

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

**Certified, Return Receipt Requested**

**TO: Hold Brothers Online Investment Services, LLC  
Steven Hold  
President  
1177 Avenue of the Americas  
Suite 2B  
New York, NY 10036**

**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: September 24, 2012**

**RE: Notice of Acceptance of Letter of Acceptance, Waiver and Consent No. 20100233513-01**

**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.

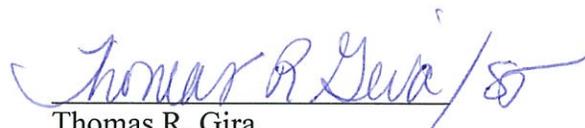
You are again reminded of your obligation, if currently registered, immediately to update your Uniform Application for Broker-Dealer Registration ("Form BD") to reflect the conclusion of this disciplinary action. Additionally, you must also notify FINRA (or NASDAQ if you are not a member of FINRA) in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

You are reminded that Section I of the attached Letter of Acceptance, Waiver, and Consent includes an undertaking. In accordance with the terms of the AWC, a registered principal of the firm is required to notify the Compliance Assistant, Legal Section, Market Regulation Department, 9509 Key West Avenue, Rockville, MD 20850, of completion of the undertaking.

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.

Hold Brothers Online Investment Services, LLC  
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If you have any questions concerning this matter, please call Steven Tanner, Counsel, at (646) 430-7059.

A handwritten signature in blue ink that reads "Thomas R. Gira" followed by a stylized flourish.

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

Martin H. Kaplan, Esq.  
Gusrae, Kaplan Nusbaum PLLC  
120 Wall Street  
11<sup>th</sup> Floor  
New York, NY 10005

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. 20100233513-01**

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

RE: Hold Brothers Online Investment Services LLC, Respondent  
Broker-Dealer  
CRD No. 36816

Pursuant to Nasdaq Rule 9216 of The NASDAQ Stock Market LLC ("Nasdaq") Code of Procedure, Hold Brothers Online Investment Services, LLC ("HBOLIS" 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, 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**

HBOLIS, a member of NASDAQ, is a self-clearing broker-dealer that primarily operates as a day trading firm by facilitating direct market access to customers and to its proprietary traders. HBOLIS' principal place of business is in New York, New York, and the Firm has approximately 95 associated persons, including proprietary traders. Between January 1, 2009 and December 31, 2011 ("the review period"), the owners of HBOLIS, Steven Hold ("S. Hold") and his brother, were the Firm's President and Chief Executive Officer, respectively.

HBOLIS' primary business is providing a trading platform, trade software and trade execution, support and clearing services for day traders. Many traders using HBOLIS are located overseas in countries such as China, India, Russia, Ukraine and Poland. These

foreign-based day traders typically trade through a non-broker-dealer entity that is owned and operated by the same owners of HBOLIS. These affiliated non-broker-dealer entities of HBOLIS, and the foreign day traders associated with them, are not registered with FINRA or the SEC.

During the review period, HBOLIS' largest account was Demostrate LLC ("Demostrate"), an entity owned and funded 100% by HBOLIS' principals. Trade Alpha Corporate, Ltd. ("Trade Alpha"), which was also 100% owned and funded by the principals of HBOLIS, was an affiliate of Demostrate and structured in a similar manner.

### Overview

During the review period, Demostrate, a day trading entity wholly owned and funded by HBOLIS' principals, was HBOLIS' largest and most active account. Demostrate was controlled by or under common control with, HBOLIS. Demostrate engaged traders and trading groups in various foreign countries, primarily China, to trade its capital utilizing different trading strategies.

During the review period, certain traders associated with Demostrate and/or Trade Alpha, utilizing a sponsored access relationship to connect with securities exchanges, engaged in manipulative trading activities, including spoofing, layering and wash trading.

In addition, HBOLIS failed to establish and maintain a supervisory system, including written procedures, to supervise the Firm's trading activity that was reasonably designed to achieve compliance with applicable federal securities laws and regulations, and Nasdaq Rules.

