

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2010022913901**

TO: Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: Title Securities, Inc., Respondent
(CRD No. 30057)

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Title Securities, Inc. (the "firm" or "Title") 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, FINRA will not bring any future actions against Title alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Title Securities, Inc. 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 FINRA, or to which FINRA 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 FINRA:

BACKGROUND

Title has been a FINRA regulated firm since February 9, 1993. The firm changed its name from Direct Access Brokerage Services, Inc. to Title Securities Inc., pursuant to a BD Amendment dated September 13, 2010. Title is an introducing broker-dealer firm that primarily provides direct market access to customers by way of online order entry. Title's principal place of business is in Chicago, Illinois, and the firm employs four registered individuals.

OVERVIEW

Title is an introducing broker-dealer that was established for the purpose of facilitating direct market access to U.S. markets to one particularly large volume customer. The firm's large customer, Hainy Investments Ltd. ("Hainy"), is a corporation domiciled in Cyprus that utilizes the services of an unregistered third party trading organization, retaining as many as 1,800 traders around the world, in order to trade its capital. The

Hainy account does a large volume of high frequency trading through Title, averaging trades of as many as three billion shares per month.

Title failed to develop and implement an AML program tailored to its business model. As a result, Title's AML policies, procedures, and internal controls could not reasonably be expected to monitor, detect and cause the reporting of suspicious transactions, as required by NASD Rule 3011(a) and FINRA Rule 3310(a). Between January 1, 2009 and January 31, 2011 (the "review period"), FINRA, BATS, NYSE Arca and NASDAQ, and Title's clearing firm detected and alerted the firm to numerous instances of potentially suspicious trading activity in the Hainy account, including but not limited to wash trading, odd lots, and layering. Due to the firm's inadequate anti-money laundering ("AML") program, the firm failed to adequately monitor, detect and report such suspicious trading activity.

By virtue of the above, Title violated NASD Rules 3011(a) (before January 1, 2010) and FINRA Rules 3310(a) (on and after January 1, 2010) and 2010.

LEGAL STANDARDS

Anti-Money Laundering Requirements

NASD Conduct Rule 3011 (now, FINRA Rule 3310)¹ requires all member firms to "develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the firm's compliance with the requirements of the Bank Secrecy Act (31 U.S.C. § 5311, *et seq.*), and the implementing regulations promulgated thereunder by the Department of the Treasury."

Title 31 U.S.C. § 5318(g) authorizes the United States Department of the Treasury to issue suspicious activity reporting requirements for broker-dealers. The Treasury Department issued the implementing regulation, 31 C.F.R., § 103.19(a)(1), on July 1, 2002. It provided that, with respect to any transaction after December 30, 2002, "[e]very broker or dealer in securities within the United States . . . shall file with FinCEN . . . a report of any suspicious transaction relevant to a possible violation of law or regulation." Section (a)(2) of that regulation specifically provides:

A transaction requires reporting . . . if it is conducted or attempted by, at, or through a broker-dealer, it involves or aggregates funds or other assets of at least \$5,000, and the broker-dealer knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

¹ On January 1, 2010, FINRA Rule 3310, FINRA's AML program rule, went into effect and replaced NASD Rule 3011.

Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any federal law or regulation or to avoid any transaction reporting requirement under federal law or regulation;

Is designed, whether through structuring or other means, to evade any requirements of this part or of any other regulations promulgated under the Bank Secrecy Act, . . . ;

Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the broker-dealer knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or

Involves use of the broker-dealer to facilitate criminal activity.

In April 2002, FINRA issued Notice to Members ("NTM") 02-21, which reminded broker-dealers that by April 24, 2002, they were required to establish and implement AML programs designed to achieve compliance with the Bank Secrecy Act and the regulations promulgated thereunder. The Notice further advised broker-dealers that their AML procedures must address a number of areas including monitoring of account activities, "including but not limited to, trading and the flow of money into and out of accounts."

In August 2002, FINRA issued NTM 02-47, which set forth the suspicious activity reporting rule promulgated by the United States Department of the Treasury for the securities industry. This NTM further advised broker-dealers of their duty to file a SAR-SF (Suspicious Activity Reports for the Securities and Futures Industry) for any suspicious transactions occurring after December 30, 2002.

FACTS AND VIOLATIVE CONDUCT

Title and Hainy

Title is an introducing broker-dealer that primarily facilitates direct market access by way of online order entry and trading to one public customer, Hainy. Title is 100% owned by Title Brokerage Holding Corporation, which in turn is 100% owned by an Irrevocable Trust, the beneficiaries of which are the children of the owner of Hainy, and the trustee is Title's Head Trader.

The Hainy account was opened at Title on April 13, 2009. During the review period, Hainy was Title's largest customer, representing approximately 90% of orders and 99%

of revenue. As a result of Hainy's trading activity, Title executed as much as one and a half to three billion shares every month on US markets on Hainy's behalf. In addition to its business with Hainy, Title serviced, in a DVP/RVP capacity, a very limited number of institutional customers with equities orders, one of whom utilized direct market access via ROX.

Hainy is 100% owned by an individual who is domiciled in Cyprus. Hainy received its assets via transfers from another entity owned by this individual that traded at another FINRA member firm. Hainy's sole business is day trading its capital by utilizing both manual trading and high frequency algorithmic trading methods, including statistical arbitrage. Hainy carries out these functions through its authorized representative, Title Trading Services, Inc. ("Title Trading"), a Quebec corporation with headquarters in Montreal, Quebec and in Charlotte, North Carolina. Hainy, through Title Trading, utilized approximately 1,700-1,800 traders (250-300 being characterized as "active") in approximately 100 or more locations throughout the world (all outside the US), with over half of those traders (approximately 920) in various locations in China.

