

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 03-104

June 5, 2003

FLEET SPECIALIST, INC.
MEMBER ORGANIZATION

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Violated SEA Sec. 11A, SEC Rule 11Ac1-4(b)(1) and Exchange Rule 79A.15 by failing to publish immediately a bid or offer that reflected the price and full size of each customer limit order that would improve the bid or offer; violated Rule 104.10 by failing to maintain a fair and orderly market; violated Rule 104.10 by failing to comply with the specialist's negative obligation; and violated Rule 104.10(6) by failing to participate adequately as a dealer on the opposite side of the market following reliquification trades – Consent to censure and \$150,000 fine.

EXCHANGE HEARING PANEL DECISION 03-105

MICHAEL J. BONNANO
EXCHANGE MEMBER

* * *

Violated Rule 104.10 by failing to maintain a fair and orderly market; violated Rule 104.10 by failing to comply with the specialist's negative obligation and violated Rule 104.10(6) by failing to participate adequately as a dealer on the opposite side of the market following reliquification trades – Consent to censure and \$25,000 fine.

Appearances:

For the Division of Enforcement
Susan F. Axelrod, Esq.
Craig P. Hammond, Esq.
Michael C. Grey

For the Respondent
Susan L. Merrill, Esq.

* * *

An Exchange Hearing Panel met to consider a Stipulation of Facts and Consent to Penalty entered into between the Exchange's Division of Enforcement and Fleet Specialist, Inc. (the "Firm"), a member organization, and Michael J. Bonnano, an Exchange member employed by the Firm. For the sole purpose of settling this disciplinary proceeding, without admitting or denying guilt, the Firm consents to findings by the Hearing Panel that the Firm:

- I. Violated Section 11A of the Securities Exchange Act of 1934, Securities and Exchange Commission Rule 11Ac1-4(b)(1) thereunder, and Exchange Rule 79A.15 in that the Firm, on one or more occasions, through its specialists, failed to publish immediately a bid or offer that reflects the price and full size of each customer limit order held by the Firm that was at a price that would improve the bid or offer in one or more of its specialty securities.
- II. Violated Exchange Rule 104.10 in that, through a member associated with the Firm as a specialist, the Firm failed to maintain a fair and orderly market in an Exchange-listed security for which it acted as specialist by having failed to participate adequately against the market trend during a period of significant market decline.
- III. Violated Exchange Rule 104.10 in that, through a member associated with the Firm as a specialist, the Firm failed to comply with the specialist's negative obligation by having effected a transaction in an Exchange-listed security for which it acted as specialist when such dealing was not necessary to the maintenance of a fair and orderly market.
- IV. Violated Exchange Rule 104.10(6) in that, through a member associated with the Firm as a specialist, the Firm failed to maintain a fair and orderly market in an Exchange-listed security for which it acted as specialist by having failed to participate adequately as a dealer on the opposite side of the market following a series of reliquification trades it made for the Firm's dealer account on destabilizing ticks.

For the sole purpose of settling this disciplinary proceeding, without admitting or denying guilt, Mr. Bonnano consents to findings by the Hearing Panel that Mr. Bonnano:

- I. Violated Exchange Rule 104.10 in that he failed to maintain a fair and orderly market in an Exchange-listed security for which he acted as specialist by having failed to participate adequately against the market trend during a period of significant market decline.
- II. Violated Exchange Rule 104.10 in that he failed to comply with the specialist's negative obligation by having effected a transaction in an Exchange-listed security for which he acted as specialist when such dealing was not necessary to the maintenance of a fair and orderly market.
- III. Violated Exchange Rule 104.10(6) in that he failed to maintain a fair and orderly market in an Exchange-listed security for which he acted as specialist by having failed to participate adequately as a dealer on the opposite side of the market following a series of reliquification trades he made for the Firm's dealer account on destabilizing ticks.

