

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

**Certified, Return Receipt Requested**

**TO: Sandler, O'Neill & Partners, L.P.  
May F. Della Pietra  
Chief Financial Officer  
1251 Avenue of the Americas  
6<sup>th</sup> Floor  
New York, NY 10020**

**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: November 13, 2012**

**RE: Notice of Acceptance of Letter of Acceptance, Waiver and Consent No. 20110261119-01**

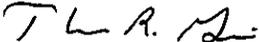
**Please be advised** that your above-referenced Letter of Acceptance, Waiver and Consent ("AWC") has been accepted by the Nasdaq Review Council's Review Subcommittee, or by the Office of Disciplinary Affairs on behalf of the Nasdaq Review Council, pursuant to Nasdaq Rule 9216. A copy of the AWC is enclosed 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 if a suspension has been imposed and by NASDAQ's Finance Department regarding the payment of any fine if a fine has been imposed.

Sandler, O'Neill & Partners, L.P.  
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If you have any questions concerning this matter, please call Jack Macken, Counsel, at (240) 386-6189.

  
\_\_\_\_\_  
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

Michael D. Wolk, Esq.  
Bingham McCutchen LLP  
2020 K Street, N.W.  
Washington, DC 20006-1806

**THE NASDAQ STOCK MARKET LLC**  
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**  
**NO. 20110261119-01**

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

RE: Sandler, O'Neill & Partners, L.P.  
Broker-Dealer  
CRD No. 23328

Pursuant to Rule 9216 of The NASDAQ Stock Market LLC ("Nasdaq") Code of Procedure, Sandler, O'Neill & Partners, L.P., Respondent (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 November 23, 1988, and its registration remains in effect. The firm became a member of Nasdaq on July 12, 2006, and its registration remains in effect.

**RELEVANT PRIOR DISCIPLINARY HISTORY**

The firm has no relevant prior disciplinary history.

## SUMMARY

In connection with the firm's 2011 Trading and Market Making Surveillance ("TMMS") Exam, matter no. 20110261119, the TMMS staff of FINRA's Department of Market Regulation (the "staff") reviewed the trading activity of the firm for trade dates January 12 – 13, 2011 (the "review period"). As part of the Exam, the staff reviewed the firm's compliance with Nasdaq Rule 4755 (Order Entry Parameters), and Nasdaq Rules 2110 and 3010.

## FACTS AND VIOLATIVE CONDUCT

1. During the review period, the firm entered six 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.
2. The firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and Nasdaq rules. At a minimum, adequate written supervisory procedures ("WSPs") should provide for: (a) the identification of the person(s) responsible for supervision with respect to the applicable rules; (b) a statement of the supervisory step(s) to be taken by the identified person(s); (c) a statement as to how often such person(s) should take such step(s); and (d) a statement as to how the completion of the step(s) included in the WSPs should be documented.

The firm's written supervisory procedures failed to provide for one or more of the four above-cited minimum requirements for adequate WSPs in the following areas: entering accurate information into the Nasdaq system including whether the firm acted in a principal, agent, or riskless principal capacity (a), (b), (c), and (d); and, accurately identifying buy, short sale and long sale information when entered into the Nasdaq system (a), (b), (c), and (d). The conduct described in this paragraph constitutes a violation of Nasdaq Rules 2110 and 3010.

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

A censure and fine of \$15,000 (comprised of \$7,500 for the violations of Nasdaq Rule 4755, and \$7,500 for the supervisory violation).

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. NASDAQ will send the firm an invoice for the full amount of the monetary sanction.

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 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.

October 15, 2012  
Date

Sandler, O'Neill & Partners, L.P.

Respondent

By: Sandler O'Neill & Partners Corp.,  
its sole general partner

By: May F. Della Pietra

Name: May F. Della Pietra

Title: An Officer of the Corporation

Reviewed by:

Michael D. Volk (TBN)

Counsel for Respondent

Accepted by Nasdaq:

10/13/12  
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