Title Failed to Implement an Adequate AML System To Monitor, Detect and Report Suspicious Activity

Title's AML policies, procedures, and internal controls could not reasonably be expected to monitor, detect and cause the reporting of suspicious transactions, as required by NASD Rule 3011(a) and FINRA Rule 3310(a). The firm's written AML procedures did not include adequate provisions for monitoring, detecting or reporting suspicious (including manipulative) trading activity. The AML procedures also did not include red flags for the firm to monitor for in connection with suspicious trading activity. In light of Title's business model of providing direct market access to customers, and given the large volume of trades executed by the firm on a daily basis, the firm should have had procedures to monitor for suspicious or manipulative trading activity but did not.

When the Hainy account opened, Title began conducting manual surveillance of the trading executed through the firm, but this surveillance was done primarily for profit and loss purposes. Furthermore, due to the large volume of trading activity, a manual review was unreasonable. One of the factors that FINRA has instructed members to consider when tailoring procedures and systems to the business conducted is the "technological environment in which the firm operates."¹ Firms such as Title, with very high trading volume, have specifically been instructed to "consider conducting computerized surveillance of account activity to detect suspicious transactions and activity."² Yet the firm failed to adopt a risk-based approach in designing and implementing its AML procedures and controls by monitoring for money movement alone. The firm's AML procedures provided that the firm would monitor for potential AML activity by using automated exception reports for "unusual size, volume, pattern or type of transactions." However, other than the wash sale and odd lot filters implemented in the firm's order entry platform, which did not prevent activity or generate exception reports, and certain

¹ NASD Notice to Members 99-45, *NASD Provides Guidance On Supervisory Responsibilities*, at 2.

² *Id.* at 7.

alerts from its clearing firm, Title had no surveillance system. Nor did the firm conduct any review, automated or otherwise, to monitor for suspicious or manipulative trading activity, such as wash trades, layering, odd lots or marking the close.

The Firm principally relied on its clearing firm to identify and notify Title of suspicious or manipulative trading activity. However, the Firm's system failed to provide for an adequate review of this information from its clearing firm. Title's staff manually reviewed the information to ascertain whether the trading activity was manipulative or illegal. Further, Title failed to create or contribute to the monitoring parameters established by its clearing firm, and also improperly relied upon Hainy's authorized representative, Title Trading, to establish and implement the wash sale and odd lot filters in its order entry software.

Title did not make reasonable efforts to ensure that each trader was only issued one trader ID or to terminate inactive IDs. The lack of controls over both the issuance of trader IDs and the de-activation of inactive trader IDs enabled traders to use multiple trader IDs to bypass the wash sale filters, to circumvent surveillance monitoring conducted at the trader ID level, to have access to higher trading limits through the use of multiple IDs, and to potentially continue trading under a different trader ID after their original trader ID had been terminated.

Beginning in December 2009 and continuing throughout 2010, the firm received numerous inquiries from its clearing firm, as well as from FINRA, BATS, NYSE Arca and NASDAQ, concerning wash trades, layering, and odd lots in the Hainy account. Despite being placed on repeated notice of potentially manipulative trading in the Hainy account, the firm failed to establish meaningful controls, such as electronic surveillance or exception reports, to monitor for the type of suspicious activity detected. In addition, Title never considered whether to file a Suspicious Activity Report ("SAR") related to any suspicious trading activity that was identified, even in instances where Title instructed Title Trading to terminate the Hainy account traders for their questionable trading activities.

Based upon the foregoing, Title violated NASD Conduct Rules 3011(a) (before January 1, 2010) and FINRA Rules 3310(a) (on and after January 1, 2010) and 2010.

- B. The firm also consents to the imposition of the following sanctions:
1. A censure; and
 2. A fine in the amount of \$150,000, to be paid jointly to FINRA, The NASDAQ Stock Market LLC, BATS Exchange Inc., and NYSE Arca, Inc., of which \$37,500 shall be paid to FINRA.

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

The firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. The firm has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

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.

II.

WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against the firm;
- B. To be notified of the 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 National Adjudicatory Council ("NAC") 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 prejudice of the General Counsel, the NAC, or any member of the NAC, 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 FINRA Rule 9143 or the separation of functions prohibitions of FINRA 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

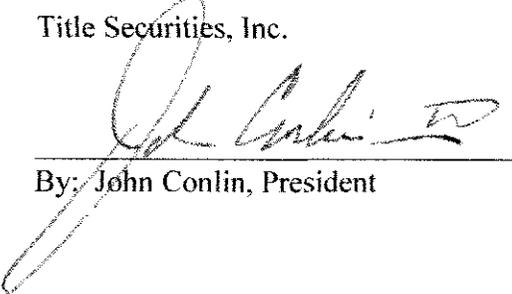
The firm understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (“ODA”), pursuant to FINRA 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 FINRA 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 my disciplinary record;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; 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 FINRA, or to which FINRA 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 FINRA 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 FINRA, nor does it reflect the views of FINRA or its staff.

The firm certifies that it has read and understands all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that it has agreed to its 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.

Title Securities, Inc.

9/4/12
Date


By: John Conlin, President

Reviewed by:

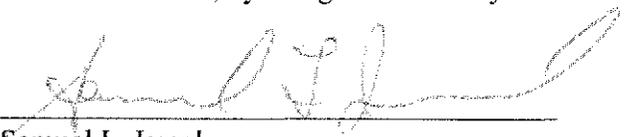

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Counsel for Respondent

Accepted by FINRA:

9/26/12
Date

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


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