Robert J. Peacock
[redacted]

September 27, 2010

The Honorable Mary L. Schapiro
Chairman
United States Securities and Exchange Commission
100 F Street
Washington, DC 20549

RE: Use of Remaining Funds
NYSE Specialist Execution Fraud Settlement Fund -
2004 Securities Exchange Act Release Nos. 49498 – 49502 and Nos. 50075 – 50076

2005 Securities Exchange Act Release No.51524
Administrative Proceeding File No. 3-11892
Censure and Cease and Desist Order
New York Stock Exchange, Inc., Respondent, and the

President Obama's Order on Transparency and Open Government

Dear Chairman Schapiro:

I believe that you and your fellow Commissioners have a sworn duty and obligation to make your decision as to the disposition of the remaining/surplus funds in the fair fund created by the SEC for the benefit of the victims of NYSE violations based upon the documented facts of the NYSE Execution Fraud, and not based on documented NYSE false statements, false NYSE platitudes and representations, or on secretive and non transparent retroactive surveillance conducted by the NYSE. I believe your decision should not be based on potentially self serving recommendations of certain SEC staff members who may be more concerned about covering up their own actions in the fraud adjudication process conducted hand in hand with the NYSE itself, than on the fair distribution of remaining funds.

I appreciated having the opportunity to meet with Commissioner Casey, William Schulz, Matthew Strada, Scott Kimpel, Alicia Goldin, Christian Broadbent, Michael Coe, Mary Beth Sullivan, and was grateful for the assistance and professionalism of Secretary Murphy, Janet Smaultz, Christopher Appel, and H. David Kotz. However, these meetings are no substitute for comprehensive, thorough, forensic fraud analysis of the "smoking gun" of the NYSE Execution Fraud – the NYSE execution data that documents in black and white every NYSE violation that

adversely affected the market orders that I transmitted electronically to NYSE Specialists via the NYSE's SuperDOT system.

Your SEC biography states that you are, "working to deepen the SEC's commitment to transparency, accountability..." President Obama issued an executive order on transparency within days of taking office. Personally, I believe transparency is the key to the maintenance of market integrity. If you and President Obama are truly committed to transparency, why hasn't the SEC even responded to my repeated requests to be granted access to the NYSE execution data? All I want to do is prepare a detailed schedule of violations that adversely affected the orders that I transmitted electronically to NYSE Specialists via the NYSE's SuperDOT system, and present that schedule to you and your fellow commissioners to consider in your deliberation process regarding the disposition of the remaining/surplus funds.

Given the critical importance of this transparency issue, I request the opportunity to meet with you to discuss the SEC's position, which from my perspective as a victim of the violations, is simply a continuation of the NYSE's secretive and non transparent adjudication process of the Exchange's Execution Fraud. Please find attached to this meeting request a copy of my September 24th letter to Michael Coe, as well as other key documents supporting my request for emergency financial relief.

Please let me know if you have any questions regarding this meeting request, or any questions regarding any of the attached documents and exhibits. Thank you for your continuing consideration in this matter, and best regards,

Robert J. Peacock

[redacted]

cc: Elizabeth M. Murphy & Brenda P. Murray
Commissioners Casey, Walter, Paredes, Aguliar
SEC Counsels Strada, Coe, Kimpel, Sullivan
William Schulz, Alicia Goldin, Christian Broadbent
Janet Smaultz, Christopher Appel, H. David Kotz, Thomas Sporkin, R. Khuzami
Leonard Lance, Jon Taets, Bobbi Goodman, Glenn Mortimer, Amanda Wolshen
President Obama, Danielle Gray

Robert J. Peacock
[redacted]

September 24, 2010

Mr. Michael Coe
Counsel to Commissioner Aguilar
United States Securities and Exchange Commission
100 F Street
Washington, DC 20549

RE: Use of Remaining Funds
NYSE Specialist Execution Fraud Settlement Fund -
2004 Securities Exchange Act Release Nos. 49498 – 49502 and Nos. 50075 – 50076

2005 Securities Exchange Act Release No.51524
Administrative Proceeding File No. 3-11892
Censure and Cease and Desist Order
New York Stock Exchange, Inc., Respondent, and

President Obama's Order on Transparency and Open Government

Dear Mr. Coe:

Thank you for meeting with me on Tuesday morning, and for listening to my request for emergency financial relief.

