

NEW YORK STOCK EXCHANGE LLC

NYSE HEARING BOARD DECISION 08-44

CHRISTOPHER AHLGRIM  
FORMER SPECIALIST

October 6, 2008

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**Violated NYSE Rule 104 by effecting transactions for Firm's dealer account that were not reasonably necessary to maintain fair and orderly market, and failing to effectively represent and execute agency orders entrusted to him; violated NYSE Rule 123B(d) by failing to execute customer orders in accordance with NYSE auction market rules and procedures, including requirements to cross and execute customer orders against each other before buying or selling for Firm's dealer account – Consent to censure and one-year Floor bar.**

**Appearances:**

For the Division of Enforcement  
Steven Brostoff, Esq.  
Virginia Harnisch, Esq.  
Kwame Anthony, Esq.  
Steven Tanner, Esq.

For Respondent  
Alfred U. Pavlis, Esq.

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A Hearing Officer on behalf of the New York Stock Exchange LLC ("NYSE" or the "Exchange") considered a Stipulation of Facts and Consent to Penalty entered into between NYSE Regulation, Inc.'s Division of Enforcement ("Enforcement") and Christopher Ahlgrim ("Respondent"), a specialist formerly with Fleet Specialist, an NYSE member organization. Without admitting or denying guilt, Respondent consented to a finding by a Hearing Officer that he:

- I. Violated NYSE Rule 104 in that certain transactions that he effected for his Firm's dealer account were not reasonably necessary to maintain a fair and orderly market, and failed to effectively represent and execute agency orders entrusted to him.

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- II. Violated NYSE Rule 123B(d) in that he failed to execute certain customer orders in accordance with NYSE auction market rules and procedures, including requirements to cross and execute customer orders against each other before buying or selling for the Firm's dealer account.

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. Ahlgrim was born in 1960. He entered the securities industry in 1986, on the Floor of the New York Stock Exchange LLC (the "NYSE") as a clerk at the specialist firm Lasker, Stone & Stern ("Lasker"). In or around 1991, Lasker was purchased by Merrill Lynch Specialists Inc. ("MLS") and Ahlgrim continued to be employed as a clerk. In 1993 Ahlgrim became a specialist and a member of the NYSE.
2. Ahlgrim continued to be employed as a specialist and member of the NYSE at the successor organizations to MLS - JJC Specialist Corp, Fleet Specialists, Fleet Meehan Specialist, Inc., Fleet Specialist, Inc. (Fleet Specialist, Inc. and its predecessor entities are referred to as the "Firm.")
3. At all relevant times the Firm was a member organization engaged in business as a registered specialist on the Floor of the NYSE.
4. During the period January 2002 through February 2003 (the "Relevant Period") Ahlgrim was the registered specialist in XYZ stock.
5. On or about April 2, 2004, Ahlgrim's employment with the Firm ended and he is not currently employed in the securities industry.
6. By letter dated March 7, 2003, the Division of Market Surveillance ("Surveillance") notified Ahlgrim that it was investigating his activities as a specialist in XYZ. By letter dated October 15, 2003, which Ahlgrim received, Enforcement notified Ahlgrim that it was investigating his activities in connection with trading in XYZ. Subsequently, Enforcement sent Ahlgrim letters in 2004 and 2005, notifying him that the investigation was continuing.
7. On or about December 20, 2006, Enforcement issued a Charge Memorandum in connection with the matters discussed herein, and on or about February 28, 2007,

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\* Hearing Officer Note: The facts, allegations, and conclusions contained in paragraphs 1 to 22 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 a pseudonym has been provided to protect the privacy of a non-party.

Ahlgrim filed an Answer.

### **Summary of Violative Conduct**

8. As set forth below, during the Relevant Period, on certain occasions Ahlgrim violated his agency obligations as a specialist to match executable customer orders at the best possible price. The public customer orders were transmitted to the Floor of the NYSE electronically using the NYSE's Super Designated Order Turnaround System ("Super DOT").<sup>1</sup> Instead of pairing buy and sell DOT orders, the Firm's dealer account was "interpositioned" between those orders, or the dealer account "traded ahead" of those orders, on certain occasions during the Relevant Period as described below.

### **The General Obligations and Role of Specialists**

9. Specialists are responsible for maintaining a fair and orderly market in the stocks assigned to them. Specialists have a general duty to cross or pair-off executable public customer or "agency" buy and sell system orders at the best possible price, and a duty not to fill customer orders through trades from their firm's own account (the "dealer account") when those customer orders could be matched with other customer orders.
10. The specialist's obligation to make purchases or sales of securities for their firm's dealer account only when necessary to maintain a fair and orderly market is referred to as a specialist's "negative obligation."
11. The responsibilities of specialists are set forth in the NYSE Rules and the NYSE Floor Official Manual. As set forth in the Floor Official Manual, although a specialist is required to trade from his or her dealer account to maintain price continuity with reasonable depth (the specialist's "affirmative obligation"), all of the specialist's purchases and sales must meet the test of reasonable necessity.

