

NYSE ARCA, INC.
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2019-09-00112

TO: NYSE Arca, Inc.

RE: Wedbush Securities Inc., Respondent
CRD No. 877

During the period of January 8, 2019 through December 31, 2019 (the “Relevant Period”), Wedbush Securities Inc. (“Wedbush” or the “Firm”) violated NYSE Arca Rules 11.18 (Supervision), 11.1(b) (Adherence to Law and Good Business Practice), and 9.2010-E (Standards of Commercial Honor and Principles of Trade) by failing to: (i) establish and maintain a reasonable supervisory system as to the Firm’s founder and former President, Edward W. Wedbush (“Mr. Wedbush”) and certain accounts that he actively traded on behalf of customers, himself, and the Firm or its affiliates (the “EW Accounts”), and (ii) reasonably address Mr. Wedbush’s order handling and trade allocation misconduct that formed the basis of a prior settlement with the Firm. Consent to censure and \$500,000 fine.

* * *

Pursuant to Rule 10.9216 of the NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) Code of Procedure, Wedbush 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, NYSE Arca will not bring any future actions against the Firm alleging violations based on the same factual findings described herein.

I. ACCEPTANCE AND CONSENT

- A. Wedbush 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 NYSE Arca, or to which NYSE Arca 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 NYSE Arca:

BACKGROUND AND JURISDICTION

1. Wedbush is a full service broker-dealer headquartered in Los Angeles, California. The Firm has been registered with the Exchange as an Equity Trading Permit (ETP) Holder since 2004, and its registrations remain in effect. The Firm employs over 500 registered representatives throughout the country.

2. Mr. Wedbush was a co-founder and President of Wedbush Securities Inc. until May 31, 2018. He also was a former director of the Firm and Chairman of the Board of Directors of the Firm's parent company, Wedbush, Inc. Mr. Wedbush passed away in January 2020, during the pendency of this investigation.

VIOLATIONS

A. Overview

3. This matter concerns the Firm's continued failure to reasonably supervise Mr. Wedbush's trading activity, which enabled Mr. Wedbush to trade in a manner that presented conflicts of interest. This supervisory failure occurred notwithstanding the fact that the Firm had previously been sanctioned for the very same failures by NYSE Regulation at the beginning of 2019.

B. Applicable Rules

4. NYSE Arca Rule 11.18 states, in pertinent part, that each ETP Holder "must establish and maintain a system to supervise the activities of its associated persons and the operation of its business. Such system must be reasonably designed to ensure compliance with applicable federal securities laws and regulations and NYSE Arca Rules."
5. NYSE Arca Rule 9.2010-E requires an ETP Holder, in the conduct of its business, to observe high standards of commercial honor and just and equitable principles of trade.
6. NYSE Arca Rule 11.1(b) requires an ETP Holder and its associated persons to adhere to the principles of good business practices in the conduct of its business affairs.

C. The January 2019 Settlement

7. On January 8, 2019, the Firm and Mr. Wedbush were sanctioned in connection with substantive rule violations and associated supervisory failures relating to, among other things, improper order handling and post-execution trade allocations, not making and preserving order and account books and records, and entering inaccurate capacity codes. *See* NYSE Arca Proceeding No. 2016-07-01264 (Jan. 8, 2019) (the "January 2019 Settlement"). The Firm and Mr. Wedbush were found to have violated NYSE Arca Rules 11.1(b), 11.18, and 9.2010-E, among other NYSE Arca and Exchange Act rules.
8. As part of the January 2019 Settlement, the Firm was issued a \$1 million fine (\$900,000 of which was payable jointly and severally with Mr. Wedbush). The Firm was also required to complete a series of undertakings, including (1) the completion of a comprehensive review of its compliance program, (2) the implementation of changes and enhancements, and (3) the engagement of an Independent Consultant to evaluate the adequacy of the Firm's systems, controls, and procedures with respect to the specific areas where deficiencies had been found.

