

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

Certified, Return Receipt Requested

**TO: Cowen and Company
Steven Cohen
Managing Director, Chief Compliance Officer
599 Lexington Avenue
21st Floor
New York, New York 10022**

**FROM: Nasdaq PHLX LLC (“Phlx”)
c/o Financial Industry Regulatory Authority (“FINRA”)
Department of Enforcement
Brookfield Place
200 Liberty Street
New York, New York 10281**

DATE: March 3, 2020

RE: Notice of Acceptance of Letter of Acceptance, Waiver and Consent No. 20170540013-02

Please be advised that your above-referenced Letter of Acceptance, Waiver and Consent (“AWC”) has been accepted on **March 3, 2020** 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.

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.

If you have any questions concerning this matter, please contact me at 646-430-7050.



Elyse D. Kovar
Senior Counsel
Department of Enforcement, FINRA
Signed on behalf of Phlx

Enclosure

cc: Ronald Chan, Risk Monitoring Director
(via E-Mail)

Kristen Petherbridge, Risk Monitoring Analyst
(via E-Mail)

**NASDAQ PHLX LLC
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20170540013-02**

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

RE: Cowen and Company, Respondent
Broker-Dealer
CRD No. 7616

Pursuant to Rule 9216 of Nasdaq PHLX LLC (“Phlx”) Code of Procedure, Cowen and Company (“Cowen” 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 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

Cowen has been a member of Phlx since July 1, 1998, and its registration remains in effect. Cowen is a full-service investment banking and securities brokerage firm that provides brokerage services to institutional customers. Cowen also provides option execution services for clients while providing facilitation when needed. The firm is headquartered in New York, New York and employs 586 registered individuals. Cowen has no relevant prior disciplinary history.

SUMMARY

1. FINRA’s Department of Market Regulation, Cause Trading Examinations team, on behalf of Phlx and other options exchanges, conducted a review of the manual options order tickets handled by Cowen during the period January 15, 2013 through September 30, 2018 (the “Order Record Review Period”).
2. During the Order Record Review Period, Cowen failed to accurately record the order transmission times of manual options orders it had routed to floor brokers at Phlx and various other national securities exchanges for execution, in violation of Rule 17a3-(a)(6)(i) promulgated under the Securities Exchange Act of 1934, as

amended (the “Exchange Act”), and Phlx Rule 760. Cowen also violated Phlx Rule 748(h) because its written supervisory procedures (“WSPs”) and supervisory system applicable to the handling of manual options orders during the period January 15, 2013 through November 20, 2019 (the “Supervisory Review Period”) were not reasonably designed to achieve compliance with the applicable recordkeeping provisions of the federal securities laws and Phlx rules.

FACTS AND VIOLATIVE CONDUCT

3. The recordkeeping provisions of the federal securities laws and Phlx rules are designed to ensure that regulators have access to certain basic information about securities transactions. Access to transaction records serves as an essential component for effective surveillance and examination of broker-dealers by Phlx and other self-regulatory organizations.
4. Section 17 of the Exchange Act and Rule 17a-3(a)(6)(i) promulgated thereunder require broker-dealers, such as Cowen, to create a brokerage order ticket of each brokerage order, and of any other instruction, given or received for the purchase or sale of securities, whether executed or unexecuted. In relevant part, the rule requires the brokerage order ticket to show, among other things, the terms and conditions of the order or instructions, the time the order was received, the time the order was entered, and the time of execution or cancellation. Such records must be accurate.
5. Phlx Rule 760 requires members to make, keep current and preserve such 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, reasonably designed to supervise the types of businesses and activities in which they and their associated persons engage in order to achieve compliance with, and to prevent and detect, insofar as practicable, violations of applicable securities laws and regulations, including the By-Laws and Rules of Phlx.
7. From January 15, 2013 to the first quarter of 2017, third-party systems Cowen used to record options order information provided no means to enter a manual order transmission time. In or about the first quarter of 2017, a designated field was added to provide Cowen with the ability to record the time of manual order transmission; however, even after this field was added, Cowen still failed to enter accurate order transmission times on manual options orders. Based on a 12-week sampling of data over the Order Record Review Period, Cowen failed to record an accurate order transmission time on approximately 3,193 orders transmitted to Phlx.
8. From approximately January 2019 to November 2019, Cowen began obtaining floor brokers’ records showing floor brokers’ receipt, systematization, and

execution times, but Cowen did not create its own records of order transmission to floor brokers.

