



Notice, Pursuant to Exchange By-law 18-2, of Disciplinary Action Against M. Burtnick & Co., Former Member Organization

To: Members, Member Organizations, Participants and Participant Organizations

From: Mark Schepps, Chief Enforcement Counsel, NASDAQ OMX PHLXSM

DATE: January 5, 2010

NASDAQ OMX PHLX No. 10-01 Enforcement No. 2009-27

On January 4, 2010, the Business Conduct Committee (the "Committee") issued a disciplinary decision against M. Burtnick & Co. ("Burtnick"), a former member organization of the Exchange. In response to a Statement of Charges issued in this action, Burtnick submitted an Offer of Settlement, Stipulation of Facts and Consent to Sanctions ("Offer"). Solely to settle this proceeding, and without admitting or denying the charges, Burtnick consented to findings that it violated Exchange Rules 604, 748 and 757 by: (i) failing to register three of its employees as a Non Registered Fingerprint Person and file their fingerprints for processing with CRD; (ii) maintaining an inadequate anti-money laundering compliance program ("AMLCP") insofar as it failed to: evidence bi-annual independent testing of its AMLCP and provide the Exchange the AMLCP training materials utilized in the 2008 annual compliance meeting and training sessions conducted with its employees and associated persons; and (iii) failing to establish, maintain and enforce written supervisory procedures, and a system for applying such procedures, reasonably expected to prevent and deter, insofar as practicable, violations of applicable securities laws and regulations including the by-laws and rules of the Exchange, by failing to evidence the review of the business related electronic communications of its employees and by failing to conduct an annual compliance meeting for the calendar year 2008 with its employees and associated persons. Burtnick's Offer was accepted by the Committee and was the basis of its Decision.

The Committee found that Burtnick violated Exchange Rules 604, 748 and 757, concurred in the sanctions consented to by it, and ordered the imposition of the following sanctions: (i) a censure and (ii) a fine of \$2,500.

For more information, contact:

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