

**THE NASDAQ STOCK MARKET LLC  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2016051145101**

TO: The NASDAQ Stock Market LLC  
c/o Department of Enforcement  
Financial Industry Regulatory Authority ("FINRA")

RE: The Vertical Group, Respondent  
Broker-Dealer  
CRD No. 104353

Pursuant to Rule 9216 of The NASDAQ Stock Market LLC ("NASDAQ") Code of Procedure, The Vertical Group (the "firm" or "Respondent") 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, NASDAQ will not bring any future actions against Respondent 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 NASDAQ, or to which NASDAQ 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 NASDAQ:

**BACKGROUND**

The firm became a member of NASDAQ on July 12, 2006, and its registration remains in effect. The firm has no relevant disciplinary history.

**SUMMARY**

The staff of the Market Analysis Section of the Department of Market Regulation at FINRA (the "Staff") conducted a review of the firm's compliance with NASDAQ Rule 4613(a) during the period from January 1, 2015 through March 31, 2016 and October 1 through December 31, 2016 (the "review period"). Based on its review, the Staff determined that the firm violated NASDAQ Rules 4613(a), 3010 and 2010A, as set forth below.

**FACTS AND VIOLATIVE CONDUCT**

**Market Maker Quoting Obligations**

1. Pursuant to NASDAQ Rule 4613(a), for each National Market System (NMS)

security in which a NASDAQ member is registered as a market maker, the member is required to maintain a continuous two-sided trading interest, during regular market hours, at prices within certain parameters expressed as a percentage referenced from the National Best Bid or Offer ("NBBO").

2. During the review period, the firm, in 170 instances,<sup>1</sup> failed to maintain a continuous two-sided trading interest, during regular market hours, at prices within certain percentages away from the NBBO. The firm used an auto-quoting system that relied on access to real-time information provided by a third-party vendor. Due to various technical difficulties, this auto-quoting system was disabled in certain instances, resulting in either the firm not quoting or allowing the firm's quotes to fall outside of designated percentages. The conduct described in this paragraph constitutes separate and distinct violations of NASDAQ Rule 4613(a).

#### Supervision

3. Nasdaq Rule 3010(a) provides, "Each member shall establish and maintain a system to supervise the activities of each registered representative and associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations with applicable" Nasdaq rules.
4. Nasdaq Rule 2010A provides, "A member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade."
5. The firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning market maker quoting obligations between January 1, 2015 and January 27, 2016. The conduct described in this paragraph constitutes a violation of NASDAQ Rules 3010 and 2010A.

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

1. A censure; and
2. A fine of \$22,500 (consisting of a \$15,000 fine for the market maker quoting obligation violations and a \$7,500 fine for the supervision violation).

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

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<sup>1</sup> This is the number of validated violations based on a sample.

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 NASDAQ's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against the firm;
- 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 NASDAQ Review Council 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 prejudice of the Chief Regulatory Officer, the NASDAQ Review Council, or any member of the NASDAQ Review Council, 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 NASDAQ Rule 9143 or the separation of functions prohibitions of NASDAQ 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 FINRA's Department of Market Regulation and the NASDAQ Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs ("ODA"), pursuant to NASDAQ 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:

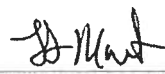
1. this AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by NASDAQ or any other regulator against the firm;
  2. NASDAQ may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with NASDAQ Rule 8310 and IM-8310-3; and
  3. 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 NASDAQ, or to which NASDAQ 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 NASDAQ is not a party.
- D. Respondent 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 NASDAQ, nor does it reflect the views of NASDAQ 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.

\_\_\_\_\_  
Date 1/15/19

Respondent

The Vertical Group

By: 

Name: Thomas Martin

Title: CCO

Reviewed by:

\_\_\_\_\_  
Counsel for Respondent

Accepted by NASDAQ:

1/31/19  
Date



Dean A. Floyd, Esq.  
Senior Counsel  
FINRA Department of Enforcement

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

### 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.

Respectfully submitted,  
Respondent  
The Vertical Group

1/15/19  
Date

By: TM  
Name: Thomas Martin  
Title: CCO

### Billing and Payment Contact

Please enter the billing contact information below. NASDAQ MarketWatch will contact you with billing options and payment instructions. *Please DO NOT submit payment until NASDAQ has sent you an invoice.*

Billing Contact Name: Thomas Martin  
Billing Contact Address: 417 5<sup>th</sup> Ave. 5<sup>th</sup> FL NY, NY 10016  
Billing Contact Email: accounting@vertgrp.com  
Billing Contact Phone Number: 212-430-3552