## FACTS AND VIOLATIVE CONDUCT

### **I. HBOLIS and Its Common Control of Trade Alpha and Demostrate**

#### **A. HBOLIS' Structure And Business**

HBOLIS' ownership structure is broken into two classes. Class A Membership is owned by Hold Brothers, Inc., a corporation owned by HBOLIS' principals. Class B Membership is owned by a group of proprietary traders registered with HBOLIS, including HBOLIS' principals.

Although HBOLIS is self-clearing, the Firm also has a sponsored access relationship<sup>1</sup> with another clearing firm, through which foreign traders utilize market participant identifiers ("MPID"). During the review period, HBOLIS had approximately 95 associated persons, including registered proprietary traders.

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<sup>1</sup> Sponsored access refers to the practice in which a bank or brokerage firm offers a client direct market access to an exchange.

During the review period, HBOLIS had approximately 49 customer accounts, broken down into 217 different trader groups and 2,432 identified traders. Demostrate was by far HBOLIS' largest account. Approximately 90% (197) of the trader groups and 88% (2,160) of the identified traders were associated with the Demostrate account.

HBOLIS averaged approximately 400,000 trades per day, approximately 90% of which were placed through the Demostrate account.

#### **B. HBOLIS' Common Control of Trade Alpha, Demostrate and Their Traders**

Demostrate is a foreign limited liability company organized in April 2009 in Nevis and St. Kitts and is 100% owned by HBOLIS' principals. Trade Alpha was also 100% owned by HBOLIS' principals. The Demostrate account was opened at HBOLIS on December 22, 2009. William Tobias, a registered representative with a HBOLIS affiliate and a non-registered fingerprint person with HBOLIS, was appointed as the managing member of Demostrate.

Demostrate was structured with various groups and locations of traders with various trading strategies, concentrated mainly in China. The Demostrate account was solely funded by HBOLIS' principals.

Recruitment of, and negotiation with, prospective traders and trader groups was largely handled on behalf of Demostrate by both recruiters employed by HBOLIS and by HBOLIS affiliates. Recruiters placed postings, approved by HBOLIS' Compliance Department, through online professional sites seeking individuals or groups interested in trading through direct access platforms. Recruiters were also responsible for negotiating rates with traders and trader groups, and for acting as a liaison between the prospective traders and groups and HBOLIS' IT, Compliance, Operations, Trade Support and Accounting groups.

Demostrate's traders and trader groups (referred to by HBOLIS as "Risk Groups") were compensated based upon a percentage of profits of trading Demostrate's capital. HBOLIS charged Demostrate \$0.10/1,000 shares base rate plus expenses. After that, profits were generally split 85% to the Risk Group and 15% to the Demostrate account. HBOLIS' principals were responsible for authorizing the payouts to the Risk Groups. Each Risk Group was responsible for allocating profits to its individual traders. Although Demostrate assumed risk of loss for trading in the account, generally 10% of the Risk Group's 85% (capped at \$10,000) was held in a reserve against losses in Demostrate Risk Groups.

Once a Demostrate trader was approved through the recruitment process, HBOLIS' trade support group assigned the trader a four digit alpha identifier. In some instances, traders had more than one identifier (for example, in order to trade two different trading strategies).

HBOLIS' Trade Support and Risk Management teams were responsible for establishing trader limits and buying power for the Trade Alpha and Demostrate traders. HBOLIS oversaw risk management of the traders to ensure traders were not taking undue risk with capital, and HBOLIS' Compliance Department was responsible for reviewing the trading activity of the Trade Alpha and Demostrate traders for improper or violative trading activities. HBOLIS' Compliance Department also had the authority to initiate disciplinary action against Trade Alpha

and Demostrate traders, up to and including termination. In addition to the roles previously referenced, Tobias performed consulting services for HBOLIS.

Based upon the foregoing, Trade Alpha, Demostrate and their traders, were controlled by, or under common control with, HBOLIS.

