

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

Via Certified, Return Receipt Requested and E-Mail

**TO: Cantor Fitzgerald & Co.
William Shields
Chief Compliance Officer
110 East 59th Street
New York, New York 10022**

**FROM: The NASDAQ Stock Market LLC ("Nasdaq")
c/o Financial Industry Regulatory Authority ("FINRA")
Department of Enforcement
Brookfield Place
200 Liberty Street
New York, New York 10281**

DATE: March 16, 2020

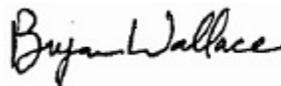
RE: Notice of Acceptance of Letter of Acceptance, Waiver and Consent No. 2015045163501

Please be advised that your above-referenced Letter of Acceptance, Waiver and Consent ("AWC") has been accepted on **March 16, 2020** 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.

If you have any questions concerning this matter, please contact me at (646) 430-7060.



Bryan C. Wallace
Principal Counsel
Department of Enforcement, FINRA

Signed on behalf of NASDAQ

Enclosure

cc: Isabel Patel, Risk Monitoring Director
(Via E-Mail)

Joseph Dipaola, Risk Monitoring Analyst
(Via E-Mail)

Leonard J. Amoruso, Esq.
James Dombach, Esq.
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THE NASDAQ STOCK MARKET LLC
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015045163501

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

RE: Cantor Fitzgerald & Co., Respondent
Broker-Dealer
CRD No. 134

Pursuant to Rule 9216 of The NASDAQ Stock Market LLC ("Nasdaq") Code of Procedure, Cantor Fitzgerald & Co. ("Cantor" 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

Cantor became a member of Nasdaq on July 12, 2006, and became a member of FINRA on February 16, 1945. These memberships remain in effect. Cantor is a U.S. broker-dealer that is headquartered in New York, New York. The firm engages in institutional equity, fixed income sales and trading, as well as investment banking and prime brokerage services. Cantor has 29 branch offices and approximately 724 registered representatives.

SUMMARY

- I. On behalf of the Nasdaq, FINRA reviewed the Firm's compliance with Rule 15c3-5 of the Securities Exchange Act of 1934, and related supervisory requirements during the period March 3, 2015, through January 31, 2019 (the "Review Period").¹ During the Review Period, Cantor was a broker-dealer with market access to a number of exchanges, which included Nasdaq, by virtue of it engaging in, among other things, market making

¹ FINRA also investigated this matter on behalf of Cboe BZX Exchange Inc. ("BZX"), Cboe EDGX Exchange Inc. ("EDGX"), and NYSE Arca, Inc. ("NYSE Arca").

activity in Exchange Traded Funds (“ETFs”) on these exchanges. Cantor, however, failed to establish, document, and maintain risk management controls and supervisory procedures that were reasonably designed to prevent the entry of erroneous orders. Further, Cantor’s supervisory system and written supervisory procedures (“WSPs”) concerning market access were not reasonably designed. Therefore, during the Review Period, the Firm violated Rules 15c3-5(b) and (c)(1)(ii) and Nasdaq Rules 2010A and 3010.

FACTS AND VIOLATIVE CONDUCT

Applicable Rules

2. Rule 15c3-5(b) required that “a broker or dealer with market access, or that provides a customer or any other person with access to an exchange or alternative trading system ... establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of this business activity.”
3. Rule 15c3-5(c)(1) required firms that provide market access to establish risk management controls and supervisory procedures that are “reasonably designed to systematically limit the financial exposure of the broker or dealer that could arise as a result of market access.”
4. Rule 15c3-5(c)(1)(ii) further required controls and procedures reasonably designed to “[p]revent the entry of erroneous orders by rejecting orders that exceed appropriate price or size parameters, on an order-by-order basis or over a short period of time, or that indicate duplicative orders.”
5. Nasdaq Rule 3010(a) required members to establish and maintain a system to supervise the activities of each registered representative and associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations and with applicable Nasdaq rules. Rule 3010(a) further provides that Nasdaq members are required to comply with NASD Rule 3010 as if NASD Rule 3010 were part of Nasdaq’s Rules.²
6. Nasdaq Rule 2010A required members, in the conduct of their business, to observe high standards of commercial honor and just and equitable principles of trade.