For the sole purpose of settling this disciplinary proceeding, the Division of Enforcement, the Firm and Mr. Bonnano stipulate to the following:

Background and Jurisdiction

The Firm

1. Fleet Specialist, an Exchange member organization and formerly known as JJC Specialist Corp. (“JJC”), was incorporated in September 1982, and conducts specialist operations on the Trading Floor of the Exchange. After JJC merged into U.S. Clearing Corp. (“U.S. Clearing”) in January 1998, U.S. Clearing then changed its name to Fleet Securities, Inc. (“Fleet Securities”), and JJC operated as a separate division of Fleet Securities. In December 1998, JJC acquired Merrill Lynch Specialist Inc., and then changed its name to Fleet Specialists, a division of Fleet Securities (“Fleet Specialists”) in March 1999. Thereafter, in October 2000, Fleet Specialists merged with M.J. Meehan & Co. (“Meehan”) to become Fleet Meehan Specialist, Inc. As of January 2002, the Firm has been known by its current name, Fleet Specialist, Inc.¹
2. There are 84 individual specialists associated with Fleet Specialist. The Firm acts as the registered specialist for approximately 550 Exchange-listed securities, which account for approximately 18% of the volume of securities traded on the Exchange. Of the 550 specialty securities, 59 are included in the 250 most active securities, 8 are components of the Dow Jones Industrial Average (“DJIA”),² and 86 may be found in the Standard & Poor’s 500 Index.
3. At all relevant times, the Firm was the registered specialist for the common stock of XYZ, trading on the Exchange under the symbol “XYZ.” XYZ is a component security of the DJIA.
4. The Exchange’s Division of Market Surveillance (“Market Surveillance”) referred this matter to Enforcement in November 2001.
5. By letter dated November 29, 2001, Enforcement notified the Firm of its investigation into this matter.

Bonnano

6. Bonnano was born on July 4, 1953. He entered the securities industry in 1970 as a specialist clerk on the Exchange’s Trading Floor. Bonnano worked as a specialist clerk for a number of firms until 1975 when he temporarily left the industry. He returned to the Trading Floor as a specialist clerk in 1977 and remained employed in that capacity until 1980, when he became an Exchange member working as a specialist. Between 1980 and the present, Bonnano has been continuously employed by Fleet Specialist and its predecessor firms as a specialist. Bonnano has served as an Exchange Floor Official since June 1998.

¹ Fleet Specialist is a wholly owned subsidiary of FleetBoston Financial Corporation (“FleetBoston”), which trades on the Exchange under the symbol “FBF.”

² The DJIA is a market index comprised of 30 “blue chip” United States companies.

7. On June 27, 2002, Bonnano was responsible for trading, among other things, XYZ.
8. Market Surveillance referred this matter to Enforcement in September 2002.
9. By letter dated October 1, 2002, which Bonnano received, Enforcement notified him that it was formally investigating allegations that he may have violated Exchange rules in connection with his trading of XYZ on June 27, 2002.

Overview

10. As set forth below, from July 2001 through September 2002, Fleet Specialist, through its specialists, on one or more occasions, failed to publish immediately a bid or offer that reflected the price and full size of each customer limit order held by the Firm that was at a price that would improve the bid or offer in one or more of its specialty securities.
11. In addition, on June 27, 2002, Bonnano and the Firm failed to maintain a fair and orderly market in connection with their trading of XYZ by failing to participate adequately against the market trend during a period of significant market decline; failing to comply with the specialist's negative obligation by effecting a transaction in XYZ for its dealer account when such dealing was not necessary to the maintenance of a fair and orderly market; and failing to participate adequately as a dealer on the opposite side of the market following a series of reliquification trades made for the Firm's dealer account on destabilizing ticks.

Fleet Specialist's Failure to Comply with the Order Display Rule & Exchange Rule 79A.15

12. Section 11A of the Securities Exchange Act of 1934 and Securities and Exchange Commission Rule 11Ac1-4(b)(1) thereunder (the "Order Display Rule") state, in pertinent part, that each member of an exchange that is registered by that exchange as a specialist shall publish **immediately** a bid or offer that reflects the price and full size of each customer limit order held by the specialist that is at a price that would improve the bid or offer of such specialist in such security. The requirement that a limit order be displayed "immediately" means that it must be displayed as soon as practicable, but no later than 30 seconds after receipt under normal market conditions.
13. Exchange Rule 79A.15 states, in pertinent part, that with respect to limit orders received by specialists, each specialist shall publish **immediately** (i.e., as soon as practicable, which under normal market conditions means no later than 30 seconds from time of receipt) a bid or offer that reflects the price and full size of each customer limit order that is at a price that would improve the specialist's bid or offer in such security.
14. Quote Assist is an automated default system within the Display Book³ that ensures the display of customer limit orders priced at or better than the prevailing quote no later than

³ The Display Book is an Exchange electronic workstation available to specialists on the Trading Floor that, among other things, enables quotations to be published and executions to be reported.

