

*Letter Type A**ES106870*

JOSAUNDR A. SMITH  
2107 SE 183<sup>RD</sup> AVENUE  
VANCOUVER, WA 98683  
360-604-9856  
MITSY3000@YAHOO.COM

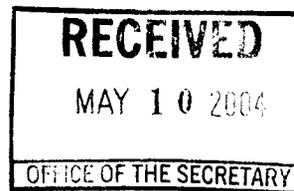
*114*

May 6, 2004

*Via Facsimile: 202-942-9646*

Hon. William H. Donaldson, Chairman  
U.S. Securities and Exchange Commission  
450 First Street, NW  
Washington, DC 20549

*57-10-04*  
RE: File #~~57-1-04~~



Dear Chairman Donaldson:

As an investor in a 401K Retirement Plan, I am pleased the SEC has included provisions in Regulation NMS that will increase investor choice in the national securities markets.

My 401K is managed solely for the purpose of preparing for retirement; therefore, it is very important that these funds be managed well and that factors such as certainty of execution, speed of execution and of course best price be taken into account when trades are made for my account.

For these reason, I support a strong opt-out provision for the outdated trade-through rule. While well-intentioned and sensible decades ago, the trade through rule assumes that only one variable – advertised price – determines the quality of the deal for the investor. As I mentioned other factors such as speed and certainty of execution greatly influence the end result and investors should determine how our orders are executed. Furthermore, the advent of the electronic marketplace has greatly lessened the need for the trade-through rule since the market is transparent and real time pricing is available to all investors.

The proposed modification to the trade-through rule would allow investors to opt out if they believe forgoing a certain transaction in favor of a better advertised price is not in their best interest. With my retirement funds riding on the investment decisions and trades made in my 401K plan, I encourage you to promulgate a strong opt-out provision to ensure maximum flexibility for the investor.

Sincerely,



Josaundra A. Smith

cc: Gordon Jespersion