Cantor’s Market Access

7. During the Review Period, Cantor operated, among other trading desks, an ETF Market Making Desk (the “ETF Desk”) and a Cash Equities Trading Desk (“Cash Trading Equities”) both of which had market access to Nasdaq.

² Like Nasdaq Rule 3010(a), NASD Rule 3010 (FINRA Rule 3110, as of December 1, 2014) requires members to establish and maintain a supervisory system, including written supervisory procedures, which is reasonably designed to achieve compliance with applicable securities laws and regulations, and the applicable SRO rules.

Cantor's ETF Desk Messaging Activity

8. During the Review Period, Cantor often sent orders and quotes (referred to as messages) directly to Nasdaq in large quantities over extremely short periods of time (e.g., thousands of messages during one-second periods). Its quotes/messages also consisted of replacement messages, which included order entries, order acknowledgements, and order amendments. Moreover, Cantor would occasionally send orders and quotes directly to Nasdaq in low priced, illiquid securities for a small number of shares. This activity triggered alerts for unusual quoting activity, including, for example, at least six symbols on three dates in April 2015. Based upon a review of a sample of alerts, the activity originated from the Firm's ETF Desk, which was engaging in market making activity in those securities on those trade dates.

Cantor's ETF Desk Messaging Controls

9. During the Review Period, Cantor's ETF Desk employed a global messaging control that would generate an alert each time its quoting reached set parameters. The alerts were reviewed in real time by a designated supervisor, but the ETF Desk would not be prevented from sending additional messages unless the messages were blocked by Firm personnel.
10. As of March 2015, Cantor had implemented an additional messaging control for its ETF Desk called the Quote Reaction Threshold ("QRT") with a threshold of 5,000 messages per order. The threshold was lowered to 2,500 messages per order in May 2015 and to 300 messages per order in March 2017. When the QRT control was triggered and produced alerts, the messaging activity would be blocked and then be allowed to automatically restart.
11. The Firm's global messaging and QRT controls were not reasonably designed to prevent the entry of erroneous excessive messages because they allowed messaging activity to automatically restart, and there were no limits to the number of times the messaging activity could automatically restart without review and intervention by Firm personnel. On December 14, 2017, a hard-stop of three (3) times was placed on the number of QRT automatic restarts. Thus, if the QRT restarted three (3) times, the strategy for quoting in that security would automatically cease, and could only restart with manual review and intervention.
12. In addition, the Firm failed to conduct a reasonable and meaningful review of the resulting QRT alerts. The Firm's written policies and supervisory procedures also failed to provide guidance to Firm personnel as to whether a review of the resulting QRT alerts was required before messaging could resume, how to review QRT alerts or what criteria should be used, or when QRT alerts should be escalated.
13. Although the Firm utilized an End of Day Supervisory Checklist that generally discussed the monitoring of alerts generated by the global messaging and QRT controls, the Firm's

WSPs failed to address the checklist or provide guidance as to how the supervisory review should be documented.

Cantor's ETF Desk Size Controls

14. During the Review Period, Cantor employed controls that were designed to block any equity order exceeding 50,000 shares. For orders in ETF securities, the controls would also block any order with a notional amount (*i.e.*, size times price) exceeding \$2,750,000. These controls were not reasonably designed as they were static and did not take into account low priced and illiquid securities or other criteria that would prevent erroneous smaller sized orders. For example, prior to the open on November 30, 2015, Cantor sent to Nasdaq three erroneous 2,000 share buy orders in three separate ETFs. The average daily volume ("ADV") of each of these securities was below 10,000 shares, and the orders constituted 678%, 23.93%, and 44.44% of the respective security's ADV. The entry of these three erroneous orders moved the National Best Offer ("NBO") for these securities by \$0.11 or 2.68%; \$2.42 or 6.5%; and \$14.32 or 27.99%, respectively.
15. Although in February 2018, Cantor implemented an ADV control, the control did not apply to orders that were less than 10,000 shares. As such, even if this control were in effect on November 30, 2015, it would not have prevented the entry of the three erroneous orders sent to Nasdaq on that date.
16. By January 2019, Cantor implemented another ADV control that flagged orders that exceeded 10% of the security's ADV, and also flagged orders in ETFs with ADVs that were between 1,000 and 10,000 shares. Although the warning could be overridden with supervisor approval, the Firm's WSPs failed to provide any guidance or criteria that the supervisor should use in conducting a review of the warning.