28 seconds from receipt by the specialist of the order. Quote Assist does not eliminate the specialist's responsibility to manually publish an eligible bid or offer immediately; rather Quote Assist provides the quote of last resort. On October 30, 1997 the Exchange issued Information Memo 97-51 which set forth amendments to Rule 79A emphasizing that a specialist who excessively or routinely relies on Quote Assist is not in compliance with either the Order Display Rule or Exchange Rule 79A.15.

15. From April 2000 through May 2001, Firm specialists violated the Order Display Rule and Exchange Rule 79A.15 by excessively relying on Quote Assist as set forth below:

<u>Month(s)</u>	<u>Number of Panels with One or More Stocks with Excessive Percentages of Quotations Generated by Quote Assist</u>
April 2000	3
December 2000	3
January 2001	3
February 2001 - May 2001	37

16. Based on the above conduct, the Exchange took regulatory action by issuing thirteen (13) summary fines totaling \$11,500 and ten (10) Letters of Admonition against fourteen (14) Firm specialists for violating Exchange Rule 79A.15. As a result of the repeated violations by the Firm's specialists, Fleet Specialist was issued four (4) summary fines totaling \$15,000.
17. In July 2001 and August 2001, Firm specialists again violated the Order Display Rule and Exchange Rule 79A.15 in that seven (7) of the Firm's trading post panels had excessive percentages of quotations generated by Quote Assist. Based on this conduct, the Exchange took regulatory action against five (5) firm specialists by issuing four (4) Letters of Admonition and one (1) summary fine in the amount of \$500 for violating Exchange Rule 79A.15.
18. From July 2001 through September 2002, 32 different Firm specialists violated the Order Display Rule and Exchange Rule 79A.15 by excessively relying on Quote Assist as set forth below:

<u>Month(s)</u>	<u>Number of Panels with One or More Stocks with Excessive Percentages of Quotations Generated by Quote Assist</u>
July 2001	2
August 2001	5
September 2001	21
October 2001	9
November 2001	6
December 2001	2
January 2002	2
June 2002	5
July 2002	7
August 2002	3
September 2002	1
Total	63

19. In resolving this matter, Enforcement has taken into consideration actions taken by Fleet Specialist addressing the requirement to publish quotations immediately and correct the Firm's excessive reliance on Quote Assist, including developing and instituting training classes, specialist meetings devoted to Quote Assist issues, and the redistribution of stocks.

Market Making Violations by Bonnano and Fleet Specialist in XYZ on June 27, 2002

Specialist Obligation to Maintain a Fair and Orderly Market

20. Exchange Rule 104.10 requires that a specialist, insofar as reasonably practicable, maintain a fair and orderly market in the securities in which he acts as a specialist.
21. Exchange Rule 104.10 also requires that a specialist engage in trading for his dealer account to a reasonable degree when lack of price continuity, lack of depth,⁴ or disparity between supply and demand exist, or is reasonably to be anticipated. Conversely, when such dealing is not necessary to the maintenance of a fair and orderly market, the specialist has an obligation to refrain from trading for his dealer account.
22. Exchange Rule 104.10(6) provides that transactions on the Exchange by a specialist for his own account in liquidating or decreasing his position in a specialty stock are to be effected in a reasonable and orderly manner in relation to the condition of the general market, the market in the particular stock and the adequacy of the specialist's positions to the immediate and reasonably anticipated needs of the round-lot and the odd-lot market and in this connection:
- a. the specialist may liquidate a position by selling stock on a direct minus tick⁵ or by purchasing stock on a direct plus tick⁶ only if such transactions are reasonably necessary in relation to the specialist's overall position in the stocks in which he is registered; and the specialist has obtained the prior approval of a Floor Official;
 - b. the specialist should maintain a fair and orderly market during liquidation and, after reliquifying,⁷ should re-enter the market to offset imbalances between supply and demand. The selling of stock on a direct minus tick or a zero minus

⁴ Depth guidelines are published in the Exchange Floor Official Manual and disseminated to each specialist. The depth guidelines specify what are considered general tolerances for price movements per trading sequence of 3,000 shares or less based on a stock's current price range and the prior month's adjusted average daily volume (which excludes trades of 25,000 shares or more).

