

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 20110260605**

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

**RE:** Lewis Boreas Fan, Respondent  
CRD No. 4675988

Pursuant to FINRA Rule 9216 of FINRA’s Code of Procedure, I submit 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 me alleging violations based on the same factual findings described herein.

**I.**

**ACCEPTANCE AND CONSENT**

- A. I hereby accept and consent, 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**

Fan entered the securities industry in 2003 when he became associated with a FINRA-regulated firm as an associate research analyst. Fan obtained his Series 7 and Series 63 licenses in November 2003, his Series 87 and 86 in May and June 2007 and his Series 24 in October 2007. Fan subsequently worked at four other FINRA-regulated firms as a research analyst before becoming, in March 2009, the US-based Chief Financial Officer of a China-based manufacturer of biotechnology products, a position he held until October 2009. In November 2009, Fan became associated with Rodman & Renshaw, LLC (“Rodman” or the “Firm”) (CRD # 16415) as a research analyst focusing on Chinese public companies. Fan left Rodman on October 14, 2011, and is currently not associated with any FINRA-regulated entity. Pursuant to Article V, Section 4 of the FINRA By-laws, FINRA retains jurisdiction over Fan until at least October 12, 2013.

**RELEVANT DISCIPLINARY HISTORY**

- Fan has no FINRA disciplinary history.

## OVERVIEW

Between November 2009 and March 2010 (“Relevant Period”), while employed as a research analyst at Rodman, Fan violated NASD Rule 2711(c)(4) and FINRA Rule 2010 by participating in efforts to solicit investment banking business from at least two public companies.

## FACTS AND VIOLATIVE CONDUCT

NASD Rule 2711(c)(4) states that “No research analyst may participate in efforts to solicit investment banking business. Accordingly, no research analyst may, among other things, participate in any “pitches” for investment banking business to prospective investment banking clients, or have other communications with companies for the purpose of soliciting investment banking business.”

### Fan’s Solicitation of Investment Banking Business

Fan’s responsibilities as a research analyst at Rodman were to prepare and write objective research reports on China-based companies that traded publicly on a US exchange. During the Relevant Period, Fan took several trips to China in order to conduct due diligence on various companies. On these trips, Fan toured company facilities, met with company management and gathered information for use in writing research reports.

The Firm’s written supervisory procedures (“WSP”) prohibited research analysts from participating in efforts to solicit investment banking business. On at least two occasions during the Relevant Period, Fan engaged in communications with management of public companies, Company 1 and Company 2, in which he participated in efforts to solicit investment banking business on behalf of Rodman.

#### 1. Company 1

Company 1 is a China-based manufacturer of packaging paper. During a business trip to China, Fan attempted to solicit investment banking business on behalf of Rodman with Company 1. At the time, Fan believed that many investment banks were talking to the company about potential banking deals.

In an email from Fan dated November 26, 2009 to Rodman’s Director of Research (“DOR”), Fan described his efforts to solicit investment banking business from Company 1 and discussed the possibility of initiating research coverage on the company. In the November 26 email Fan stated, in part:

*“By the way, I have been really working hard on [Company 1] over the past week and half. I hope this is the first company that I can ‘help’ to bring in a relationship. Right now we are at a stalemate against [a competing investment bank], which is a [sic] bad news since the company has 2 board directors who are [a competing investment bank’s] allies. I am late to this*

*particular game, but if we end up losing this one, I would be bitterly disappointed.”*

The very next day, Fan updated the DOR and two Rodman investment bankers on his conversations with executives at Company 1:

*“I have been talking to the Chairman/CEO and CFO of [Company 1] over the past couple of days. My understanding is that in terms of building a relationship with the company, we are at a stalemate with [a competing investment bank]...I have stressed to the chairman that...I can be his confidant and can give him more advice and after-market support...”*

In the same email, Fan implored the investment bankers to make contact with one of Company 1’s board members in an attempt to persuade Company 1 to include Rodman in the company’s upcoming investment banking transaction.

Ultimately, Fan did not provide research coverage on Company 1, nor did Rodman participate in any investment banking business with the company.

## 2. Company 2

Company 2 is a China-based manufacturer of mineral-based, heat-resistant products. During a business trip to China in March 2010, Fan attempted to solicit investment banking business from Company 2 on behalf of Rodman. On March 13, 2010, Fan sent an email to the DOR and Rodman’s Chief Executive Officer in which he used code words to describe his efforts to solicit investment banking business from Company 2 and described his conversations with management of Company 2:

*“I have just reached out to the management. Here is where things stand. As of right now, they want to divide their love into two: 10 dollars of popcorn for us and 10 dollars of soda for the other guy, on two separate movie dates. But the other guy is providing much better accommodation to them than we are. The management is particularly upset that we are imposing much stricter criteria to them than we did to [another issuer], such as a divorce settlement. They feel it's discriminatory and they feel insulted. In fact, our love was so tough that their CEO was leaning towards giving his whole love to the other guy. But the other members of the management have persuaded him to share his love. But their opinion is: if we want to even have 50 percent of the love, we've got to sweeten the pot, as the other guy is really showing them a lot of love.”*

Fan used code words in the March 13 email because he knew that as a research analyst it was improper for him to participate in efforts to solicit investment banking business. Ultimately, Fan initiated coverage of Company 2 in April 2010 with a Market Outperform rating. In January 2011, Company 2 announced a \$10 million registered direct offering for which Rodman was the exclusive placement agent.

By participating in efforts to solicit investment banking business, Fan violated NASD Rule 2711(c)(4) and FINRA Rule 2010.

B. I also consent to the imposition of the following sanctions:

- A suspension from association with any FINRA-regulated firm in any capacity for a period of thirty business days; and
- A fine in the amount of \$10,000.

I understand that if I am barred or suspended from associating with any FINRA member, I become subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, I may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension (see FINRA Rules 8310 and 8311).

The fine shall be due and payable either immediately upon reassociation with a member firm following the suspension noted above, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

I specifically and voluntarily waive any right to claim that I am 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**

I specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against me;
- 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, I specifically and voluntarily waive any right to claim bias or prejudgment of the General Counsel, 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.

I further specifically and voluntarily waive 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

I understand 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 me; and
- C. If accepted:
  - 1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;
  - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about my disciplinary record;
  - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
  - 4. I may not take any action or make or permit to be made any public

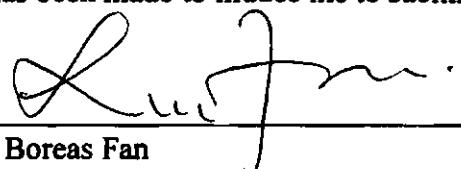
statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. I may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects my right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

- D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I 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.

I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have 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 me to submit it.

6/20/12

Date



Lewis Boreas Fan  
Respondent

Reviewed by:



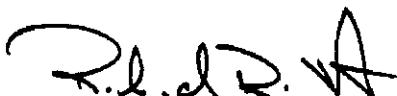
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Accepted by FINRA:

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

8-22-12

Date



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