Cantor's ETF Desk Price Controls

17. From March 2015 until December 2015, the Firm also had controls to prevent erroneously priced orders for ETFs. For pre-open activity, the ETF Desk normally priced ETFs based on the prior day's 3:00 p.m. prices of the underlying Treasury securities or based on related future prices. When the market closed early, however, these 3:00 p.m. reference prices were not available, which resulted in the Firm's threshold calculations hypassing the Firm's price controls. For example, these controls did not prevent the three erroneous orders sent to Nasdaq on November 30, 2015, because the market closed at 1:00 pm on the prior business day (*i.e.*, November 27, 2015). Accordingly, a price of \$0 was used as the prior day's reference price, which resulted in the Firm's threshold calculations being small enough to bypass the Firm's price controls.
18. On December 1, 2015, the Firm implemented two additional checks to prevent an ETF from trading in the pre-open if the fair value ("FV")³ of the security based upon certain

³ The Firm used the following benchmarks to calculate the FV of an ETF: (i) the market price of an ETF, which is the bid or offer price of an ETF as provided to the Firm by market data feeds; (ii) the Indicative Optimized Portfolio Value ("IOPV)," which is the fair value last price that is computed by a third-party and provided to CANT from

criteria was greater than 3% away from its prior closing NAV. In January 2016, the Firm implemented two additional controls that were not dependent upon the time of the close on the prior business day. Further, as of January 2016, if each of the five threshold price controls were not exceeded, the price check would pass. If one or more of the five thresholds were exceeded, the price check would fail and the order would not be created and thus not sent to the market. Had these controls been in effect on November 30, 2015, they would have prevented the entry of the three erroneous orders sent to Nasdaq on that date.

Cantor's Cash Trading Desk Controls

19. During the Review Period, Cantor's Rule 15c3-5 erroneous order controls for its Cash Trading Desk included a Price Tolerance Control, ADV Controls, Notional Limits for Regulation NMS Securities Control, and User Limits for Traders.

Cantor's Cash Trading Desk Price Tolerance Control

20. During the Review Period, Cantor employed a Price Tolerance Control on its Cash Trading Desk that was designed to flag orders that were priced outside the NBBO by either a certain percentage or fixed amount, depending upon whether the NBBO midpoint was greater than or less than or equal to \$25.00.
21. For securities with an NBBO midpoint that was greater than \$25.00, the control established a price limit that was 1% outside the NBBO. For a buy order, the control would compare the price of the order to the best offer and generate an alert if the buy price was more than 1% above the best offer. For a sell order, the control would compare the price of the order to the best bid and generate an alert if the sell price was more than 1% below the best bid. If the NBBO midpoint was less than or equal to \$25.00, the control would conduct a similar analysis, except, instead of using a percentage, the control would use a limit that was \$0.25 outside the NBBO (that is, for a buy order the control would flag a buy order that was priced more than \$0.25 above the best offer and a sell order that was priced more than \$0.25 below the best bid).
22. The Price Tolerance Control, however, was not reasonably designed to prevent erroneous orders in low-priced securities or in securities with a wide NBBO. For example, the Price Tolerance Control failed to prevent an erroneous 100-share buy order that was sent to Nasdaq on October 17, 2016, at a price of \$9.95 instead of the intended price of \$0.95. The NBBO of the security at the time of order entry was \$0.01 x \$199,999; accordingly the NBBO midpoint was approximately \$100,000. The 100-share order, however, did not trigger the Price Tolerance Control alert because the order price was within the NBBO and was not greater than 1% of the best offer (*i.e.*, \$199,999). The 100-share buy order increased the price of the security from the prior day's closing of \$0.99 to \$9.95, or

their market data feeds; and (iii) the net asset value ("NAV"), which is the end of day value of the fund, as published to all market participants.

905%. As a result, the Firm filed a clearly erroneous petition and all trades in the security at and above \$1.09 were cancelled.