⁵ A "direct minus tick" occurs when a transaction is executed at a price below the immediate prior transaction.

⁶ A "direct plus tick" occurs when a transaction is effected at a price above the immediate prior transaction.

⁷ "Reliquification" occurs when a specialist sells or decreases a long dealer position on a direct minus tick or zero minus tick (occurs when a transaction is executed at the same price as the preceding transaction which, in turn, was executed at a price below the last previous different price) or purchases to cover a short dealer position on a direct plus tick or zero plus tick (occurs when a transaction is executed at the same price as the preceding transaction which, in turn, was executed at a price above the last previous different price).

tick, or the purchasing of stock on a direct plus tick or zero plus tick should be effected in conjunction with the specialist's re-entry in the market on the opposite side of the market from the liquidating transaction where the imbalance of supply and demand indicates that immediately succeeding transactions may result in a lower price (following the specialists' sale of stock on a direct minus tick or a zero minus tick) or a higher price (following the specialist's purchase on a direct plus tick or zero plus tick). During any period of volatile or unusual market conditions resulting in a significant price movement in the subject security, the specialist's transactions in re-entering the market following a liquidating transaction effected by selling stock on a direct minus tick or zero minus tick, or purchasing stock on a direct plus tick or a zero plus tick, should, at least, at a minimum, reflect the specialist's usual level of dealer participation. During such periods of unusual price movement in a security, any series of such transactions which may be effected in a brief period of time should be accompanied by the specialist's re-entry in the market and effecting transactions which reflect a significant degree of dealer participation.

23. On September 12, 1991, the Exchange issued Information Memo 91-35 which set forth amendments to Exchange Rule 104.10(6) emphasizing the specialist's affirmative role in providing dealer participation to the marketplace, especially during periods of volatile or unusual market activity, and providing guidelines for specialist dealer participation under the amended rule.
24. On April 21, 1994, the Exchange issued a memorandum entitled Specialist Dealer Participation, which was sent to all specialists, to emphasize the specialists' responsibility during periods of general market volatility. The Exchange once again stressed the role of dealer participation against the trend during significant price movement. In addition, the memo notes that a specialist's failure to participate is viewed as more serious if the period of trading under review involves destabilizing transactions.

Comparative Trading Data for XYZ

25. On June 27, 2002 ("June 27th"), XYZ opened at a price of 53.90, up .82 from the previous day's closing price of 53.08. The stock closed that day at a price of 51.5, down 1.58, or 2.98%, from the previous close, and traded throughout the day within a price range of 50.77 – 54.25. In addition, on June 27th, 7,467,300 shares of XYZ traded and the adjusted average daily volume⁸ was 5 million shares as compared to the average daily volume of approximately 2.8 million shares and adjusted average daily volume of approximately 2.3 million shares for the month of May 2002.
26. Specialist volume in XYZ on June 27th was 1,871,200 shares (947,200 shares purchased and 924,000 shares sold) as compared with average specialist volume of 787,900 shares (392,800 shares purchased and 395,100 shares sold) for the prior

⁸ Adjusted average daily volume excludes trades of 25,000 shares or more.

month of May 2002. The Firm's TTV% (Twice Total Volume)⁹ for the day was 12.5% and their stabilization rate¹⁰ was 81.7%. For the month of May 2002, the TTV% was 14.1% and the stabilization rate was 77.8%.

**Failure to Participate Adequately Against the Market Trend
During A Market Decline and Dealing in a Security When Such
Dealing Was Not Necessary to the Maintenance of a Fair and Orderly Market**

27. On June 27th, between 11:10:54 a.m. and 11:13:58 a.m., Bonnano failed, and caused Fleet Specialist to fail, to maintain a fair and orderly market in the trading of XYZ by failing to adequately participate as a dealer against the market trend during a period of significant price movement.
28. As set forth below, prior to the sequence mentioned above in paragraph 27, from 11:05:29 a.m. to 11:10:51a.m. trading in XYZ was as follows:

11:05:29 a.m. – 11:10:51 a.m.

