

NEW YORK STOCK EXCHANGE LLC

NYSE HEARING BOARD DECISION 08-40

July 18, 2008

ANIS F. ATTARWALA

FORMER REGISTERED REPRESENTATIVE

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**Violated NYSE Rule 476(a)(6) by entering fictitious trades in trading account of employer, and causing false profits to be reflected in own trading account and false losses to be reflected in trading accounts of employer; caused violation of Section 17(a) of Securities Exchange Act of 1934 and Rules 17a-3 and 17a-4 thereunder, and NYSE Rule 440 by making, and causing to be made, false entries in books and records of employer; violated NYSE Rule 476(a)(4) by making material misstatements to NYSE – Consent to censure and two-year bar.**

**Appearances:**

For the Division of Enforcement  
Susan Light, Esq.  
Suzanne Elovic, Esq.  
Conway Lee, Esq.

For Respondent  
Stephen L. Ascher, Esq.

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A Hearing Officer on behalf of the New York Stock Exchange LLC (“NYSE”) considered a Stipulation of Facts and Consent to Penalty entered into between NYSE Regulation, Inc.’s Division of Enforcement (“Enforcement”) and Anis F. Attarwala (“Respondent”), a former registered representative with Credit Suisse First Boston LLC n/k/a Credit Suisse Securities (USA) LLC, an NYSE member organization. Without admitting or denying guilt, Respondent consented to a finding by a Hearing Officer that he:

- I. Violated NYSE Rule 476(a)(6) by engaging in conduct inconsistent with just and equitable principles of trade in that he:
  - a. entered fictitious trades in a trading account of his member firm employer; and

- b. caused false profits to be reflected in his own trading account, and false losses to be reflected in other trading accounts of his member firm employer.
- II. Caused a violation of Section 17(a) of the Securities Exchange Act of 1934 and Rules 17a-3 and 17a-4 thereunder, and NYSE Rule 440, in that he made, and caused to be made, false entries in books and records of his member firm employer; and
  - III. Violated NYSE Rule 476(a)(4) in that he made material misstatements to the NYSE.

For the sole purpose of settling this disciplinary proceeding, without adjudication of any issues of law or fact, and without admitting or denying any allegations or findings referred to in the Stipulation of Facts and Consent to Penalty, Respondent stipulates to certain facts, the substance of which follows:\*

### **Background and Jurisdiction**

1. Attarwala was born in 1980. He entered the securities industry on or about July 15, 2002 as an analyst trainee on the equity sales and trading desk in the New York, New York office of Credit Suisse First Boston LLC (now known as Credit Suisse Securities (USA) LLC) (“Credit Suisse” or the “Firm”), a NYSE member firm (and now also a FINRA member). In or about May 2003, Attarwala became a junior trader at the Firm and assisted two other traders in managing their trading books. Attarwala remained employed at the Firm in that capacity until about May 2004, when Attarwala was assigned his own book to trade on the Firm’s equity sales and trading desk (the “Trading Account”). The Trading Account traded in approximately 100 small-cap stocks listed on the NASDAQ marketplace for which the Firm was a market maker. Attarwala, as the trader for the Trading Account, was responsible for trading on behalf of customers, on a proprietary basis, and for market-making purposes. As part of his compensation, Attarwala was entitled to receive a discretionary bonus that was calculated based upon his trading performance.
2. On or about May 25, 2005, Credit Suisse terminated Attarwala’s employment as a result of the matter involved herein.
3. On or about June 23, 2005, the NYSE received a Uniform Termination Notice For Securities Industry Registration (“Form U5”) from Credit Suisse, reporting that, “trading entries were discovered in Mr. Attarwala’s books and records that did not correspond to actual transactions.”
4. By letter dated February 16, 2006, which Attarwala received, Enforcement notified Attarwala it was investigating this matter. Thereafter, Attarwala, represented by counsel, provided information and testimony to Enforcement.