9. The conduct described in paragraphs seven and eight constitute violations of Rule 17a-3(a)(6)(i) promulgated under the Exchange Act, and Phlx Rule 760.
10. During the Supervisory Review Period, Cowen failed to establish and maintain WSPs, and a system for applying such procedures, reasonably designed to achieve compliance with the recordkeeping provisions of the federal securities laws and Phlx rules that require accurate documentation of order transmission times of options orders. Although Cowen had WSPs that included daily reviews of order tickets as well as various daily reviews of options transactions, prior to November 2016, Cowen had no reviews or WSPs to review for the accuracy of the Firm's recorded order transmission times of options orders transmitted to third party broker-dealers. In November 2016, Cowen implemented procedures and reviews to monitor for accurate recording of order route and execution times for option executions received from the floor of an exchange; however, the WSPs did not contain any description of steps that the reviewer should take to ensure accurate order time entry. Moreover, Cowen's reviews as conducted were ineffective and did not detect that it failed to record accurate order transmission times throughout the Supervisory Review Period.
11. The conduct described in paragraph ten constitutes a violation of Phlx Rule 748(h).

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

- A censure; and
- A fine of \$100,000, of which \$50,000 shall be paid to Phlx¹ (\$37,500 for the recordkeeping violations and \$12,500 for related supervisory violations)

Acceptance of this AWC is conditioned upon acceptance of a similar settlement agreement in a related matter between the firm and NYSE Arca, Inc.

Respondent agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. Respondent has submitted a Payment Information form showing the method by which it proposes to pay the fine imposed.

Respondent 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.

¹ The balance of the fine shall be paid to NYSE Arca, Inc.

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.

2/4/2020
Date

Cowen and Company
Respondent

By: 

STEVEN COHEN, CCO

Reviewed by:

Counsel for Respondent

Accepted by Phlx:

3/3/2020
Date

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



Elyse D. Kovar, Senior Counsel
Department of Enforcement

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

PAYMENT INFORMATION

The fine amount will be reflected on an upcoming invoice and will be direct debited from the account for your firm that Nasdaq currently has on file. *Please DO NOT submit payment at this time.*

Please inform your finance or applicable department of this forthcoming debit.

If you need to arrange for an alternative method of payment, please contact Nasdaq at (301) 978-8310 by no later than the last business day of the month in which the Notice of Acceptance of the AWC was issued. *Otherwise, a direct debit will process from the account for your firm that Nasdaq currently has on file.*

Respectfully submitted,

Respondent

Cowen and Company

By: 

Name: STEVEN COHEN

Title: CCO

Date

2/4/2020

COWEN

February 4, 2020

Elyse D. Kovar
Senior Counsel
Department of Enforcement
FINRA
200 Liberty Street
New York, NY 10281-1003

RE: Cowen and Company, LLC ("Cowen")
AWC - 20170540013-01/20170540013-02

Dear Ms. Kovar,

I am writing to acknowledge receipt of both AWCs referenced above and to provide a Statement of Corrective Action.

Cowen has implemented a process whereby its traders make a manual entry into the Firm's order management system in conjunction with the security symbol that is being routed in the mnemonic FLRTREK. This entry reflects the time that Cowen's indication of interest directed to the floor broker becomes an order (the transmission time).

This Statement of Corrective Action is submitted by the Respondent. It does not constitute factual or legal findings by NYSE Arca/PHLX, nor does it reflect the views of NYSE Regulation/PHLX or its staff.

Please contact the undersigned with any additional questions you may have.

Sincerely,



Steven Cohen
CCO

