Reviewed by:

Counsel for Respondent

Accepted by Nasdaq:

12/20/10
Date

Thomas R. Gira
Thomas R. Gira
Executive Vice President
Department of Market Regulation

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

ELECTION OF PAYMENT FORM

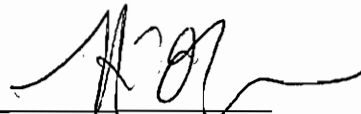
The firm intends to pay the fine proposed in the attached Letter of Acceptance, Waiver and Consent by the following method (check one):

- NASDAQ will send the firm an invoice for the full amount; or
- The installment payment plan (only if approved by FINRA staff and the Nasdaq Review Council).¹

Respectfully submitted,

11/16/10
Date

Respondent
Cantor Fitzgerald & Co.

By: 

HEIDI OLSON
Name: **CHIEF OPERATING OFFICER**
EQUITY CAPITAL MARKETS

Title: _____

¹ The installment payment plan is only available for fines of \$5,000 or more. Certain interest payments, minimum initial and monthly payments, and other requirements apply. You must discuss these terms with FINRA staff prior to requesting this method of payment.

2008 Market Regulation Examination Samples
Cantor Fitzgerald and Co. ("CANT")
Exam No. 20080150454
Sample Source/Period*: September 24 and 25, 2008

<u>Sample</u>	<u>Sample Description</u>
738	Sales reviewed for compliance with SEC Rule 200(g) long/short sale recording requirements
15	Short Sales reviewed for compliance with SEC Rule 203(b) security location requirements
2192	Trades reported to a TRF or OTCTRF for compliance with NASD Rule 6130
<u>2191</u>	for general trade reporting requirements
<u>40</u>	for Cancellation of reported trade requirements
<u>2192</u>	for Principal, Riskless Principal, or Agency executions effected otherwise than on an exchange
<u>104</u>	for compliance with the requirements of odd-lot trade reporting
<u>48</u>	for compliance with SEC '34 Act Section 28(e) guidelines relating to Soft Dollar Agreements
<u>1137</u>	for Sale Indicator requirements
0	Disclosures to customers relating to trading in the Extended Hours session for compliance with Nasdaq Rule 4631
713	Orders entered into Nasdaq Exchange execution systems for compliance with Nasdaq Rules 4755 and 2110
18	Orders for compliance with best execution requirements of NASD Rule 2320
<u>10</u>	'Not Held' orders for compliance with NASD Rule 2320 and Nasdaq Rule 2320 best execution requirements
<u>8</u>	Customer orders in OTC equity securities for compliance with NASD Rules 2320 and 3110(b) requirements to ascertain and document best interdealer market related to execution of orders
2	Open Limit orders to buy and/or open Stop orders to sell securities that traded ex-dividend for compliance with NASD Rule 3220 and Nasdaq Rule 4761
50	Orders in securities required to be submitted to OATS for compliance with NASD Rules 6954 and 6955 and Nasdaq Rules 6954 and 6955 requirements
134	Customer confirmations prepared and maintained in connection with select samples
<u>134</u>	for compliance with SEC Rule 10b-10 disclosure requirements
<u>15</u>	for compliance with SEC '34 Act Section 28(e) guidelines relating to Soft Dollar Agreements
25	Orders for NMS securities in which the Firm acts as a market center for compliance with SEC Rule 605 order classification requirements
1	Quarterly Routing Report for compliance with SEC Rule 606 requirements

2008 Market Regulation Examination Samples
Cantor Fitzgerald and Co. ("CANT")
Exam No. 20080150454
Sample Source/Period*: September 24 and 25, 2008

<u>Sample</u>	<u>Size</u>	<u>Sample Description</u>
	15	CRD registration records for persons conducting and/or supervising Firm's trading and/or market making activities for compliance with NASD Rule Series 1020, 1030, 1040 and Nasdaq Rule Series 1020, 1030, 1040
All Provided		Member's "Regular & Rigorous" review procedures regarding order execution quality for compliance with NASD Rules 2320 and 3010
All Provided		Member's supervisory system, written supervisory procedures ("WSPs") and documentation evidencing execution of the WSPs for compliance with NASD Rule 3010 requirements
All Provided		Member's supervisory and operational policies and procedures and documentation evidencing execution of the policies and procedures for compliance with SEC Regulation NMS Rules 610, 611, and 612
	851	Records prepared and maintained in connection with the above samples for compliance with SEC Rules 17a-3 and 17a-4 and NASD Rule 3110