<u>Quotation</u> ¹¹	<u>Time</u>	<u>Volume</u>	<u>Price</u>	<u>Tick</u>	<u>Specialist Activity</u>
	11:05:29	100	52.98	-0.01	
52.90 x 52.99 (100 x 200)	11:05:31				
52.90 x 52.99 (100 x 100)	11:05:40				
52 x 52.99 (100 x 100)	11:07:23				
52 x 52.98 (100 x 100)	11:07:25				
52.10 x 52.98 (100 x 100)	11:08:07				
	11:10:51	80,600	52.30	-0.68	B 15,800

Bonnano's purchase of 15,800 shares of XYZ for Fleet Specialist's dealer account increased the Firm's long position in the security to 20,400 shares.

29. On June 27th, between 11:10:54 a.m. and 11:13:58 a.m., the price of XYZ on the Exchange declined .80 from 52.30 to 51.50 on reported volume of 146,700 shares. As set forth below, during this sequence, Bonnano did not purchase any shares and sold 10,000 shares of XYZ.

⁹ TTV is the measurement of a specialist's participation as a dealer. It is calculated by dividing the specialist's total purchases and sales as a dealer by twice the total volume of all purchases and sales. The highest TTV rate possible is 50%.

¹⁰ Stabilization rate represents the percentage of the specialist's principal trades against the market trend as compared to his total dealer transactions. The specialist is considered to have traded against the market trend when he sells stock as a dealer on a plus tick or zero plus tick or buys stock as a dealer on a minus tick or zero minus tick.

¹¹ Throughout this Stipulation and Consent, in all instances where multiple successive quotes of the same bid/offer prices and sizes exist, only one such quote is represented.

11:10:54 a.m. – 11:13:58 a.m.

<u>Quotation</u>	<u>Time</u>	<u>Volume</u>	<u>Price</u>	<u>Tick</u>	<u>Specialist Activity</u>
52.30 x 52.31 (100 x 100)	11:10:54				
52.20 x 52.31 (100 x 100)	11:11:03				
52.20 x 52.30 (100 x 10,000)	11:11:05				
52 x 52.30 (100 x 9,900)	11:12:02				
51.50 x 52.30 (100 x 10,000)	11:12:02				
51.50 x 52.30 (100 x 9,200)	11:12:36				
	11:13:08	37,800	51.50	-0.8	
	11:13:09	22,100	51.50	-0	
	11:13:36	70,000	51.50	-0	
	11:13:45	6,800	51.50	-0	
	11:13:58	10,000	51.50	-0	

Bonnano's sale of 10,000 shares of XYZ from Fleet Specialist's dealer account on a destabilizing tick decreased the Firm's long position in the security to 10,400 shares.

30. Bonnano failed to make any stabilizing purchases as the price of XYZ declined .80, from 52.30 to 51.50. Bonnano's participation in this trading sequence as a dealer against the market trend, during a period of significant price movement, was inadequate.
31. In addition, on June 27th, Bonnano failed, and caused Fleet Specialist to fail, to comply with the specialist's negative obligation by effecting a sell transaction in XYZ for the Firm's dealer account when such dealing was not necessary to the maintenance of a fair and orderly market.
32. As stated above in paragraph 29, at 11:13:58 a.m., Bonnano printed a 10,000-share sale on the tape at a price of 51.50. From 11:13:08 a.m. to 11:13:45 a.m., while Bonnano was in the process of printing the previous four (4) transactions at a price of 51.50 (down .80 from the last sale) on reported volume of 136,700 shares, the specialist received an influx of marketable buy orders through the Exchange's SuperDOT system (the "system buy orders"). Thirteen seconds later, at 11:13:58 a.m., he filled the system buy orders by selling 10,000 shares from the dealer account on a destabilizing tick also at the price of 51.50, thereby decreasing the Firm's long position in the security to 10,400 shares.
33. Prior to the sale at 11:13:58 a.m., Bonnano failed to expose the system buy orders to known sellers in the XYZ trading crowd. Present in the XYZ trading crowd at the time of the 10,000-share sale was a known seller that would have sold that amount of shares at the market.

