

CBOE BZX EXCHANGE, INC.
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20160486157-01

TO: Cboe BZX Exchange, Inc.
c/o Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: Hardcastle Trading USA L.L.C., Respondent
Broker-Dealer
CRD No. 126497

Pursuant to Rule 8.3 of the Rules of Cboe BZX Exchange, Inc. ("BZX"), Hardcastle Trading USA L.L.C. (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, BZX 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 BZX, or to which BZX 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 BZX:

BACKGROUND

The firm became a member of FINRA on October 7, 2003 and a member of BZX on April 15, 2009. The firm's registrations remain in effect. The firm has no relevant disciplinary history.

SUMMARY

In connection with the firm's 2016 Trading and Financial Compliance Examination ("TFCE"), Matter No. 20160486157, the TFCE staff of FINRA's Department of Market Regulation (the "staff") reviewed the firm's trading activity for the period January 19, 2016 through January 21, 2016 (the "review period"), unless otherwise noted.

As a result of its review, the staff found that the firm violated BZX Rules 3.1, 5.1, and 11.19, as described below.

FACTS AND VIOLATIVE CONDUCT

1. BZX Rule 11.19 provides, "All short sale orders shall be identified as 'short' or 'short exempt' when entered into" the BZX system.
2. During the period January 19, 2016 through March 9, 2016, the firm entered 237,530 total orders into BZX, of which 34,356 orders were entered as long sales when the firm's position was short, as a result of a temporary issue related to new software that the firm had purchased and installed. The conduct described in this paragraph constitutes separate and distinct violations of BZX Rule 11.19.
3. BZX Rule 3.1 provides, "A Member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade."
4. BZX Rule 5.1 provides, "Each Member shall establish, maintain and enforce written procedures which will enable it to supervise properly the activities of associated persons of the Member and to assure their compliance with applicable securities laws, rules, regulations and statements of policy promulgated thereunder, with the rules of the designated self-regulatory organization, where appropriate, and with Exchange Rules."
5. In January 2016, the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to certain aspects of the applicable securities laws and regulations, and the Rules of BZX, concerning the entry of orders into BZX. Specifically, the firm's supervisory review of potential order entry violations relied unduly on its internal order marking data instead of reviewing how the orders were entered on the exchange. Further, the firm implemented new software and the firm's testing did not specifically ensure that it would not cause instances of non-compliance with BZX order entry requirements. The conduct described in this paragraph constitutes a violation of BZX Rules 3.1 and 5.1.

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

A censure and a fine of \$25,000 (comprised of \$15,000 for the order entry violations and \$10,000 for the supervision 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. It 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.

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

II.

WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under BZX Rules:

- A. To have a Statement of Charges issued specifying the allegations against the firm;
- B. To be notified of the Statement of Charges 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 Appeals Committee of the BZX's Board of Directors 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 Chief Regulatory Officer ("CRO"), in connection with the CRO'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 BZX Rule 8.16, 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:

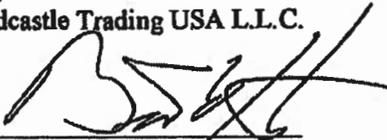
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the CRO, pursuant to BZX Rule 8.3;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the firm; and
- C. If accepted:

1. this AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by BZX or any other regulator against the firm;
 2. this AWC will be published on a website maintained by BZX in accordance with BZX Rule 8.18. In addition, this AWC will be made available through FINRA's public disclosure program in response to public inquiries about the firm's disciplinary record; 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 BZX, or to which BZX is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which BZX 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 BZX, nor does it reflect the views of BZX 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.

July 3, 2018
Date

Respondent
Hardcastle Trading USA L.L.C.

By: 

Name: Brent E. Hippert

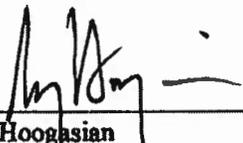
Title: President

Reviewed by:



Theodore L. Kornobis
Counsel for Respondent
K&L Gates LLP
1601 K Street NW
Washington, DC 20006
(202) 778-9180

7/12/2018
Date


Greg Hoogasian
Senior Vice President & Chief Regulatory Officer
Cboe BZX Exchange, Inc.

ELECTION OF PAYMENT FORM

The firm intends to pay the fine proposed in the attached Letter of Acceptance, Waiver and Consent by the following method (check one):

- A firm check or bank check for the full amount; or
- Wire transfer. ACH Transfer

Respectfully submitted,

Respondent
Hardcastle Trading USA L.L.C.

July, 3, 2018

Date

By: 

Name: Brent Hippert

Title: President