D. The Firm's Violations

9. Notwithstanding the January 2019 Settlement, the Firm failed to take reasonable steps to remediate its supervisory failures over Mr. Wedbush's improper order handling and post-execution trade allocations with respect to the EW Accounts.
10. Subsequent to the January 2019 Settlement and throughout the Relevant Period, Mr. Wedbush and his trading assistant continued to actively trade a number of accounts, including dozens of customer accounts (some of which were for relatives and friends), several personal accounts, and two proprietary accounts (including the account of a Firm affiliate and another Firm account that was called the "VIP Sales" account). If trading for more than one account, trades were executed on a volume-weighted average price basis among those accounts.
11. The Firm continued to allow Mr. Wedbush to trade for these customer accounts along with his personal and proprietary accounts, without adequate process or procedures in place to supervise the order entry, trade executions, or trade allocations in these accounts.
12. Mr. Wedbush and his trading assistant used an order management system that was not frequently used by other members of the Firm. The order management system did not provide the ability to assign orders to specific EW Accounts before execution and did not interface directly with the Firm's back office system. Rather, at Mr. Wedbush's direction, Mr. Wedbush's trading assistant manually inputted account allocations for trades executed by Mr. Wedbush after the trades occurred.
13. In most instances, these executions were not allocated to specific accounts until after market close, which was usually several hours after the orders had been executed. In certain instances, orders that were executed in the EW Accounts were not allocated to specific accounts until days later.
14. The method for determining trade allocations for executed orders in the EW Accounts remained undocumented and unapproved by the Firm, and there continued to be no independent mechanism at the Firm to assess the appropriateness of the allocations.
15. By allowing Mr. Wedbush to delay allocation of executed orders, the Firm gave Mr. Wedbush the ability to trade in a manner that presented conflicts of interest. These conflicts were compounded by the fact that Mr. Wedbush regularly engaged in day trading for his personal and proprietary accounts in some of the same securities that he traded on behalf of his customers.
16. In addition, as a consequence of failing to allocate orders entered on behalf of the EW Accounts to specific accounts prior to order execution, the Firm continued to inaccurately mark a subset of principal orders in certain proprietary accounts as agency.
17. While the Firm made efforts during the Relevant Period to provide direct lines of supervision over Mr. Wedbush (including the implementation of a heightened

supervision plan with respect to Mr. Wedbush's trading in October 2019), these efforts were delayed and did not reasonably resolve all of the issues identified herein during the Relevant Period.

18. Prior to October 2019, Mr. Wedbush's trading was only subject to minimal monitoring, such as with respect to securities on the Firm's restricted list. The minimal monitoring did not include any review of Mr. Wedbush's improper order handling or trade allocation practices.
19. Additionally, the Firm siloed its supervisory reviews based on whether the trading was (1) personal or for customers, or (2) for the Firm's proprietary accounts. As a result, even after supervisors had been appointed, no one had a complete view of the trading, which would have made clear that the violative conduct at issue in the January 2019 Settlement was continuing to occur.
20. As a result of the Firm's failure to establish and maintain a reasonable supervisory system as to Mr. Wedbush and the EW Accounts, as well as its failure to reasonably address Mr. Wedbush's prior order handling and trade allocation violations that formed the basis of the January 2019 Settlement, the Firm violated NYSE Arca Rules 11.18 (Supervision), 11.1(b) (Adherence to Law and Good Business Practice), and 9.2010-E (Standards of Commercial Honor and Principles of Trade).

RELEVANT PRIOR DISCIPLINARY HISTORY

21. As described above, on January 8, 2019, in connection with NYSE Arca Proceeding No. 2016-07-01264, Wedbush consented to a censure, a \$1,000,000 fine (\$900,000 of which was payable jointly and severally with Mr. Wedbush, who was a separate Respondent), and several undertakings. Among other violations, the Firm maintained inadequate supervisory systems and procedures that were not reasonably designed for its business as it related to accounts managed by EWW, including improper order handling and post-execution allocations; not making and preserving order and account books and records; entering inaccurate capacity codes; improper manual overrides of closing prices without documented processes or reviews; and failing to comply with maintenance margin requirements, in violation of 11.1(b), 11.18, and 9.2010-E, among other NYSE Arca and Exchange Act rules.