34. At the time of the 10,000-share sale, Bonnano, as XYZ specialist, had the responsibility to provide an opportunity for public orders to be executed against each other without undue dealer intervention. Under the circumstances, Bonnano's transaction for the dealer account at 11:13:58 a.m. was not reasonably necessary for the maintenance of a fair and orderly market and, thus, was in violation of the specialist's negative obligation.

**Failure to Participate Adequately on the Opposite Side of the Market
Following Reliquification Trades**

35. On June 27th, between approximately 3:09:34 p.m. and 3:19:39 p.m., Bonnano failed, and caused Fleet Specialist to fail, to maintain a fair and orderly market in the trading of XYZ by failing to adequately participate as a dealer on the opposite side of the market following reliquification trades made for Fleet's dealer account.
36. On June 27th, between approximately 3:09:34 p.m. and 3:19:39 p.m., when the price of XYZ on the Exchange declined .95 from a price of 52 to a price of 51.05 on reported volume of 435,100 shares, there was insufficient dealer participation on the opposite side of the market. During this period, Bonnano effected a series of reliquifying transactions and failed to adequately re-enter the market subsequent to those sales.
37. During the time period of the reliquification, Bonnano sold a total of 19,700 shares on destabilizing ticks, and purchased 2,800 shares on a stabilizing tick, thereby decreasing Fleet Specialist's long dealer position in XYZ from 21,800 to 3,900 shares.
38. Trading in XYZ immediately prior to that time period was as follows:

3:08:27 p.m. – 3:09:18 p.m.

<u>Quotation</u>	<u>Time</u>	<u>Volume</u>	<u>Price</u>	<u>Tick</u>	<u>Specialist Activity</u>
	3:08:27	100	52.03	-0.02	
52.03 x 52.06 (900 x 15,900)	3:08:27				
52.03 x 52.06 (800 x 15,900)	3:08:27				
	3:08:45	20,200	52.04	+0.01	S 3,000
52.03 x 52.05 (800 x 12,000)	3:08:47				
52.03 x 52.05	3:08:47				
52.03 x 52.04 (900 x 1,000)	3:08:49				
	3:08:55	1,000	52.04	0+	
52.03 x 52.04 (900 x 100)	3:08:56				
	3:09:06	1,500	52.03	-0.01	
52 x 52.04 (100 x 100)	3:09:09				
52 x 52.04 (100 x 10,000)	3:09:18				

3:09:34 p.m. – 3:15:22 p.m.

39. As set forth below, between 3:09:34 p.m. and 3:15:22 p.m., Bonnano effected a series of reliquification transactions. During this period, he sold 19,700 shares in destabilizing transactions and failed to make any stabilizing purchases as the price of the stock declined .60, from 52 to 51.40.

<u>Quotation</u>	<u>Time</u>	<u>Volume</u>	<u>Price</u>	<u>Tick</u>	<u>Specialist Activity</u>
	3:09:34	5,000	52	-0.03	
	3:09:34	5,000	52	0-	
51.98 x 52.04 (100 x 10,000)	3:09:35				
51.98 x 52.02 (100 x 1,000)	3:09:37				
51.98 x 52.01 (100 x 100)	3:09:39				
	3:10:02	10,000	52	0-	S 4,900
	3:10:03	700	52	0-	
51.96 x 52.01 (5,000 x 100)	3:10:06				
51.96 x 52 (5,000 x 20,000)	3:10:09				
	3:10:10	1,000	51.96	-0.04	
51.96 x 52 (4,000 x 20,000)	3:10:11				
51.80 x 52 (100 x 20,000)	3:10:15				
51 x 52 (100 x 20,000)	3:11:01				
51 x 51.96 (100 x 100)	3:11:04				
51.30 x 51.96 (100 x 100)	3:12:04				
	3:13:14	15,600	51.50	-0.46	
	3:13:16	2,100	51.50	0-	
51.30 x 51.96 (100 x 100)	3:13:18				
51.30 x 51.51 (100 x 100)	3:13:18				
	3:14:04	156,800	51.50	0-	
51.30 x 51.51 (100 x 13,400)	3:14:06				
51.30 x 51.51 (100 x 13,200)	3:14:06				
	3:14:07	200	51.51	+0.01	
51.45 x 51.51 (1,000 x 13,200)	3:14:09				
	3:14:13	800	51.51	0+	
51.50 x 51.51 (8,000 x 12,400)	3:14:14				
51.50 x 51.51 (7,000 x 12,400)	3:14:16				
	3:14:19	100	51.51	0+	
51.50 x 51.51 (7,000 x 12,300)	3:14:20				