In our meeting, you asked a fundamental question regarding my specific damages. Below is detailed answer to your question:

	Total $ Amt.	Per Share Amount in cents
Estimated Total Disgorgement Amount (note 1):	$ 4,000,000	.8
Accrued Interest (note 2):	$ 4,050,000	.81
Penalty Amount:	$ 7,950,000	1.59
Total:	$16,000,000	3.2 cents

(The actual disgorgement amount is a matter of fact and record. The disgorgement amount is documented in the NYSE execution data base. The Chairman, Commissioners, and SEC staff do not need to speculate as to the accuracy of my estimate.)

Stated differently, I estimate my income would have been $4,000,000 more had the NYSE execution fraud not occurred

On my total trading volume of approximately 500,000,000 shares, the $16,000,000 total request for emergency financial relief breaks down to an average NYSE stealing rate of approximately 3.2 cents per share.

The impact of the violations by the NYSE and its members on my business went far beyond simply reducing my income:

1. 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.

2. 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.

3. As a result of hard work over a 4 year period, I was made a partner of Sea Carriers. When Sea Carriers ceased operations, the value of my partnership interest went to zero.

4. 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.

5. I am the beneficiary of a small family trust created by my grandfather. My two brothers and their children, as well as my two daughters, are also beneficiaries. In 2007, under the deprivation clause of the Trust, I made a request to Bank of America (the corporate trustee) for financial assistance because the NYSE and its members had deprived me of my ability to provide for my family. The Trust did provide financial assistance, and in the process, the principal balance in the Trust declined by approximately 25%. Since this drastic reduction in principal, Bank of America has denied my daughter Lauren's request for funds to help pay for graduate school. Bank of America denied my nephew's request for $25,000 for a down payment for a home in Denver for his wife and new baby. Bank of America has denied my daughter Erin's request to assist her in repaying college loans for the University of Colorado. Erin graduated from CU two years ago.

6. I was forced to sell the home that my children grew up in, and that our family resided in for over 22 years.

7. Earlier this month I informed the US Department of Education that I have no choice but to default on the education loans that I took out to pay for my daughters' college expenses. This is the first time I have ever defaulted on a financial obligation.

Losing your source of income is one thing, losing your ability to generate new income is the equivalent of financial terrorism.

Robert J. Peacock
[redacted]

Note 1.
The actual disgorgement amount is a matter of fact and is documented in the NYSE execution data base. The Chairman, Commissioners, and/or SEC staff members do not have to speculate or debate as to the accuracy of my estimate. 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).

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.

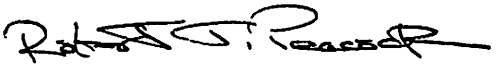
Robert J. Peacock
[redacted]

Note 2.
Interest is calculated at a 15% simple annual rate from 2004 on $4,000,000. 15% is lower than the rate JP Morgan Chase charges on credit card balances.

2004	$4,000,000 X 15% = $600,000.00	
2005	$4,000,000 X 15% = $600,000.00	
2006	$4,000,000 X 15% = $600,000.00	
2007	$4,000,000 X 15% = $600,000.00	
2008	$4,000,000 X 15% = $600,000.00	
2009	$4,000,000 X 15% = $600,000.00	
2010	$4,000,000 X 15% = $450,000.00	(for the 9 months ending September, 2010)
TOTAL INTEREST:	$4,050,000	

I hope this explanation clarifies the scope and nature of my damages. Thank you again for your consideration in this important and critical matter.

Sincerely yours,



Robert J. Peacock

[redacted]

Proposed Modification to Distribution Plan:

After careful review, the Commission has determined that Robert J. Peacock, an independent contractor and trader for the accounts of Empire Programs and Sea Carriers LP 1, was a special victim of the referenced violations. The Commission approves a special payment in the amount of $16,000,000 to Mr. Peacock for reimbursement of his damages. The SEC Representative is hereby authorized to approve this payment and issue it directly, without delay.

