

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

Certified, Return Receipt Requested

**TO: Owen Littman
General Counsel
Cowen and Company, LLC
599 Lexington Avenue
20th 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: May 28, 2013

RE: Notice of Acceptance of Letter of Acceptance, Waiver and Consent No. 20100215909-02

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 if a suspension has been imposed and by NASDAQ's Finance Department regarding the payment of any fine if a fine has been imposed.

Cowen and Company, LLC
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If you have any questions concerning this matter, please contact Carly M. Kostakos, Counsel,
at (240) 386-5059.



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

Signed on behalf of NASDAQ

Enclosure

FINRA District 10 – New York
Michael Solomon
Regional Director
One World Financial Center
200 Liberty Street
New York, NY 10281

FINRA

THE NASDAQ STOCK MARKET LLC 2013 MAY 17 PM 12: 26
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20100215909-02

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

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

Pursuant to Rule 9216 of The NASDAQ Stock Market LLC ("Nasdaq") Code of Procedure, Cowen and Company, LLC (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 became a member of FINRA on May 23, 1978 and a member of the Nasdaq Stock Market on July 12, 2006. The firm's registrations remain in effect.

RELEVANT PRIOR DISCIPLINARY HISTORY

On May 21, 2008, FINRA accepted an AWC in which the firm was censured and fined \$15,000, which included a \$5,000 fine for violations of SEC Regulation SHO Rule 200(g), for conduct that occurred on August 3, 2006 and August 4, 2006.

SUMMARY

In connection with Review No. 20100215909, the Trading and Market Making Surveillance ("TMMS") staff of the Department of Market Regulation (the "staff") conducted the 2010 TMMS examination wherein the staff reviewed the items set forth on Exhibit 1, which is attached hereto and incorporated herein by reference, primarily for trade dates July 28 and 29, 2010 (the "review period").

FACTS AND VIOLATIVE CONDUCT

The firm failed to properly mark 11 sell orders as long or short, and as a result entered 15 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 SEC Rule 200(g) of Regulation SHO and Nasdaq Rule 4755.

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

A censure and a fine of \$10,000.

The firm agrees to pay the monetary sanction(s) in accordance with its executed Election of Payment Form.

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 prejudgment 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 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 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.

May 16, 2013
Date

Cowen and Company, LLC
Respondent

By: 
Name: **Owen Littman**
Title: **General Counsel**

Reviewed by:

Counsel for Respondent

Accepted by Nasdaq:

5/28/13
Date


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):

- A firm check or bank check for the full amount;
- Wire transfer;
- The installment payment plan.¹
 - Monthly
 - Quarterly

Respectfully submitted,

Respondent
Cowen and Company, LLC

May 16, 2013
Date

By: 

Name: Owen Littman
General Counsel

Title: _____

¹ The installment payment plan is only available for a fine of \$50,000 or more. Certain requirements apply.

Cowen and Company, LLC ("COWN")
FINRA Matter No. 20100215909
Review Period*: July 28, 2010 & July 29, 2010

Exhibit No. 1

Sample

<u>Size</u>	<u>Sample Description</u>
111	Sales reviewed for compliance with SEC Rule 200(g) long/short sale recording requirements
8	Short Sales reviewed for compliance with SEC Rule 203(b) security location requirements
0	Sales reviewed for compliance with SEC Rule 204 fail-to-deliver requirements
101	Sell trades reported to a TRF or OTCRF for compliance with sale indicator requirements, FINRA Rules 6182 or 6624
55	Sell orders entered into Nasdaq Exchange execution system for compliance with Nasdaq Rule 4755(a)(1)(A) long/short reporting requirements
55	Buy and Sell orders entered into Nasdaq Exchange execution system for compliance with Nasdaq Rule 4611 capacity reporting requirements
50	Sell orders entered into BATS Exchange execution system for compliance with BATS Rule 11.19 long/short reporting requirements
20	Buy and Sell orders entered into BX execution system for compliance with Nasdaq Rule 4755.
25	Non-tape reported trades to the TRF, ADF or OTCRF with a Related Market Center Indicator reviewed for compliance with FINRA Rules 7230A, 7330(h), and 7130(d)(2)
21	Cancelled Trades reviewed for reporting requirements to the TRF, ADF, and OTCRF for compliance with FINRA Rules 6380A, 6282, and 6622
0	Additional MPIDs and Sponsored Access activity for compliance with FINRA, Nasdaq, BATS and SEC Rules.
N/A	ATS/ECN subscriber trades reported to the TRF, OTCRF or ADF for compliance with FINRA Rules 6380, 6622, and 6282
0	Limit orders for NMS securities in which the member acts as an exchange market maker for compliance with the display requirements of SEC Rules 602 and 604, and Nasdaq Rule 3390
2	Orders for compliance with best execution requirements of NASD Rule 2320
0	Held orders from the Held Order Protection Review
0	Not Held orders from the Not Held Order Review
0	Order executed with a .PRP (Prior Reference Price) trade modifier
2	Customer orders in OTC equity securities for compliance with NASD Rule 3110(b) requirements to ascertain and document best interdealer market related to execution of orders
0	Orders for compliance with order protection requirements of NASD Rules 2110, IM-2110-2, 2111, and Nasdaq Rules 2110, IM-2110-2, and 2111
0	Open Limit orders to buy and/or open Stop orders to sell securities that traded ex-dividend for compliance with FINRA Rule 5330 and Nasdaq Rule 4761

Cowen and Company, LLC ("COWN")
FINRA Matter No. 20100215909
Review Period*: July 28, 2010 & July 29, 2010

Exhibit No. 1

<u>Sample Size</u>	<u>Sample Description</u>
N/A	Order memoranda and Net Trading agreements for compliance with FINRA Rule 2124 requirements
50	Orders in securities required to be submitted to OATS for compliance with FINRA Rules 7440 and 7450, and Nasdaq Rules 6954 and 6955 requirements
111	Customer confirmations prepared and maintained in connection with select samples for compliance with SEC Rule 10b-10
23	Orders for NMS securities in which the Firm acts as a market center for compliance with SEC Rule 605 order classification requirements
4	Data sets published for June 2010 monthly order execution report for compliance with SEC Rule 605 requirement to publish accurate data (a 'data set' encompasses all required statistical data for single security and order type/size category as described in SEC Rule 605)
3Q10	Quarterly Routing Report for compliance with SEC Rule 606 requirements
16	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; Nasdaq Rule Series 1020, 1030, 1040; and BATS Rule 11.4
2	Customer orders in OTC equity securities for compliance with NASD Rule 3110(b) requirements to ascertain and document best interdealer market related to execution of orders
0	Disclosures to customers relating to trading in the Extended Hours session for compliance with FINRA Rule 2265 and Nasdaq Rule 4631
2484	Records prepared and maintained in connection with the above samples for compliance with SEC Rules 17a-3 and 17a-4, and NASD Rule 3110
289	Trades reported to a TRF or OTCRF for compliance with FINRA Rules 6380A and 7230A or 6622 and 7330
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 and operational policies and procedures and documentation evidencing execution of the policies and procedures for compliance with SEC Regulation NMS Rule 611
All Provided	Member's supervisory system, written supervisory procedures ("WSPs") and documentation evidencing execution of the WSPs for compliance with NASD Rule 3010, Nasdaq Rule 3010, or BATS Rule 5.1 requirements