<u>Quotation</u>	<u>Time</u>	<u>Volume</u>	<u>Price</u>	<u>Tick</u>	<u>Specialist Activity</u>
51.50 x 51.51 (7,000 x 11,300)	3:14:20				
51.50 x 51.51 (7,000 x 10,300)	3:14:20				
	3:14:21	1,000	51.51	0+	
	3:14:21	1,000	51.51	0+	
	3:14:23	1,000	51.51	0+	
	3:14:23	1,000	51.51	0+	
51.50 x 51.51 (7,000 x 9,300)	3:14:23				
51.50 x 51.51 (7,000 x 8,300)	3:14:23				
	3:14:26	1,000	51.51	0+	
	3:14:26	500	51.51	0+	
51.50 x 51.51 (7,000 x 7,300)	3:14:26				
51.50 x 51.51 (7,000 x 6,800)	3:14:26				
	3:14:28	300	51.51	0+	
	3:14:28	500	51.51	0+	
51.50 x 51.51 (7,000 x 6,500)	3:14:28				
51.50 x 51.51 (7,000 x 6,000)	3:14:28				
51.50 x 51.51 (6,000 x 6,000)	3:14:29				
51.50 x 51.51 (6,000 x 5,000)	3:14:29				
51.50 x 51.51 (6,000 x 4,700)	3:14:29				
	3:14:30	1,000	51.51	0+	
	3:14:30	300	51.51	0+	
	3:14:30	1,000	51.50	-0.01	
	3:14:31	1,000	51.51	+0.01	
	3:14:31	400	51.51	0+	
	3:14:31	100	51.51	0+	
51.50 x 51.51 (5,000 x 4,700)	3:14:31				
51.50 x 51.51 (5,000 x 3,700)	3:14:31				
51.50 x 51.51 (5,000 x 3,300)	3:14:31				
51.50 x 51.51 (5,000 x 3,200)	3:14:33				
51.50 x 51.51 (100 x 100)	3:14:33				
	3:14:43	21,700	51.50	-0.01	
51.50 x 51.51 (100 x 100)	3:14:43				
51.49 x 51.51 (100 x 100)	3:14:44				
	3:14:46	11,000	51.50	0-	S 10,000
51.49 x 51.51 (100 x 100)	3:14:53				

<u>Quotation</u>	<u>Time</u>	<u>Volume</u>	<u>Price</u>	<u>Tick</u>	<u>Specialist Activity</u>
51.48 x 51.51 (100 x 100)	3:14:53				
51.48 x 51.50 (100 x 50,000)	3:14:55				
	3:14:56	11,500	51.50	0-	
	3:15:00	4,800	51.50	0-	S 4,800
	3:15:01	1,000	51.50	0-	
	3:15:03	300	51.48	-0.02	
51.48 x 51.50 (3,800 x 50,000)	3:15:03				
51.48 x 51.50 (3,500 x 50,000)	3:15:03				
	3:15:04	1,000	51.48	0-	
51.48 x 51.50 (2,500 x 50,000)	3:15:04				
	3:15:05	1,000	51.48	0-	
51.48 x 51.50 (1,500 x 50,000)	3:15:06				
	3:15:07	500	51.48	0-	
51.48 x 51.50 (1,000 x 50,000)	3:15:07				
	3:15:08	1,000	51.48	0-	
51.48 x 51.49 (1,000 x 50,000)	3:15:09				
51.48 x 51.49 (1,000 x 49,800)	3:15:09				
51.48 x 51.49 (100 x 10,000)	3:15:10				
51.40 x 51.49 (100 x 10,000)	3:15:16				
	3:15:22	13,600	51.40	-0.08	

3:15:23 p.m. – 3:19:39 p.m.