About the SEC
Filings & Forms
Regulatory Actions

Proposed Rules
Final Rules
Interim Final Rules
Concept Releases
Interpretive Releases
Policy Statements
SRO Rulemaking
PCAOB Rulemaking
Exemptive Applications
Exemptive Orders
IA Releases
IC Releases
IC Deregistrations
Other Releases
Rulemaking Petitions
Exchange Delistings

Staff Interps
Investor Info
News & Statements
Litigation
ALJ
Information for...
Divisions

Comments on Administrative Proceeding: 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.

[Release No. 34-53025; Admin. Proc. File Nos. 3-11445, 3-11446, 3-11447, 3-11448, 3-11449, 3-11558, 3-11559]

Aug. 31, 2009	Darren J. Robbins, California Public Employees' Retirement System
Aug. 31, 2009	James I. McClammy, Davis Polk & Wardwell LLP, on behalf of Fleet Specialist, Inc. (nka Banc of America Specialist, Inc.)
Aug. 31, 2009	Jaap Gelderoos and Peter Zwart, Van der Moolen Holdings
Aug. 31, 2009	Robert A. Martin, Empire Programs Inc., Saddle River, New Jersey
Mar. 13, 2007	Robert J. Peacock, Summit, New Jersey
Feb. 12, 2007	Robert Peacock
Jan. 26, 2006	Daniel J. Popeo, General Counsel and Richard A. Samp, Chief Counsel, Washington Legal Foundation
Jan. 25, 2006	William B. Weber
Jan. 25, 2006	Tim Davidson, Financial Advisor, UBS Financial Services Inc.
Jan. 25, 2006	Robert J. Peacock
Jan. 25, 2006	Ola Holmstrom
Jan. 24, 2006	Robert A. Martin, Empire Programs Inc.
Jan. 24, 2006	George Szele, Managing Director, Independent Asset Management, LLC
Jan. 3, 2006	Franco A. Mortarotti, CEO, Zermatt Capital Management, Huntsville, Utah

http://www.sec.gov/litigation/admin/311445.shtml

Exhibit A

Commentators on Administrative Proceeding: The NYSE and its 7 Specialist Firms

	Name	Account Traded / Affiliation	Specific $ Damage Claim
1	Franco Mortarotti	Zermatt Capital Management why the secrecy, have all violations been identified???	$0
2	George Szele	Sea Carriers LP 1 / Independent Asset Management (IAM) IAM's track record and reputation negatively impacted, IAM out of business	$10,000,000
3	Robert Martin	Empire Programs / Sea Carriers / Independent Traders Prorate remaining funds among identifed victims	$0
4	Ola Holmstrom	Empire Programs / Sea Carriers LP1 / Sea Carriers fraud analyst... there are more violations...	$0
5	Robert Peacock	Empire Programs / Sea Carriers LP 1 / Sea Carriers see August 13, 2010 presentation to Commissioner Casey	$16,000,000
6	Tim Davidson	Empire Programs / Sea Carriers LP 1 / Sea Carriers Independent contractor and trader, became a partner of Sea Carriers	$0
7	William Weber	Empire Programs / Sea Carriers LP 1 / Sea Carriers Independent contractor and trader	$1,500,000
8	Daniel Popeo	Washington Legal Foundation (a public advocacy group - not a fraud victim) pay victims accured interest	$0
9	J. Gelderoos and P. Zwart	Van der Moolen Holdings please do not give our funds to the US Treasury, or our government will call...	$0
10	James I. McClammy	Davis Polk, on behalf of Fleet Specialists... Let us work with Calpers	$0
11	Darren J. Robbins	California Public Employees' Retirement System Use remaining funds toward settlement of the class action lawsuit	$0

Total $ Amount of Specific Damage Claims	$27,500,000
Total $ Amount of Remaining Funds	$135,000,000
% of Specific Claims / Total Remaining Funds	20.37%
Total number of commentators	11
Total number of commentators that were victims of the NYSE violations:	8
Number of commentators that were affiliated with Empire and/or Sea Carriers:	6
% of Empire and/or Sea Carriers victim commentators in relation to all victim commentators	75.00%

Subject: File No. 3-11940
From: Franco A. Mortarotti
Affiliation: CEO, Zermatt Capital Management

January 3, 2006

Sirs;

It is hard for us to understand the reasoning for the secrecy of the transactions, and the secrecy of the disgorged clients.

If there are identified transactions, with specific trade date, time, and specific security; list it on your website.