### **The Violative Trading**

12. During the Relevant Period, there were two types of violative conduct, referred to hereafter as "Interpositioning" and "Trading Ahead" transactions.
13. In "Interpositioning" transactions, executable buy and sell system orders (*i.e.*, DOT orders) that became visible on the Display Book following a freeze<sup>2</sup> were not crossed

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<sup>1</sup> Orders transmitted through Super DOT, which are known as DOT orders, appeared on Ahlgrim's computer screen at his post on the Floor (the "Display Book"). The Display Book is an electronic workstation provided by the NYSE to specialist firms on the trading Floor for the use of its specialists at their post panels, operated by a customized keyboard.

<sup>2</sup> During the trading day, the specialist can cause the Display Book to be "frozen" in a particular security. When the Display Book is frozen, new DOT Orders in that security cannot be seen on the Display Book,

or paired-off, and instead the Firm's dealer account was interpositioned between such orders, buying from (or selling to) a customer on one side of the market and then selling to (or buying from) a customer on the other side of the market at a higher (lower) price. A profit was thereby generated for the Firm's dealer account.

14. In "Trading Ahead" transactions, the Firm's dealer account traded ahead of executable DOT orders. The DOT orders that the dealer account traded ahead of were then executed at an inferior price than the price received for the dealer account.
15. During the Relevant Period, there were Interpositioning transactions on certain occasions in XYZ. For example, on November 25, 2002, after the Display Book was unfrozen at 2:17:43 p.m., one DOT market buy order in XYZ stock for 2,500 shares and one DOT sell order for 7,400 shares appeared on the Display Book for the first time. Instead of pairing off 2,500 shares, the specialist sold 2,500 shares to the market buy order at a price of \$53.85 for his Firm's dealer account and then in a separate transaction bought 5,700 shares for his Firm's dealer account from the sell order at a price of \$53.78, thereby generating a \$175 profit for the dealer account on the 2,500 shares ( $$.07 \times 2,500 \text{ share} = \$175$ ).
16. During the Relevant Period, on certain occasions there were Trading Ahead transactions for the Firm's dealer account in XYZ. For example, on October 21, 2002 at 9:40:04 a.m., a DOT market order to sell 5,800 shares of XYZ became viewable on the Display Book. Instead of pairing 4,100 shares of that order with three executable DOT market buy orders, totaling 4,100 shares, the specialist sold 4,100 shares from the dealer account to the buy orders at a price of \$55.88. In subsequent transactions, 800 shares of the sell order traded ahead of were sold at a price of \$55.80 and the balance at a price of \$55.75. As a result of these transactions, 4,100 shares of the sell order traded ahead of were disadvantaged in the amount of \$493 ( $800 \text{ shares} \times \$.08 = \$64$ ;  $3,300 \text{ shares} \times \$.13 = \$429$ ;  $\$64 + 429 = \$493$ ).

#### **Violation of NYSE Rule 104 by Failing to Maintain a Fair and Orderly Market**

17. NYSE Rule 104 states, in pertinent part, that "[n]o specialist shall effect on the Exchange purchases or sales of any security in which such specialist is registered, for any account in which he [or] his member organization . . . is directly or indirectly interested, unless such dealings are reasonably necessary to permit such specialist to maintain a fair and orderly market . . . ."

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although they continue to queue in the system in Order Time priority. When the Display Book is "unfrozen," DOT Orders that queued during the freeze are immediately viewable on the Display Book.

18. NYSE Rule 104.10(3), which sets forth the specialist's "negative obligation," further states that transactions by a specialist for the dealer account "must constitute a course of dealings reasonably calculated to contribute to the maintenance of price continuity with reasonable depth, and to the minimizing of the effects of temporary disparity between supply and demand, immediate or reasonably to be anticipated. Transactions not part of such a course of dealings . . . are not to be effected."
19. By effecting Interpositioning and Trading Ahead transactions for the dealer account in XYZ during the Relevant Period that were not reasonably necessary to maintain a fair and orderly market, and by failing to effectively represent and execute agency orders entrusted to the Firm, Ahlgrim violated NYSE Rule 104.

**Violation of NYSE Rule 123B(d) by Executing Trades for the Firm Dealer Account That Were Not in Accordance with Exchange Auction Market Rules and Procedures**

20. In connection with the specialists' obligation to maintain fair and orderly markets, NYSE Rule 123B(d) provides, in pertinent part, that a "specialist shall execute [SuperDOT] orders in accordance with Exchange auction market rules and procedures, including requirements to expose orders to buying and selling interest in the trading Crowd and to cross orders before buying or selling for his own account."
21. By effecting Interpositioning and Trading Ahead transactions for the Firm's dealer account during the Relevant Period, Ahlgrim failed to follow Exchange auction market rules and procedures, and failed to cross orders before buying or selling for the Firm's dealer account, in violation of NYSE Rule 123B(d).

**Additional Factors Considered**

22. In arriving at the agreed upon penalty in this matter, Enforcement considered the unique facts and circumstances surrounding this case.

**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 one-year bar from employment in any capacity on the Floor of the NYSE.

For the Hearing Board

Peggy Kuo - Chief Hearing Officer