40. As set forth below, at 3:15:32 p.m., Bonnano purchased 2,800 shares in a stabilizing transaction. Subsequent to that trade, he failed to make any additional stabilizing purchases as the price of the stock declined .35, from 51.40 to 51.05.

<u>Quotation</u>	<u>Time</u>	<u>Volume</u>	<u>Price</u>	<u>Tick</u>	<u>Specialist Activity</u>
51.40 x 51.41 (100 x 10,000)	3:15:23				
	3:15:32	15,000	51.40	0-	B 2,800
51.35 x 51.41 (100 x 10,000)	3:15:33				
51.35 x 51.40 (100 x 10,000)	3:15:34				
51.30 x 51.40 (100 x 10,000)	3:15:36				
	3:15:42	5,000	51.30	-0.1	
51.30 x 51.31 (100 x 100)	3:15:52				
	3:16:00	10,100	51.30	0-	
	3:16:13	10,600	51.30	0-	

<u>Quotation</u>	<u>Time</u>	<u>Volume</u>	<u>Price</u>	<u>Tick</u>	<u>Specialist Activity</u>
51.25 x 51.31 (100 x 100)	3:16:14				
51.25 x 51.30 (100 x 10,000)	3:16:16				
	3:16:23	5,500	51.30	0-	
	3:16:24	400	51.30	0-	
	3:16:29	1,000	51.30	0-	
	3:16:30	200	51.30	0-	
51.25 x 51.30 (100 x 9,000)	3:16:30				
51.25 x 51.30 (100 x 8,800)	3:16:31				
	3:16:39	100	51.30	0-	
51.25 x 51.30 (100 x 8,700)	3:16:39				
51.2 x 51.30 (100 x 8,700)	3:16:40				
	3:16:44	1,000	51.30	0-	
51.2 x 51.30 (100 x 7,700)	3:16:45				
51.15 x 51.30 (100 x 7,700)	3:16:53				
	3:16:56	9,900	51.15	-0.15	
	3:16:58	1,100	51.15	0-	
	3:17:18	20,000	51.15	0-	
51.15 x 51.16 (100 x 7,700)	3:17:21				
51.15 x 51.16 (100 x 7,500)	3:17:22				
	3:17:26	1,500	51.15	0-	
51.10 x 51.16 (100 x 7,500)	3:17:32				
	3:17:33	2,900	51.15	0-	
	3:17:33	700	51.16	+0.01	
51.10 x 51.16 (100 x 6,800)	3:17:33				
51 x 51.16 (100 x 6,800)	3:17:40				
51 x 51.16 (100 x 6,600)	3:17:42				
	3:18:14	15,500	51.06	-0.1	
	3:18:15	100	51.06	0-	
	3:18:18	15,000	51.06	0-	
50.99 x 51.16 (100 x 6,600)	3:18:19				
	3:18:28	5,000	51.05	-0.01	
50.99 x 51.15 (100 x 100)	3:18:30				
	3:18:49	20,000	51.05	0-	
50.99 x 51.15 (100 x 100)	3:18:54				
	3:19:15	9,000	51.05	0-	
	3:19:17	5,000	51.05	0-	

<u>Quotation</u>	<u>Time</u>	<u>Volume</u>	<u>Price</u>	<u>Tick</u>	<u>Specialist Activity</u>
50.99 x 51.06 (100 x 6,300)	3:19:19				
51 x 51.06 (1,000 x 6,300)	3:19:24				
	3:19:35	5,500	51.05	0-	
	3:19:39	200	51.05	0-	

41. Bonnano's purchase of 2,800 shares of XYZ during this approximate 10 minute sequence, when the price of the stock declined .95 on reported volume of 435,100 shares, did not constitute adequate participation as a dealer on the opposite side of the market following the series of reliquification transactions he made for the Firm's dealer account.

DECISION

The Hearing Panel, in accepting the Stipulation of Facts and Consent to Penalty, found the Firm and Mr. Bonnano guilty as set forth above by unanimous vote.

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, imposed the penalty consented to by the Firm of a censure and a fine of \$150,000.

In view of the above findings, the Hearing Panel, by unanimous vote, imposed the penalty consented to by Mr. Bonnano of a censure and a fine of \$25,000.

For the Hearing Panel

Edward W. Morris, Jr.
Chief Hearing Officer