For years we have written the NYSE on these matters, we have full documentation of transactions that we feel should have been attended to, though The NYSE never responded with an adequate response.

If these transactions were available for viewing, and we find that we are involved or not involved it would save both our time and the administrators time.

Further, it would be helpful in understanding how the commission came to the conclusion that the transactions involved were all or close to all of the transactions that were involved in the disgorgement.

Sincerely,

Franco A. Mortarotti

Ola Holmstrom

Office of the Secretary
United States Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-9303
UNITED STATES OF AMERICA

COMMENTS on the:
FUND ADMINISTRATOR'S PROPOSED FAIR FUND DISTRIBUTION PLAN
Regarding Administrative Proceeding File Nos.:
3-11445, 3-11446, 3-11447, 3-11448, 3-11449, 3-11558, and 3-11559.

Introduction

I worked at Sea Carriers in Greenwich, CT from the summer of 2002 until the summer of 2004. During this time, I served as a trader, programmer, and analyst first during a time when Sea Carriers had a Joint Venture with Empire Programs[1] and traded a managed account, as well as when Sea Carriers was completely independent of Empire Programs and had outside investors.

At Sea Carriers, large quantities of public shares listed mainly on the New York Stock Exchange (NYSE) were traded electronically in small lots at a time, in an extremely active manner. We traded mainly the most active shares, all of which have been specifically named by the SEC as issues having been manipulated by the specialists. We often made profits of less than one penny per share, and two pennies per share would have been considered extraordinarily profitable. As such, our strategy is a prime example of someone who would have been injured by the NYSE fraud. The smallest violations that most investors would never notice, and possibly not care about, hurt us in a way that made it impossible to continue operating, leaving several people out of all compensation for many months, and will continue to hurt the reputation of the people and entities involved as track records are of utmost importance in the asset management business.

In addition to working at Sea Carriers during both these stages, I was an investor in Sea Carriers Limited Partnership I and I have an equity position in Independent Asset Management LLC (IAM) of Stamford, CT, which in turn, was invested in Sea Carriers and was very adversely affected by the violative behavior of the specialists. I have therefore been damaged in at least four different ways:

[1] Empire Programs (of New Jersey) is run by Robert and Allan Martin and has been named co-lead plaintiff along with CALPERS in the Class Action Lawsuit against the specialist firms of the NYSE regarding trading violations.

1. Loss of compensation (which was primarily based on trading performance) while trading Empire Programs account while at Sea Carriers.
2. Loss of compensation while trading funds in Sea Carriers Limited Partnership I.
3. Loss of capital invested in Sea Carriers Limited Partnership I
4. Consequential damage to value of my equity stake in IAM.

I have now relocated to my native Sweden from where I maintain contact with IAM, very little contact with Sea Carriers, and absolutely no contact with Empire Programs.

Comments on the Plan

These comments address two main issues;

1. The failure to identify several potentially injured customers.
2. The non-disclosure of the methodology employed to arrive at the total amount of money collected by the SEC thus far.

Discussion

The failure to identify several potentially injured customers:

The plan fails to identify persons or entities such as myself, in all 4 different ways listed above. As someone who does not actually hold the account from which the trades were executed, but were DIRECTLY affected by the NYSE fraud that injured the actual account holder. This is of course extremely unfair to many people who have taken great personal risks by relying on income based on the performance of trading with specialists who apparently had no qualms about denying small but frequent profits from active trading. The Fund should ideally distribute the funds directly to the 'end-injured' person/entity to limit the number of claims created between traders and former or current account managers. Understanding that this is a difficult and time-consuming task for one Administrator to complete, I suggest each recipient of funds needs to be legally bound to disclose all details of all compensation received to possible derivative injured persons. Details need to be given by the Administrator to each recipient of each and every trade where a violation occurred specific enough to identify it (including account numbers, mnemonic codes, time and date-stamps down to the second, price, disbursement amount, symbol, specialist firm, and others).

I specifically need such information from Sea Carriers, Empire Programs, IAM, and any entities associated with and controlled by them.

The non-disclosure of the methodology employed to arrive at the total amount of money collected by the SEC thus far.