**Violation of Sections 9(a)(1) and 9(a)(2) of the Securities Exchange Act of 1934 and Nasdaq Rules 2110, 2120, 3310, IM-3310, 3320, and 3010(a) and 3010(b)**

**Spooling and Layering**

1. During the review period, HBOLIS, through its affiliated entities Trade Alpha and Demostrate, and utilizing a sponsored access relationship to connect with exchanges, engaged in manipulative trading activities, in willful violation of Sections 9(a)(1) and 9(a)(2) of the Securities Exchange Act of 1934 (the "Exchange Act"), and violation of Nasdaq Rules 2110, 2120, 3310, IM-3310 and 3320.
2. Among the manipulative trading activities utilized by certain of the Trade Alpha/Demostrate traders were spoofing and layering, including manipulative cross-market layering activities. Generally, spoofing is a form of market manipulation which involves a market participant placing certain non-bona fide order(s), generally inside the existing National Best Bid or Offer ("NBBO"), with the intention of briefly triggering some type of market movement and/or response from another market participant, followed by cancellation of the non-bona fide order, and the entry of an order on the opposite side of the market. Layering involves a trading pattern in which multiple, non-bona fide, limit orders are entered on one side of the market at various price levels away from the NBBO in order to create the appearance of a change in the levels of supply and demand, thereby artificially moving the price of the security. An order is then executed on the opposite side of the market at the artificially created price, and the non-bona fide orders are immediately cancelled.
3. Throughout the review period, there were hundreds of instances of Trade Alpha/Demostrate traders engaging in spoofing and layering activities in order to profit by artificially manipulating the price of a security.
4. An example of certain Demostrate traders' manipulative cross-market layering activity occurred on June 4, 2010. On this date, a Demostrate trader entered an order to sell short ("bona fide order") on a non-primary listing market for the subject security, while entering multiple buy orders, at progressively higher prices ("non-bona fide orders") on the security's primary listing market. The bona fide order displayed 100 shares with the remainder in reserve, and thus was undetectable to other market participants. The non-bona fide orders, all fully displayed, impacted the National Best Bid price by creating the appearance of increasing buy interest. This induced the execution of the bona fide sell short order on the non-primary listing market, including the majority of the shares in reserve. After the order was executed,

the non-bona fide buy orders submitted to the primary listing market were immediately cancelled, unexecuted.

Time	Activity
11:08:32.596	The NBBO was \$101.24 - \$101.35.
11:08:33.063	An order to sell short 1,000 shares ("bona fide order"), displaying 100 shares with 900 shares in reserve, was sent to NASDAQ OMX BX, the non-primary listing market, at a price of \$101.32.
11:08:33.065	The NBBO became \$101.24 - \$101.32.
11:08:33.071 - 11:08:33.172	Demostrate sent five buy orders ("non-bona fide orders") to Nasdaq, the primary listing market, totaling 2,000 shares at progressively higher price levels, ranging in price from \$101.27 to \$101.31. Each order established a new National Best Bid immediately after its entry on Nasdaq.
11:08:33.173 - 11:08:33.176	Buying Algo, through seven transactions, partially executed against the bona fide 1,000-share sell short order. Buying Algo executed a total of 645 shares at a price of \$101.32 against Demostrate's bona fide order.
11:08:33.180 - 11:08:33.233	Demostrate sent six additional non-bona fide buy orders, totaling 600 shares, to Nasdaq, all priced at \$101.31.
11:08:33.233	Buying Algo partially executed additional 200 shares at \$101.32 against Demostrate's 1,000-share sell short bona fide order.
11:08:33.838 - 11:08:33.882	The remaining 155 shares of the 1,000 share bona fide sell short order were cancelled, and all eleven non-bona fide buy orders sent to Nasdaq were cancelled.
11:08:33.883	The NBBO returned to the pre-layering price levels of \$101.24 - \$101.35.

