NYSE ALTERNEST US LLC

HEARING BOARD DECISION 08-ALT-02 **December 17, 2008**
WOLVERINE TRADING, LLC
MEMBER ORGANIZATION

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Violated AMEX Rule 155 (made applicable to options by AMEX Rule 950) by failing to give precedence to orders entrusted to it as agent in options before executing at same price purchases or sales in those multiple options for accounts in which Firm and or its specialists had interest – Consent to censure and $30,000 fine.

Appearances:

For the Division of Enforcement
David Rosenstein, Esq.
Michael E. Jones, Esq.

For Respondent
Megan Flaherty, Esq.

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A Hearing Officer on behalf of the NYSE Alternext US LLC ("NYSE Alternext) considered a Stipulation of Facts and Consent to Penalty entered into between NYSE Regulation, Inc.'s Division of Enforcement ("Enforcement") and Wolverine Trading, LLC ("Respondent", "Wolverine", or the "Firm"), an NYSE Alternext member organization. Without admitting or denying guilt, Respondent consented to a finding by a Hearing Officer that it violated AMEX Rule 155 (made applicable to options by AMEX Rule 950) by failing to give precedence to orders entrusted to them as agent in multiple options before executing at the same price purchases or sales in those multiple options for accounts in which the Firm and or its specialists had an interest.

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. During all relevant periods herein, Wolverine was a member organization and a registered equities, options and ETF specialist organization of the American Stock Exchange ("AMEX").[1]

2. During all relevant periods herein, Wolverine served as a specialist for various equities, options and ETFs that traded on the Floor of the AMEX.

Summary of Violative Conduct

3. As set forth below, from August 2003 through August 2005 (the "Relevant Period"), on certain occasions, Wolverine, and/or specialists employed by the Firm, violated their respective agency obligations by failing to give precedence to orders entrusted to them. Orders were transmitted to the Floor of the AMEX electronically through the Amex New Trading Environment (ANTE) electronic options trading platform and entrusted to Wolverine, and/or its specialists, as agents. As described more fully below, on certain occasions during the Relevant Period, Wolverine and/or its specialists executed transactions in options of which they were registered for accounts in which they had an interest before executing at the same price any purchase or sale in the same options for accounts in which they were entrusted as agent.

The General Obligations of Specialists

4. Specialists are required to give precedence to orders entrusted to them as an agent in any stock (option) in which he/she is registered before executing at the same price any purchase or sale in the same stock (option) for an account in which the specialist has an interest.

Trading Ahead Violations

5. During the Relevant Period, on 188 occasions, Wolverine, and/or four specialists employed by the Firm, failed to give precedence to orders entrusted to them as agent

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* Hearing Officer Note: The facts, allegations, and conclusions contained in paragraphs 1 to 11 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.

[1] On or about October 1, 2008, the AMEX was acquired by NYSE Euronext and was renamed NYSE Alternext US LLC. Thus, while the rules of NYSE Alternext govern the procedural aspects of this Stipulation and Consent, because the conduct referred to herein occurred prior to the acquisition date, the violations were of "AMEX Rule".

in multiple options before executing at the same price purchases or sales in those multiple options for accounts in which the Firm and or its specialists had an interest.

6. During the Relevant Period, on certain occasions there were trading ahead transactions for the Firm's dealer account in XYZ[2]. For example, on June 24, 2004 at 10:09:52 a.m., the quoted market in XYZ was 3.10 – 3.20, (100x5). At 10:10:21 a.m., an ANTE limit order to buy 5 contracts of XYZ at 3.20 became viewable in the specialist's book, which was executable at the time of the specialist's receipt of the customer's limit order. At 10:10:48 a.m., the specialist executed an order for his own account by buying 5 contracts of XYZ at 3.20, thus trading ahead of the customer order. The customer never received a fill and cancelled the order at 10:10:52 a.m.

7. Certain customers were harmed by the conduct described in paragraph 5 above.

Violation of AMEX Rules 155 and 950 by failing to give precedence to orders entrusted to them as agent

8. During all relevant periods herein, AMEX Rule 155 required that a specialist give precedence to orders entrusted to him as an agent in any stock in which he is registered before executing at the same price any purchase or sale in the same stock for an account in which the specialist has an interest.

9. During all relevant periods herein, AMEX Rule 950 (Rule of General Applicability) stated that AMEX Rule 155 also applies to AMEX option transactions and other transactions on the Exchange in option contracts and indicates that unless the context otherwise requires, the term "stock" whenever used in Rule 155 shall be deemed to included option contracts.

Additional Factors Considered

10. In determining to resolve this matter on the basis set forth herein, Enforcement took into consideration the significant number of trades executed by the Firm in its capacity as a specialist firm on the Floor of the AMEX without incident.

11. In addition, Enforcement took into consideration the development of system improvements by the AMEX which aid specialist firms in preventing instances of trading ahead. Since the time period discussed herein, there has not been recurrence of trading ahead violations by Wolverine Trading.

[2] A generic identifier has been used in this example.

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 $30,000 fine.

For the Hearing Board

Peggy Kuo - Chief Hearing Officer