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\* Hearing Officer Note: The facts, allegations, and conclusions contained in paragraphs 1 to 19 are taken from the executed Stipulation of Facts and Consent to Penalty between Enforcement and Respondent. No changes have been made to the stipulated paragraphs by the Hearing Officer, except that pseudonyms have been provided to protect the privacy of non-parties.

5. In or about June 2005, Attarwala began working at Firm A, a FINRA member only, where he remained until December 2005.
6. In or about February 2006, Attarwala began working at non-member Firm B where he remained until about July 2007.
7. In or about August 2007, Attarwala began working at non-member Firm C, where he remained until about April 2008.
8. Attarwala is not currently employed in the securities industry.

### **Summary of Violative Conduct**

9. During the period January 12, 2005 through April 4, 2005, Attarwala entered at least 62 fictitious trades in a trading account of his member firm employer in a manner which he knew did not correspond to actual transactions. These transactions caused false profits of \$926,980 to be reflected in his own trading account, and false losses of \$926,980 to be reflected in other intracompany trading accounts of his member firm employer. Attarwala also made material misstatements to the NYSE about his misconduct.

### **Violative Conduct**

#### **Attarwala's Fictitious Trades Resulted in False Gains to Attarwala's Trading Account and Offsetting False Losses to Other Trading Accounts at the Firm**

10. In or about March 2005, the Firm commenced an internal investigation to scrutinize Attarwala's trading after it became apparent that Attarwala's Trading Account and other intracompany trading accounts at the Firm were experiencing an increasing number of trade breaks and/or cancellations.
11. The Firm's internal investigation revealed that during the period January 12, 2005 through April 4, 2005, Attarwala utilized the Firm's order management system called GOMAN to enter at least 62 fictitious trades between his Trading Account and other Firm intracompany trading accounts. These trades consisted of Attarwala entering buy orders at a lower price and sell orders at a higher price in his Trading Account, resulting in false gains in his Trading Account.
12. At the same time, Attarwala entered offsetting buy orders at the higher price and sell orders at the lower price in other Firm intracompany trading accounts, resulting in false losses in these accounts.
13. Each and every one of Attarwala's 62 trades resulted in a false profit in Attarwala's Trading account, and a false loss in the offsetting Firm intracompany trading account.
14. As a result of these trades, Attarwala's Trading Account realized false gains of \$926,980 while the other intracompany trading accounts realized false losses of

\$926,980.

15. The false gains in Attarwala's Trading Account were completely offset by the false losses in the other Firm intracompany trading accounts and resulted in a zero net effect on the Firm's profits and losses. Also, Attarwala's trades did not impact the market or involve any Firm customers.

#### **Attarwala's Material Misstatements to Enforcement**

16. Attarwala testified that he entered each of the 62 trades in question into GOMAN to reflect a *loss* in his Trading Account, and not a *gain*. Attarwala further claimed that GOMAN inexplicably changed his buy orders into sell orders, and his sell orders into buy orders, thereby causing his Trading Account to reflect *gains* instead of the *losses* he intended to enter.
17. In fact, GOMAN functioned as expected and did not change Attarwala's trades as he claimed.
18. Attarwala also testified that the 62 trades he entered into GOMAN were reflective of earlier *actual* trades he had executed on a proprietary basis, and that he entered these trades into GOMAN merely as flags that he could later analyze as a learning tool to determine why he lost money on earlier proprietary trading.
19. In fact, none of the fictitious trades described herein related to actual trades executed by Attarwala.

#### **DECISION**

The Hearing Officer, in accepting the Stipulation of Facts and Consent to Penalty, found that Respondent committed the offenses as set forth above.

#### **PENALTY**

In view of the above findings, the Hearing Officer, imposed the penalty consented to by Respondent of a censure and a two-year bar from membership, allied membership, approved person status, and from employment or association in any capacity with any member or member organization.

For the Hearing Board

Peggy Kuo - Chief Hearing Officer