

NYSE ARCA, INC.

NYSE REGULATION,

Complainant,

v.

SUMMIT SECURITIES GROUP, LLC,

Respondent.

Proceeding No. 2017-05-00062

December 12, 2018

Summit Securities Group, LLC violated: (i) NYSE Arca Equities Rule 7.23, by failing to maintain continuous, two-sided trading interest in approximately 130,000 instances; and (ii) NYSE Arca Equities Rule 6.18(b), by failing to establish and maintain adequate supervisory procedures reasonably designed to ensure compliance with NYSE Arca Equities Rule 7.23. Consent to censure, \$90,000 fine, and undertaking.

Appearances

For the Complainant: Laura J. Seamon, Esq. and Adam J. Wasserman, Esq., NYSE Regulation.

For the Respondent: Richard M. Asche, Esq., Litman, Asche & Gioiella, LLP.

DECISION

Summit Securities Group, LLC (“Summit” or the “Firm”) and NYSE Arca, Inc. (“NYSE Arca”) entered into an Offer of Settlement and Consent 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 offer of settlement.¹ The Hearing Officer accepts the Offer of Settlement and Consent.²

¹ FINRA’s Office of Hearing Officers reviewed the Offer of Settlement and Consent under the terms of a Regulatory Services Agreement (as amended) among NYSE Group, Inc., New York Stock Exchange LLC, NYSE Arca, Inc., NYSE American LLC (fka NYSE MKT LLC), and FINRA.

² See NYSE Arca Rule 10.6(e). The facts, allegations, and conclusions contained in this Decision were taken from the executed Offer of Settlement and Consent.

FINDINGS OF FACTS AND VIOLATIONS

Overview

1. From January 1, 2017, through March 31, 2018 (“Relevant Period”), Summit violated: (i) NYSE Arca Equities Rule 7.23,³ by failing to maintain continuous, two-sided trading interest in approximately 130,000 instances over three quarters; and (ii) NYSE Arca Equities Rule 6.18(b),⁴ by failing to establish and maintain an adequate supervisory system reasonably designed to ensure compliance with NYSE Arca Equities Rule 7.23.

Background and Jurisdiction

2. Summit registered as an Equities Trading Permit (“ETP”) Holder with NYSE Arca, Inc. on October 8, 2012.

Violations

NYSE Arca Equities Rule 7.23 (Market Maker Quoting Requirements)

3. NYSE Arca Equities Rule 7.23 (a)(1)(B) sets forth specific quotation requirements for ETP Holders registered as Market Makers in one or more securities that trade on the NYSE Arca Equities market. Under the rule, a Market Maker had pricing obligations for National Market System stocks in which the Market Maker must, during the core trading session, enter bid (offer) interest, “not more than the ‘Designated Percentage’ away from the then current National Best Bid (Offer) [“NBBO”], or if no [NBBO], not more than the Designated Percentage away from the last reported sale from the responsible single plan processor.” The Market Maker was required to remain within the Designated Percentage as the NBBO increased, decreased, or if a bid (offer) was executed or cancelled.
4. Because Market Makers receive benefits for their registration in particular symbols, it is essential that they uphold the quoting obligations associated with their registered symbols, and provide market liquidity in the form of continuous quoting, as NYSE Arca Equities Rule 7.23 required.
5. Summit was registered in approximately 3,612 symbols on average during the Relevant Period.
6. In approximately 130,000 instances over three quarters during the Relevant Period, Summit violated NYSE Arca Equities Rule 7.23(a)(1)(B), by failing to enter and maintain continuous, two-sided trading interest within the Designated Percentage above and below the NBBO as the rule required.

³ NYSE Arca Equities Rule 7.23 is now denominated NYSE Arca Rule 7.23-E.

⁴ NYSE Arca Equities Rule 6.18 is now denominated NYSE Arca Rule 11.18.

NYSE Arca Equities Rule 6.18 (Supervision)

7. NYSE Arca Equities Rule 6.18(b) required each ETP Holder to “establish and maintain a system to supervise the activities of its associated persons and the operation of its business.” Pursuant to NYSE Arca Equities Rule 6.18(b), “[s]uch system must be reasonably designed to ensure compliance with applicable federal securities laws and regulations and NYSE Arca Equities Rules.”
8. During a portion of the Relevant Period, Summit primarily relied upon an external report NYSE Arca, Inc. provided for its surveillance which was not an adequate substitute for the Firm’s internal supervisory system. As NYSE Arca, Inc. explicitly stated, those reports were informational only, and produced without a warranty of completeness. While Summit maintained an internal market making quoting report, the report failed to reasonably identify exceptions during the Relevant Period.
9. In its reviews during part of the Relevant Period, Summit staff did not investigate gaps shorter than twenty seconds in duration, which nonetheless constituted violations of NYSE Arca Equities Rule 7.23, and contributed to recurring quoting gaps throughout the Relevant Period.
10. In certain instances, when Summit’s surveillance flagged quoting gaps, the Firm did not adequately investigate or quickly resolve the underlying issues. In certain instances, the Firm took several days to address the root cause of quoting gaps, which lead to the issue persisting in the same symbols across multiple days.
11. Accordingly, Summit violated NYSE Arca Equities Rule 6.18(b) because it failed to reasonably supervise the activities of its associated persons and the operation of its business by establishing and maintaining adequate supervisory procedures, including written procedures and a system of follow-up and review reasonably designed to ensure compliance with NYSE Arca Equities Rule 7.23.

Relevant Disciplinary History

12. On October 4, 2014, Summit received a Cautionary Action Letter for failing to meet its quoting obligations under NYSE Arca Equities Rule 7.23 from March 1, 2013, through June 30, 2013. This prior informal action was taken into consideration in determining the appropriate sanction in this matter.

Other Factors

13. In connection with NYSE Regulation’s investigation, Summit modified and will continue to modify its supervisory system and written supervisory procedures concerning NYSE Arca Rule 7.23-E.

ORDER

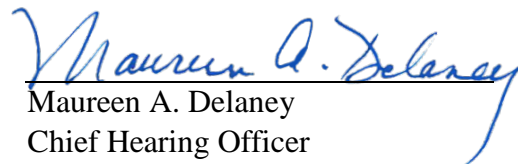
Summit Securities Group, LLC violated: (i) NYSE Arca Equities Rule 7.23, by failing to maintain continuous, two-sided trading interest in approximately 130,000 instances during three quarters of the Relevant Period; and (ii) NYSE Arca Equities Rule 6.18(b), by failing to establish and maintain adequate supervisory procedures reasonably designed to ensure compliance with NYSE Arca Equities Rule 7.23.

SANCTIONS

Summit Securities Group, LLC is censured and fined \$90,000.

Summit agrees to an undertaking requiring the Firm to certify that it has revised its supervisory system and written supervisory procedures to ensure they are reasonably designed to comply with NYSE Arca Equities Rule 7.23 (now NYSE Arca Rule 7.23-E).

These sanctions are effective immediately.


Maureen A. Delaney
Chief Hearing Officer