

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2019061062701**

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

RE: Gar Wood Securities, LLC (Respondent)
Member Firm
CRD No. 138033

Pursuant to FINRA Rule 9216, Respondent Gar Wood Securities, LLC 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 Respondent alleging violations based on the same factual findings described in this AWC.

I.

ACCEPTANCE AND CONSENT

- A. Respondent accepts and consents to the following findings by FINRA without admitting or denying them:

BACKGROUND

Gar Wood has been a member of FINRA since February 2006. Gar Wood is headquartered in Naperville, Illinois and employs approximately 30 registered persons operating out of 17 branch office locations.¹

OVERVIEW

Gar Wood violated Rule 203(b)(1) of Regulation SHO of the Securities Exchange Act of 1934 and FINRA Rule 2010 by accepting approximately 2,000 short sale orders without obtaining locates between May 2016 and May 2019. During the same period, Gar Wood also failed to maintain a supervisory system, including written supervisory procedures (WSPs), reasonably designed to achieve compliance with Rule 203(b) in violation of FINRA Rules 3110 and 2010.

From May 2016 through August 2018, Gar Wood violated FINRA Rules 7230A and 2010 by causing 867,930 transactions to be reported to the FINRA Trade Reporting Facility (FINRA TRF) with an inaccurate capacity symbol. Further, from May 2016 through June 2019, Gar Wood also failed to maintain a supervisory system, including

¹ For more information about the firm, including prior regulatory events, visit BrokerCheck® at www.finra.org/brokercheck.

WSPs, reasonably designed to achieve compliance with its trade reporting obligations in violation of FINRA Rules 3110 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from FINRA's 2019 Trading and Execution examination of Gar Wood.

Gar Wood Failed to Comply with the Locate Requirement of Rule 203 of Regulation SHO.

Rule 203(b)(1) provides that broker-dealers may not accept a short sale order in an equity security from another person, or effect a short sale in an equity security for its own account, unless it has (i) borrowed the security or entered into a bona fide arrangement to borrow the security, or (ii) has reasonable grounds to believe the security can be borrowed so that it can be delivered on the date delivery is due, and has documented compliance with subsection (b)(1). Regulation SHO addresses concerns regarding persistent fails to deliver and potentially abusive "naked" short selling (*i.e.*, the sale of securities that an investor does not own or has not borrowed).

FINRA Rule 2010 requires members to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business. A violation of an Exchange Act rule or another FINRA rule is also a violation of FINRA Rule 2010.

Between May 2016 through May 2019, Gar Wood inadvertently configured its delivery-versus-payment (DVP) client accounts to allow short sale orders entered into the firm's order management systems (OMS) to route for execution without obtaining locates. As a result, Gar Wood failed to obtain locates for approximately 2,000 short sale orders between May 2016 and May 2019.

Therefore, Gar Wood violated Rule 203(b)(1) and FINRA Rule 2010.

Gar Wood Failed to Accurately Report the Capacity Symbol for Trades.

FINRA Rule 7230A(d) requires firms to submit complete and accurate trade information for eligible transactions in reportable securities to the FINRA TRF. Among the required information is a "symbol indicating whether the trade is as principal, riskless principal, or agent." FINRA relies on the accuracy of trade reporting to reconstruct and review the activities of market participants in order to safeguard the integrity of the securities markets and protect investors.

Between May 2016 and August 2018, one of Gar Wood's OMSs was incorrectly coded to send a principal capacity symbol for client agency orders to the reporting party. As a result, Gar Wood caused 867,930 transactions to be reported to the FINRA TRF with the

incorrect capacity (70% of Gar Wood's total executions).² On August 31, 2018, Gar Wood switched all agency order routing to an OMS that was correctly coded to report the proper capacity symbol.

Therefore, Gar Wood violated FINRA Rules 7230A and 2010.

Gar Wood Failed to Reasonably Supervise for Compliance with Locate and Trade Reporting Requirements.

FINRA Rule 3110(a) provides, "[e]ach member shall establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules." Further, subsection (b) provides: "[e]ach member shall establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules."

Between May 2016 and June 13, 2019, Gar Wood's supervisory system, including its WSPs, was not reasonably designed to achieve compliance with Rule 203(b). The firm's supervisory system required that a review for locate information be performed but it inadvertently failed to include a locate review for short sale orders in Gar Wood's DVP accounts. Further, Gar Wood conducted a locates supervisory review for custodial accounts, but it incorrectly excluded short sales orders that were accepted for execution but did not execute.

Between May 2016 and June 2019, Gar Wood's supervisory system, including WSPs, was not reasonably designed to achieve compliance with Gar Wood's trade reporting obligations under FINRA Rule 7230A. Gar Wood lacked a review to confirm all required trade information, such as capacity, was accurately reported to the FINRA TRF.

In June 2019, Gar Wood updated its WSPs to address the supervisory deficiencies in this AWC.

Therefore, Gar Wood violated FINRA Rules 3110 and 2010.

B. Respondent also consents to the imposition of the following sanctions:

- a censure and
- a \$100,000 fine.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an

² A member firm is responsible for ensuring the accuracy of trade information that is reported on its behalf to FINRA. *See, e.g.*, FINRA's Trade Reporting Frequently Asked Questions Q200.4 and NASD Notice to Members 98-96 (December 1998).

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 an inability to pay, now or at any time after the execution of this AWC, the monetary sanction imposed in this matter.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

II.

WAIVER OF PROCEDURAL RIGHTS

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

- A. To have a complaint issued specifying the allegations against it;
- 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, Respondent specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Legal Officer, 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 its acceptance or rejection.

Respondent 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

Respondent 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 Respondent; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondent;
 - 2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
 - 3. FINRA may make a public announcement concerning this agreement and its subject matter in accordance with FINRA Rule 8313; and
 - 4. Respondent 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. Respondent 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 Respondent's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.
- D. Respondent may attach a corrective action statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent 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.

The undersigned, on behalf of Respondent, certifies that a person duly authorized to act on Respondent's 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 Respondent 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 in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce Respondent to submit this AWC.

August 5, 2022

Date

Michael Tattas

Gar Wood Securities, LLC
Respondent

Print Name: Michael Tattas

Title: Chief Compliance Officer

Accepted by FINRA:

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

August 18, 2022

Date

Luis A. Prieto

Luis A. Prieto
Principal Counsel
FINRA
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