5. This layering activity resulted in the Demostrate trader selling 845 shares at a price \$.08 higher than would otherwise have been available in the absence of the layering activity.
6. Five seconds later, the Demostrate trader, using the direct access provided by HBOLIS, reversed sides of the market using the same pattern of layering by entering a bona fide buy order with reserve size on the same non-primary listing market and a series of non-bona fide sell short orders on the primary listing market. The non-bona fide sell short orders artificially depressed the National Best Offer, creating the artificial appearance of sell-side pressure, which enticed the Selling Algo to execute against the Demostrate trader's bona fide buy order at a price lower than would otherwise have been available in the absence of the layering activity. Demostrate traders, through repetitive layering, alternately executed on the buy and sell side of the market and received favorable execution pricing that would otherwise have been unavailable in the absence of its layering activity.
7. Prior to February 2010, the Firm did not have sufficient supervisory procedures ("WSPs") or surveillance reviews to detect layering or spoofing, and thus, failed to establish and maintain a sufficient supervisory system, including written procedures and a separate system of follow up and review, reasonably designed to detect and prevent such manipulative trading activities and achieve compliance with Nasdaq Rule 3010 and federal securities laws.

### Wash Trading<sup>2</sup>

8. HBOLIS failed to sufficiently or effectively monitor for potential wash trading activities, and prior to April 2010, failed to have sufficient surveillance reviews to detect or prevent wash trading activities, or sufficient written procedures to achieve compliance with applicable Nasdaq rules and federal securities laws.
9. In thousands of instances during the review period, a particular Trade Alpha or Demonstrate Risk Group, as well as a specific Trade Alpha or Demonstrate trader, were on both sides of a transaction, buying and selling the same security on the same day, at the same time and price.
10. For example, the following traders bought and sold the same stock, at the same time and at the same price:

<b>Trader Identification</b>	<b>Date</b>	<b>Symbol</b>	<b># of Wash Trades</b>
NEHC	Mar. 3, 2010	CDE	75
KEBU	Mar. 3, 2010	FGI	61
KEBU	Mar. 4, 2010	FGI	66
XEVF	Mar. 29, 2010	JKL	53
NEYL	Mar. 3, 2010	MNO	37

### **Failure to Retain Books and Records - Violations of Section 17(a)(1) of the Securities Exchange Act of 1934 and 17a-3 and 17a-4 and Nasdaq Rule 3110**

11. SEC Rule 17a-3(a)(6), promulgated pursuant to the Exchange Act, requires that a memorandum of each brokerage order be made that shows, among other things, the terms and conditions of the order and of any modification or cancellation thereof, including the time of entry. Exchange Act Rule 17a-4(b)(1) requires, in part, that every broker and dealer preserve, for a period of not less than three years, all records required pursuant to Exchange Act Rule 17a-3(a)(6).
12. Nasdaq Rule 3110 requires firms to make, keep current and preserve books and records as prescribed by the Exchange Act.
13. During the period between approximately early 2009 and September 2010, HBOLIS failed to retain and preserve numerous memoranda of each brokerage order given or received for the purchase or sale of securities, whether executed or unexecuted.

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<sup>2</sup> Wash trading involves the execution of a securities transaction which involves no change in the beneficial ownership of the security. Wash trades may be inadvertent or may be attributable to an improper purpose such as the intentional manipulation of trading volume or market prices.