23. Further, during the Review Period, the Price Tolerance Control was not reasonably designed to prevent erroneous orders because it did not reject orders that exceeded its parameters. Instead, when an order exceeded the threshold the relevant trading desk could override the notification and submit the order.
24. During the Review Period, the Firm also failed to have reasonably designed WSPs regarding the review of Price Tolerance Control alerts, clearly erroneous filings, or trade busts. In 2016, the Firm issued guidance on the clearly erroneous filings procedures and added a stand-alone policy and procedure for clearly erroneous filings in January 2017. Notwithstanding these additions, the Firm's WSPs still failed to provide any guidance to Firm personnel as to how to determine whether an order that was flagged by the Price Tolerance Control should be cancelled or routed for execution, or how such reviews should be documented. As such, the Firm failed to conduct a reasonable and meaningful review of any alerts generated by the Price Tolerance Control during the Review Period.

Cantor's Cash Trading Desk ADV Controls

25. From March 2015 until August 2017, the Firm lacked any control that took into account the individual characteristics of securities. In August 2017, the Firm implemented an initial ADV control for a subset of high-priced securities. Subsequently around March 2018, the Firm added some but not all NMS-listed securities in which the Firm was listed as a registered market maker to its ADV controls. The Firm listed the incorrect number of securities included in the ADV control in its WSPs, and failed to document the rationale for excluding from its ADV controls certain NMS securities in which it was a registered marker maker.

Cantor's Cash Trading Desk Notional Limit Controls for Regulation NMS Securities

26. Although prior to November 2015 the Firm employed procedures and controls that set a maximum notional value for each order, these procedures and controls were not reasonably designed. Until November 2015, the Firm had a \$1 billion notional value that would serve to block orders above that limit, which far exceeded the notional value of the largest non-erroneous order that Cantor entered on any exchange. Further, the Firm failed to have any documentation demonstrating why the \$1 billion notional value was reasonable. The Firm subsequently reduced the notional value to \$75 million in March 2017.

Cantor's Cash Trading Desk User Size Limits for Traders

27. During the Review Period until May 2017, the Firm also lacked any user size limits for its traders and failed to address user size limits in its WSPs.
28. The acts, practices and conduct described above in paragraphs 8 through 27 constitute violations of Rules 15c3-5(b) and (c)(1)(ii), and Nasdaq Rules 2010A and 3010(a).

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

1. A censure; and
2. A fine in the amount of \$450,000; of which \$160,000 is payable to Nasdaq.⁴
3. Acceptance of this AWC is conditioned upon acceptance of similar settlement agreements in related matters between Cantor and each of the following self-regulatory organizations: (i) BZX, (ii) EDGX, and (iii) NYSE Arca.

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

⁴ The balance of the sanction will be paid to the self-regulatory organizations listed in Paragraph B.3.

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 Enforcement 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. Nasdaq may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with Nasdaq Rule 8310 and IM-8310-3; and
 - 3. 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.

2/18/20
Date

Cantor Fitzgerald & Co.
Respondent

By: WALTER SHILOV

Name: Walter Shilov

Title: CCO

Reviewed by:



Leonard J. Amoruso, Esq.
James Dombach, Esq.
Murphy & McGonigle, PC
1185 Avenue of the Americas
New York, NY 10036
Tel. 212-880-3622

Accepted by Nasdaq:

March 16, 2020
Date



Bryan C. Wallace, Principal Counsel
Department of Enforcement

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

PAYMENT INFORMATION

The fine amount will be reflected on an upcoming invoice and will be direct debited from the account for your firm that Nasdaq currently has on file. **Please DO NOT submit payment at this time.**

Please inform your finance or applicable department of this forthcoming debit.

If you would like to arrange for an alternative method of payment, please enter the billing contact information below and Nasdaq's Billing Department will contact you. **Otherwise, please leave the following information blank.**

Billing Contact Name: _____

Billing Contact Address: _____

Billing Contact Email: _____

Billing Contact Phone Number: _____

Respectfully submitted,

Respondent

Cantor Fitzgerald & Co.

2/18/20

Date

By: 

Name: William Stelios

Title: CEO