

NYSE AMEX LLC

HEARING BOARD DECISION 09-AMEX-13

June 11, 2009

JANE STREET SPECIALISTS, LLC
MEMBER ORGANIZATION

* * *

Violated Amex Rule 155 by failing to give precedence to orders entrusted to it as agent in an ETF before executing at same price purchases or sales in that ETF for accounts in which Firm had interest. – Consent to censure and \$4000 fine.

Appearances:

For the Division of Enforcement
David Rosenstein, Esq.
Brian F. Sklar, Esq.

For Respondent
Robert B. McCaw, Esq.

* * *

A Hearing Officer on behalf of the NYSE Amex LLC (“NYSE Amex”) considered a Stipulation of Facts and Consent to Penalty entered into between NYSE Regulation, Inc.’s Division of Enforcement (“Enforcement”) and Jane Street Specialists, LLC (“Respondent” or “Jane Street”), an NYSE Amex member organization. Without admitting or denying guilt, Respondent consented to a finding by a Hearing Officer that it violated Amex Rule 155 during the period of March 1, 2005 through May 31, 2005 by failing to give precedence to orders entrusted to it as agent in an ETF before executing at the same price purchases or sales in that ETF for accounts in which the Firm 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:*

-
- * 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.

Background and Jurisdiction

1. During all relevant periods herein, Jane Street was a Regular Member Organization and a registered options and Exchange Traded Funds (“ETFs”) specialist organization of the American Stock Exchange (“Amex”).¹
2. During all relevant periods herein, Jane Street served as a specialist for one ETF that traded on the Floor of the Amex.

Summary of Violative Conduct

3. As set forth below, during the time period of March 1, 2005 through May 31, 2005 (the “Relevant Period”), on certain occasions, Jane Street violated its respective agency obligations by failing to give precedence to orders entrusted to the Firm. Orders were transmitted to the Floor of the Amex electronically through the Amex’s New Equity Trading System (“NETS”) electronic equities trading platform and entrusted to Jane Street as agent. As described more fully below, on certain occasions during the Relevant Period, Jane Street executed transactions in equities of which it was registered for accounts in which it had an interest before executing at the same price any purchase or sale in the same equities for accounts in which it was 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 (including ETFs) in which he/she is registered before executing at the same price any purchase or sale in the same stock (including ETFs) for an account in which the specialist has an interest.

Trading Ahead Violations

5. During the Relevant Period, on approximately 25 occasions, Jane Street failed to give precedence to orders entrusted to it as agent in an ETF before executing at the same price purchases or sales in that ETF for accounts in which the Firm had an interest.
6. During the Relevant Period, on certain occasions there were Trading Ahead transactions for the Firm’s dealer account in XYZ². For example, on March 2, 2005 at 2:09:42 p.m., the quoted market in XYZ was 79.45 – 79.72 (10x3). At 2:10:00 p.m., a NETS limit order to buy 2200 shares of XYZ at 79.71 became viewable in the

¹ On October 1, 2008, the Amex was acquired by the NYSE Euronext and was subsequently renamed NYSE Amex LLC. Thus, while the rules of NYSE Amex 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 Rules”.

² A generic identifier has been used in this example.

specialist's book. At 2:36:52 p.m., the specialist executed an order for his own account by buying 1900 shares of XYZ at 79.71, thus trading ahead of the customer order. The customer's order to buy 2200 shares of XYZ was subsequently executed at 2:37:08 p.m. at the limit price of 79.71.

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

Violation of Amex Rule 155 by failing to give precedence to orders entrusted to it 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 (including ETFs) in which he is registered before executing at the same price any purchase or sale in the same stock (including ETFs) for an account in which the specialist has an interest.

Additional Factors Considered

9. In determining to resolve this matter on the basis set forth herein, Enforcement took into consideration the size and duration of the conduct at issue as well as the fact that since the time period discussed herein, there has not been a recurrence of trading ahead violations by Jane Street.
10. Enforcement also took into consideration Jane Street's lack of disciplinary history with respect to the area of trading ahead.
11. In addition, Enforcement took into consideration the development of system improvements by the NYSE Amex which aid specialist firms in preventing instances of trading ahead.

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 \$4000 fine.

For the Hearing Board

Peggy Kuo - Chief Hearing Officer