### Violations

#### 14. As a result of the foregoing conduct, HBOLIS:

- directly or indirectly, for the purpose of creating a false or misleading appearance of active trading in securities registered on a national securities exchange: (i) effected transactions which involved no change in the beneficial ownership thereof; (ii) entered orders for the purchase (sale) of securities with the knowledge that orders of substantially the same size, at substantially the same time, and at substantially the same price, for the sale (purchase) of such security, had been or would be entered by or for the same or different parties; and (iii) effected a series of transactions in securities to create actual or apparent active trading in such securities, or raising or depressing the price of such securities, for the purpose of inducing the purchase or sale of such securities by others, in willful violation of Sections 9(a)(1) and 9(a)(2) of the Exchange Act.
- violated Nasdaq Rule 2120 by effecting transactions in, or inducing the purchase or sale of securities by means of a manipulative, deceptive or other fraudulent device or contrivance through the use of layering and spoofing transactions;
- violated Nasdaq Rules 3310 and IM-3310 by: (i) publishing or causing to be published transactions as a purchase or sale of securities without the belief that such transaction was a bona fide purchase or sale of such security; and (ii) purporting to quote the bid or asked price for securities, without the belief that such quotation represented a bona fide bid for, or offer of, such security;
- violated Nasdaq Rule 3320 by making an offer to buy or sell a security at a stated price without being prepared to purchase or sell at such price and under such conditions as are stated at the time of such offer to buy or sell;
- violated Nasdaq Rule 2110 by, in the conduct of its business, failing to observe high standards of commercial honor and just and equitable principles of trade;
- violated Nasdaq Rules 3010(a) and (b) by failing to establish and maintain a supervisory system, including written procedures and a separate system of follow up and review, designed to achieve compliance with exchange rules and policies, including review of its electronic customer order flow to detect potential rule violations of manipulative trading practices, including layering and spoofing of orders, and wash trading; and
- violated Section 17(a) of the Exchange Act and SEC Rules 17a-3 and 17a-4 and Nasdaq Rule 3110 by failing to make and keep current and preserve books and

records of each brokerage order given or received for the purchase or sale of securities, whether executed or unexecuted.

B. HBOLIS also consents to the imposition, at a maximum, of the following sanctions:

- (1) a censure;
- (2) a fine of \$5,916,667, of which \$2,516,667 will be paid by HBOLIS to the SEC as a disgorgement and fine according to an Administrative Order issued by the SEC relating to its investigation of HBOLIS, Demostrate, and three individual senior managers associated with HBOLIS.<sup>3</sup> The remaining \$3,400,000 of the fine shall be paid jointly to Nasdaq, FINRA, NASDAQ OMX BX, Inc., BATS Exchange, Inc. and NYSE Arca, Inc., of which \$600,000 shall be paid to Nasdaq; and
- (3) HBOLIS shall further undertake to:
  - a. Retain, within 60 days of the date of Notice of Acceptance of this AWC, an Independent Consultant, not unacceptable to FINRA staff, to conduct a comprehensive review of the adequacy of the Firm's policies, systems and procedures (written and otherwise) and training relating to anti-money laundering, trading, sponsored access, direct market access, day trading, compliance with SEC Rule 15c3-5, and the use of foreign traders.
  - b. Exclusively bear all costs, including compensation and expenses, associated with the retention of the Independent Consultant.
  - c. Cooperate with the Independent Consultant in all respects, including by providing staff support. HBOLIS shall place no restrictions on the Independent Consultant's communications with FINRA staff and, upon request, shall make available to FINRA staff any and all communications between the Independent Consultant and the Firm and documents reviewed by the Independent Consultant in connection with his or her engagement. Once retained, HBOLIS shall not terminate the relationship with the Independent Consultant without the FINRA staff's written approval; HBOLIS shall not be in and shall not have an attorney-client relationship with the Independent Consultant and shall not seek to invoke the attorney-client privilege or other doctrine or privilege to prevent the Independent Consultant from transmitting any information, reports or documents to FINRA.

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<sup>3</sup> In entering into this AWC, Nasdaq also took into consideration the charges brought by the SEC and the sanctions it imposed against HBOLIS, Demostrate, S. Hold, Robert Vallone (HBOLIS' Chief Compliance Officer) and Tobias in its related proceeding. In the SEC's action, the three individual senior managers associated with HBOLIS and/or Demostrate were barred from the securities industry and fined.

