

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013035131702**

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

RE: Garden State Securities, Inc., Respondent
BD No. 10083

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Garden State Securities, Inc. ("GSS" 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, FINRA will not bring any future actions against the Firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent 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

GSS has been a member of FINRA since August 1981. GSS conducts a general securities business, has ten registered branch offices, and employs about 79 registered persons.

RELEVANT DISCIPLINARY HISTORY

On January 15, 2013, GSS entered into an AWC with FINRA in which it agreed to a censure and a \$5,000 fine for transmitting execution or combined order/execution reports to the Order Audit Trail System (OATS) that OATS was unable to link to the related trade reports in a FINRA trade reporting system due to inaccurate, incomplete or improperly formatted data. In addition, GSS failed to timely report reportable order events to OATS and transmitted new order reports to OATS and related subsequent reports where the timestamp for the related subsequent report occurred prior to the receipt of the order, which prevented OATS from creating an accurate, time-sequenced record from the receipt of the order through its resolution. (AWC No. 2010025139801)

OVERVIEW

From July 2011 through June 2012, GSS failed to establish, maintain and enforce a reasonably-designed supervisory system and written supervisory procedures (“WSPs”) regarding the sales of leveraged, inverse, and inverse-leveraged exchange-traded funds (“Non-Traditional ETFs”). Based on the foregoing, GSS violated NASD Rule 3010 and FINRA Rule 2010.

Additionally, from August 2012 through August 2013, GSS failed to properly mark and report 85 short sale transactions in violation of Rule 200(g) of Regulation SHO.

FACTS AND VIOLATIVE CONDUCT

A. GSS Failed to Establish, Maintain and Enforce a Reasonably-Designed Supervisory System and WSPs Regarding Non-Traditional ETFs

Non-Traditional ETFs are designed to return a multiple of an underlying index or benchmark, the inverse of that benchmark, or both, over only the course of one trading session—usually a single day. As a result, the performance of Non-Traditional ETFs over periods of time longer than a single trading session “can differ significantly from the performance . . . of their underlying index or benchmark during the same period of time.”¹ Because of these risks and the inherent complexity of these products, FINRA has advised broker-dealers and their representatives that Non-Traditional ETFs “are typically not suitable for retail investors who plan to hold them for more than one trading session, particularly in volatile markets.”²

During the period from July 2011 to June 2012, more than a dozen GSS representatives sold Non-Traditional ETFs to customers, many of whom held these products for periods longer than one trading session. However, during this period, the Firm had no WSPs that specifically addressed the suitability or supervision of Non-Traditional ETFs.

In addition, GSS did not have a system that enabled the Firm’s supervisory personnel to adequately review Non-Traditional ETF transactions to ensure their suitability. The Firm relied on supervisory staff to conduct a manual blotter review to detect potentially unsuitable Non-Traditional ETF transactions. However, this manual blotter review was an inadequate means of reviewing Non-Traditional ETF trades. In fact, the Firm’s blotter did not even differentiate between traditional and Non-Traditional ETFs.

¹ *FINRA Regulatory Notice 09-31.*

² *Id.*

Finally, the Firm had no exception reports specific to Non-Traditional ETFs, and failed to implement any system to monitor Non-Traditional ETF holding periods and losses.

By virtue of the foregoing, GSS violated NASD Rule 3010 and FINRA Rule 2010.

B. GSS Violated Rule 200(g) of Regulation SHO

Rule 200(g) of Regulation SHO requires a broker or dealer to mark all sell orders of any equity security as “long,” “short,” or “short exempt.” Moreover, Rule 200(g)(1) of Regulation SHO states that “(1) An order to sell shall be marked ‘long’ only if the seller is deemed to own the security being sold . . . and either: (i) The security to be delivered is in the physical possession or control of the broker or dealer; or (ii) It is reasonably expected that the security will be in the physical possession or control of the broker or dealer no later than the settlement of the transaction.”

From August 2012 through August 2013, the Firm executed 85 short sale orders in an equity security and failed to properly mark the orders as short.

By virtue of the foregoing, GSS violated Rule 200(g) of Regulation SHO.

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

- a censure; and
- a fine of \$25,000.

GSS 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.

GSS specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

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

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 acceptance or rejection of this AWC.

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 actions 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 the subject matter thereof 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: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party; and
- 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 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 the Firm 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.

Garden States Securities, Inc.

3/31/17
Date (mm/dd/yyyy)

By: Louis Lucky Perrotto, Jr.
Louis Lucky Perrotto, Jr.
Chief Executive Officer

Reviewed by:

Robert I. Rabinowitz
Robert I. Rabinowitz, Esq.
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Accepted by FINRA:

4/12/17
Date

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

Noel C. Downey
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