

## MEMORANDUM

To: Admin Proc. File Nos. 3-11445, 3-11446, 3-11447, 3-11448, 3-11449, 3-11558, 3-11559 (In the Matter of Bear Wagner Specialists LLC, Fleet Specialist, Inc., LaBranche & Co. LLC, Spear, Leeds & Kellogg Specialists LLC, Van der Moolen Specialists USA, LLC, Performance Specialist Group LLC, and SIG Specialists, Inc.)

From: Matthew Strada  
Counsel to the Chairman

Date: November 4, 2010

Re: Meeting with Robert J. Peacock

On September 14, 2010, I met with Robert J. Peacock. Also in attendance were Christian Broadbent (Counsel to Commissioner Walter), Alicia Goldin (Counsel to Commissioner Walter), and Scott Kimpel (Counsel to Commissioner Paredes). Mr. Peacock addressed potential uses of the residual funds remaining in the distribution fund established in the above-referenced matters. Mr. Peacock expressed his view that he was damaged by the violations of the federal securities laws at issue in these matters and should receive a distribution from the residual funds. Mr. Peacock supplied us with a binder of materials and certain supplemental documents.

Attached to this memorandum is a copy of the "Opening Statement" supplied by Mr. Peacock. Other materials supplied by Mr. Peacock will be placed in the public comment file associated with the above-referenced matters.

**Opening Statement to  
Matthew D. Strada  
Counsel to the Chairman**

**Request for Emergency Financial Relief in the Matter of  
The NYSE Execution Fraud  
September 14, 2010**

**Mr. Strada,**

**Thank you for meeting with me this morning.**

**From February 11, 2001 thru March 30, 2005, I operated a sole proprietorship in the crosshairs of the violations of the NYSE and its members. I was an independent contractor and trader for the accounts of Empire Programs and Sea Carriers LP 1. In this capacity, my sole and only source of income to support myself and my family was generated from profits resulting from market orders to purchase and sell stock listed on the NYSE that I electronically transmitted directly to NYSE Specialists via the NYSE's SuperDOT system. I was not paid a salary, I received no health benefits, I received no pension benefits, I was not an employee – I was an independent contractor and trader.**

**SEC Release No. 8566 / April 12, 2005, alleged:**

*Several of the specialists engaged in particularly egregious conduct. For example, in several instances of “interpositioning,” the specialist not only disadvantaged both a buy and a sell order, but also moved the price up or down from the last sale price to further advantage the specialist firms' proprietary account. In other instances, several of the specialists punctuated their improper trading with statements such as “f—k the DOTS” and “screw the DOTS” as they were in fact disadvantaging agency orders.*

**I could not agree more with this accurate and true characterization of the NYSE specialists' fraud/violations. What is missing, however, is any discussion of the flow of money that NYSE Specialists stole, cheated, defrauded... directly into the pockets of NYSE**

**self regulators, executives, and members of the NYSE Board of Directors, and into the pockets of executives of the parent companies of some of the Specialist Firms.**

**Every order that I transmitted electronically to NYSE Specialists via the NYSE's SuperDOT system, without exception, was accompanied by a branch sequence number that included a three letter NYSE Mnemonic Code. These three letter NYSE Mnemonic Codes are derived from all possible combinations using our 26 letter alphabet (AAA, AAB,AAC...); 17,576 combinations in total. Goldman Sachs/SLK, the prime broker for the vast majority of the orders that I transmitted electronically to NYSE Specialists, provided my clients, Empire Programs and Sea Carriers, with NYSE Mnemonic Codes that were used exclusively by me, and used by no one else in the world. These NYSE Mnemonic codes assigned exclusively to me are a matter of fact and record, and can be independently verified by Alan Martin of Empire Programs, Per Barre of Sea Carriers, and Goldman Sachs/SLK. These dedicated, NYSE Mnemonic codes, found on the opposite side of the NYSE Specialists' fraudulent practices and violations, are recorded in black and white, in the NYSE's execution data base (CAUD data). A black and white, crystal clear record of violations and fraudulent practices that adversely affected the orders that I transmitted to the NYSE exists, and I request to see that video tape of NYSE violations, without any further delay. The SEC is the NYSE's regulator, and has the absolute power and authority to require the NYSE to provide me access to its execution data for extensive, thorough, and complete forensic fraud analysis purposes. The NYSE is subject to President Obama's Executive Order on Transparency and Open Government; US District Judge Robert W. Sweet granted the NYSE "absolute immunity" because in its self regulatory capacity, it acts as a quasi government entity (see tab G of the 8.13.2010 Casey Binder).**

**Transparency is the key to the maintenance of market integrity.**

**The impact of the violations by the NYSE and its members on my business went far beyond simply reducing my income. My clients withdrew 100% of the funds for trading, and my income plummeted to zero at a critical time in my life where both of my daughters were in**

**and entering college, creating a \$300,000 liability. In an attempt to mitigate the financial hemorrhaging, I withdrew funds from my retirement account that I had been building since 1979, bringing the balance close to zero. The NYSE violations damaged my track record of performance, and my professional reputation. This made getting new, meaningful business all but impossible, even from relationships that I had spent my entire career forging. Losing your source of income is one thing, losing your ability to generate new income is the equivalent of financial terrorism.**

**I was forced to sell the home that my children grew up in, and that our family resided in for over 22 years. My financial nightmare is just beginning. Recently I informed the US Department of Education that I have no choice but to default on the college obligations that I incurred. My daughter Erin (24) will be forced to do the same. With no retirement savings, I have no idea how the final chapter will play out.**

**Before Chairman Schapiro and her fellow Commissioners make any decisions regarding the use of the \$135,000,000 dollar surplus/remaining funds in the NYSE Execution Fraud Fund, they have an obligation and duty to review and carefully analyze this video tape of the violations as well. Based upon my detailed, forensic fraud analysis of every single one of the orders that I transmitted directly to NYSE Specialists via the Exchange's SuperDOT system, I will prepare a schedule of violations that will include a detailed breakdown of:**

- 1. Trade information, including branch sequence number, NYSE Mnemonic codes that were exclusively assigned to me, trade date and time to the minute and second, symbol...**
- 2. the exact disgorgement amount for each violation,**
- 3. the corresponding penalty for that specific violation, and**
- 4. accrued interest from the day the violation occurred to the present.**

**I will conduct this detailed, forensic fraud analysis and provide the schedule described above to Chairman Schapiro and her fellow Commissioners at no cost to the SEC, the US Government, or to US taxpayers.**

**Unlike the NYSE, I will provide Chairman Schapiro and her fellow Commissioners with a clear and precise explanation of the fraud/violation identification process and damage assessment algorithms. My analysis will be 100% transparent. My analysis will not interfere with any ongoing SEC investigation into whether or not any of the NYSE Execution data is missing or has been destroyed.**

**Chairman Schapiro and her fellow Commissioners have a sworn duty and obligation to make their decision as to the disposition of the remaining surplus/remaining funds based upon the documented facts of the NYSE Execution Fraud, and not based on documented NYSE false statements, platitudes, and/or secretive and non transparent retroactive surveillance.**

**Thank you again for meeting with me this morning.**

**Robert J. Peacock  
Special, Documented Victim of the NYSE Violations  
September 14, 2010**