So far, there has been no public disclosure of the methodology used to arrive at the just less the $250mm disgorgement and civil penalty amounts. The little information that has been released is that it was arrived at by the specialist firms themselves who submitted figures to the NYSE, who then submitted it to the SEC. As someone who has personally spent a CONSIDERABLE amount of time analyzing very specific trade data from our own (Sea Carriers) executions as well as the TAQ database available from the exchange I am absolutely astonished at how this issue has been dealt with. It is a very complicated process, and violative trades can occur in many ways other than the two (!!) ways listed in the plan; "trading ahead" and "interpositioning". Bids and offers displayed by the specialists were often moved/removed as orders arrived, resulting in a potential loss for the customer, but would not appear as either of the two types of violations analyzed by the NYSE. There are many other ways to manipulate the executions as well. I would be extremely surprised if the retroactive surveillance conducted by the NYSE did not miss several violations, leading to a much too small Fair Fund collection. The large specialist firms come out on top and investors are not fairly compensated.

Conclusions

Despite the shortcomings of the plan I strongly urge the Commission and Administrator to carry on with the distribution of funds in the quickest possible way. I cannot emphasize this point enough as the process has already taken much longer than the time limits set out by the Commission it self, and there are many injured customers who have experienced personal economic hardship at the expense of a few extremely profitable specialist firms.

However, the Commission and the Administrator should in no way consider the distribution to be the end of this matter. You both need to stay involved, make sure the proper methods were/are used to compute damage, and make sure the Fair Fund distributions reach the end customer. Most individuals do not have the means to pursue their fair share of the distributions from the presumable larger entity(ies) that received them, and it would become a terrible mess if lawyers were required to be involved in each case, drastically reducing the amount eventually arriving at the actual injured customer.

Please contact me should you want to discuss the comments above. I am very hopeful of receiving funds in the near future and will continue to monitor this issue and related class action lawsuit(s) as closely as I can.

Sincerely Yours,

Ola Holmstrom

Full docket text for document 262:
OPINION # 94317 re: [184] MOTION decertifying the Empire Programs, Inc. filed by Sea Carriers Corporation, [222] MOTION to Appoint to appoint Robert A. Martin as co-lead plaintiff to serve as lead plaintiff(s) filed by Robert A. Martin, [190] MOTION for decertifying the Empire Programs, Inc as lead plaintiff in this consolidated class action and, in its stead, adding the movant as a named plaintiff and certifying such movant as lead plaintiff and approving its election of Becker Meise filed by Sea Carriers Corporation. Sea Carriers' motion to disqualify and remove Empire NJ as co-lead plaintiff in this action is granted. Sea Carriers' motions to replace Empire NJ as co-lead plaintiff is denied, as is Martin's motion to be appointed co-lead plaintiff in place of Empire NJ. The denial of Sea Carriers' motion to be appointed co-lead plaintiff renders moot its motion to appoint Becker Meisel as co-lead counsel. The lead counsel motion is therefore denied as well. Calpers will continue as the lead plaintiff in these consolidated actions. It is expected that Calpers will move to designate named plaintiffs and class representatives as necessary to continue the adequate representation of all interests of the purported class. The Court continues to reserve its right to re-open the appointment of lead plaintiff should reasons develop indicating the need to revisit the lead plaintiff designation made herein. So Ordered. (Signed by Judge Robert W. Sweet on 2/22/07) (jco)

Please do NOT give Empire Programs another penny.

BP

Reed Plans Stock-Exchange Board Overhaul

Continued From First Page

tion so that he can remove the existing board. As it stands, the constitution doesn't allow for changes that would reduce the number of NYSE directors. That means that a number of current board members will be asked to resign when the changes in the constitution go into effect. Mr. Reed also has sought and received the blessing of the Securities and Exchange Commission, the people close to him said.

Mr. Reed is actively courting board candidates. As of last Friday, he had four candidates who had agreed to serve, including two current NYSE directors—Herbert Allison Jr., chairman of pension giant TIAA-CREF and a former Merrill Lynch & Co. president, and Madeleine Albright, the former secretary of state. Overall, Mr. Reed appears to favor more low-profile directors than Mr. Grasso. Neither Mr. Allison nor Ms. Albright could be reached to comment.

The NYSE will rule out anyone who had served on its compensation committees during the Grasso years, when the former chairman's pay and retirement package was first negotiated. Mr. Reed also has ruled out anyone having other relationships with Mr. Grasso.