- d. At the conclusion of the review, which shall be no more than 160 days after the date of Notice of Acceptance of this AWC, require the Independent Consultant to submit to the Firm and FINRA staff an Initial Report. The Written Report shall address, at a minimum, (i) the adequacy of the Firm's policies, systems, procedures and training relating to anti-money laundering, trading, sponsored access, direct market access, day trading, compliance with SEC Rule 15c3-5, and the use of foreign traders; (ii) a description of the review performed and the conclusions reached, and (iii) the Independent Consultant's recommendations for modifications and additions to the Firm's policies, systems, procedures and training; and
- e. Require the Independent Consultant to enter into a written agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any other employment, consultant, attorney-client, auditing or other professional relationship with HBOLIS, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. Any firm with which the Independent Consultant is affiliated in performing his or her duties pursuant to this AWC shall not, without prior written consent of the FINRA staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with HBOLIS or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.
- f. Within 90 days after delivery of the Written Report, HBOLIS shall adopt and implement the recommendations of the Independent Consultant or, if it determines that a recommendation is unduly burdensome or impractical, propose an alternative procedure to the Independent Consultant designed to achieve the same objective. The Firm shall submit such proposed alternatives in writing simultaneously to the Independent Consultant and the FINRA staff. Within 30 days of receipt of any proposed alternative procedure, the Independent Consultant shall: (i) reasonably evaluate the alternative procedure and determine whether it will achieve the same objective as the Independent Consultant's original recommendation; and (ii) provide the Firm with a written decision reflecting his or her determination. The Firm will abide by the Independent Consultant's ultimate determination with respect to any proposed alternative procedure and must adopt and implement all recommendations deemed appropriate by the Independent Consultant.
- g. Within 30 days after the issuance of the later of the Independent Consultant's Written Report or written determination regarding alternative procedures (if any), provide the FINRA staff with a written

implementation report, certified by the President or CEO of HBOLIS, attesting to, containing documentation of, and setting forth the details of the Firm's implementation of the Independent Consultant's recommendations.

- h. Within 60 days after the issuance of the later of the Independent Consultant's Written Report or written determination regarding alternative procedures (if any), the Firm's President or CEO shall certify that the Firm's supervisory systems and procedures are in compliance with federal securities laws and NASDAQ Rules.
- i. Upon written request showing good cause, FINRA staff may extend any of the procedural dates set forth above.

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

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent submitted an Election of Payment form electing to pay the fine imposed by the installment payment plan. The terms of the payment plan will be as follows:

1. A down payment of \$150,000, equal to twenty-five percent (25%) of the total fine, must be paid as the initial payment.
2. Following the initial payment, the entire remaining balance shall be paid either in forty-eight (48) monthly installment payments, or in twelve (12) quarterly payments, with the final payment due no later than forty-eight months after the due date of the initial payment.
3. The entire remaining balance can be paid off at any time without penalty.
4. Should the Firm be acquired by any other entity, party, or persons while any fine amounts remain outstanding, the Firm shall condition any such acquisition on the acquirer(s)' assumption of the Firm's fine obligations in this AWC, or else any remaining outstanding fines shall become immediately due and payable prior to the completion of any such acquisition within the four-year time period the Firm has to pay the total fine under this AWC.

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 as specified by the terms of this AWC. It has submitted an Election of Payment 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.

## 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 Nasdaq’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.

9/29/2012  
Date

Hold Brothers Online Investment Services  
LLC, Respondent

By: [Signature]  
Name: Steven H. H.  
Title: President

Reviewed by:

[Signature]  
Martin H. Kaplan, Esq.  
Counsel for Respondent  
Gusrae, Kaplan Nusbaum PLLC  
120 Wall Street, 11th Floor  
New York, New York 10005  
Phone: (212) 269-1400

Accepted by Nasdaq:

9/24/12  
Date

[Signature]  
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.<sup>4</sup>
  - Monthly
  - Quarterly

Respectfully submitted,  
Hold Brothers Online Investment Services LLC

9/24/2014  
Date

By: [Signature]  
Name: Steven Hold  
Title: President

<sup>4</sup> The installment payment plan is only available for a fine of \$50,000 or more. Certain requirements apply.