OTHER FACTORS

22. NYSE Regulation took into consideration certain voluntary corporate governance changes instituted by the Firm during the pendency of this proceeding, including (1) changes to the composition of its Board of Directors so that the Firm's board includes at least two members who are not officers of the Firm, (2) the introduction of joint meetings at least once per quarter of the Wedbush Board of Directors and the Board of Directors of Wedbush's parent company, Wedbush Financial Services, LLC, (3) the formation of a Regulatory Remediation Committee that is tasked with the responsibility of, among other things, developing a methodology for validating actions taken in response to regulatory actions, and (4) the inclusion of quarterly

presentations from the Regulatory Remediation Committee to the joint Boards of Directors of Wedbush and its parent company. Additionally, NYSE Regulation took into consideration the Firm's implementation of a heightened supervision plan applicable to Mr. Wedbush in October 2019 that partially resolved certain of the issues with respect to supervision over Mr. Wedbush and the EW Accounts.

SANCTIONS

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

1. Censure and fine in the amount of \$500,000.

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. The Firm has submitted a Method of Payment Confirmation form showing the method by which it will 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 Firm agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any fine amounts that the Firm pays pursuant to this AWC, regardless of the use of the fine amounts. The Firm further agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any fine amounts that the Firm pays pursuant to this AWC, regardless of the use of the fine amounts.

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

II. WAIVER OF PROCEDURAL RIGHTS

The Firm specifically and voluntarily waives the following rights granted under the NYSE Arca 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 Exchange'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 of NYSE Arca; the Exchange's Board of Directors, Disciplinary Action Committee ("DAC"), and Committee for Review ("CFR"); any Director, DAC member, or CFR member; Counsel to the Exchange Board of Directors or CFR; any other NYSE Arca employee; or any Regulatory Staff as defined in Rule 10.9120 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 communication prohibitions of Rule 10.9143 or the separation of functions prohibitions of Rule 10.9144, 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 by NYSE Regulation, and accepted by the Chief Regulatory Officer of NYSE Arca pursuant to NYSE Arca Rule 10.9216;
- 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. The AWC shall be sent to each Director and each member of the Committee for Review via courier, express delivery or electronic means, and shall be deemed final and shall constitute the complaint, answer, and decision in the matter, 25 days after it is sent to each Director and each member of the Committee for Review, unless review by the Exchange Board of Directors is requested pursuant to NYSE Arca Rule 10.9310(a)(1)(B);
 - 2. This AWC will become part of the Firm's permanent disciplinary record and may be considered in any future actions brought by the Exchange, or any other regulator against the Firm;
 - 3. NYSE Arca shall publish a copy of the AWC on its website in accordance with NYSE Arca Rule 10.8313;
 - 4. NYSE Arca may make a public announcement concerning this agreement and the subject matter thereof in accordance with NYSE Arca Rule 10.8313; and
 - 5. 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 the Exchange, or to which the Exchange 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 the Exchange is not a party.


- D. A signed copy of this AWC and the accompanying Method of Payment Confirmation form delivered by email, facsimile or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy.
- E. 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. Any such statement does not constitute factual or legal findings by the Exchange, nor does it reflect the views of NYSE Regulation or its staff.

The Firm certifies that, in connection with each of the Exchange's requests for information in connection with this matter, the Firm made a diligent inquiry of all persons and systems that reasonably had possession of responsive documents and that all responsive documents have been produced. In agreeing to the AWC, the Exchange has relied upon, among other things, the completeness of the document productions.

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.

12/29/21
Date

Wedbush Securities Inc.,
Respondent

By: 
Gary Wedbush
President

Reviewed by:


Michael J. Diver, Esq.
Patrick M. Smith, Esq.
Katten Muchin Rosenman LLP
525 W. Monroe Street
Chicago, IL 60661

Accepted by NYSE Regulation

12/30/21
Date



Ross A. Schwarz, Regulatory Attorney
Daniel J. Northrop, Senior Enforcement
Counsel
NYSE Regulation

Signed on behalf of NYSE Arca, Inc., by
delegated authority from its Chief Regulatory
Officer