There is yet another hitch to removing the Wall Street crowd from the board. According to the NYSE constitution, its board must represent the interests of the exchange. But Mr. Reed interpreted that as meaning that the Wall Street executives didn't have to physically sit as NYSE directors. He thought a separate advisory board was sufficient.

The proposed move by Mr. Reed follows the broad outlines of a suggestion floated several weeks ago by Goldman Sachs Group Inc. CEO Henry Paulson Jr., an NYSE director who is expected to be on the new executive advisory board.

Mr. Reed's governance plan also represents a turnabout from the views he expressed publicly when taking over the NYSE post last month. At that time, he took issue with an article in The Wall Street Journal that suggested he might remove Wall Street executives from the board, saying the report "has zero foundation from me." He also criticized another Journal article that said he would be "scrapping" the NYSE's initial governance report and would opt to do a "top-to-bottom review" aimed at producing more extreme changes.

Now, the push for a nonexecutive leader likely will gain momentum. Mr. Reed has been reviewing a number of potential candidates with Laurence Fink, an NYSE director who is leading the board's search committee, and executive search firm Spencer Stuart. According to the people familiar with his plans, Mr. Reed would be inclined to name a separate chairman and chief executive but will leave the final decision to the new board. The NYSE is likely to first name a chairman, and then have that person participate in the naming of a chief executive, according to the people close to Mr. Reed.

One open question is how much a new leader will be paid. Mr. Reed was appalled that Mr. Grasso's nearly $200 million retirement-pay package represented about seven years of NYSE earnings, the people close to him said. Mr. Reed's view is that the pay should be a flat annual salary of $2 million, according to those people. He sees the position as similar to the Federal Reserve chief.

The Big Board still faces a number of challenges. It recently informed the five largest floor-trading "specialist" firms that they traded improperly and could have cost their customers between $100 million and $150 million. The NYSE is sending out data on hundreds of thousands of allegedly improper trades made in the past three years—without analysis—to the specialists. The specialists will analyze the data and come back to the exchange to argue which trading was proper and which wasn't.

Mr. Reed, in a meeting with some specialists Friday morning, told them that their predicament with customers was similar to the difference between kicking a dog or stumbling on one, according to the people close to him. The dog knows which is which, and so do the specialists in this case, he told them, according to these people. So he asked the specialists to create two piles of paper—one with improper trades and one without. Mr. Reed warned the specialists not to shade the data, saying investors will know when questionable trading is improper, even if the specialists can rationalize it.

Officials of four of the specialist firms, LaBranche & Co.; Fleet Specialist, a unit of FleetBoston Financial Corp.; Bear Wagner Specialists LLC, which is minority-owned by Bear Stearns Cos.; and Spear, Leeds & Kellogg, a unit of Goldman Sachs, had no comment. Representatives of Van Der Moolen Specialists USA, a unit of Van Der Moolen Holdings NV, didn't return phone calls.

Meanwhile, Mr. Reed has sought from exchange officials more data on the performance of specialists, including how much of their capital they provide to increase "liquidity," or ease of trading, in stocks. Some listed companies, such as American International Group Inc., have complained that specialists haven't stepped up and traded their shares as needed.

Corporate America's Funniest Home Video Hits the Party Circuit

Continued From First Page

of the nicest times" he's had, he added, scoffing at the notion that it was grossly decadent. "It wasn't an exorbitant party at all," he said, declining to speak further about the event. "It's caused much trouble to Dennis," he said. "It wouldn't be right."

David Lurie, another guest, described the party as a "very modest affair." He said the videographer appeared to have

of a past empire. Just a year after the event, Mr. Kozlowski was being seen in other film clips, walking in and out of court hearings after being forced to resign in June 2002 from the huge conglomerate he built.

Mr. Kozlowski, once one of the highest-paid executives in the world, these days spends his time in a dingy state courthouse in Manhattan, charged along with former Tyco Chief Financial Officer Mark

dollar crime allegedly committed by the defendants, prosecutors see its lavishness as something likely to resonate with the jury.

According to testimony in the trial, about 70 guests attended the Sardinia event, roughly half of them Tyco employees and their spouses. They included Tyco's corporate chef, its corporate personal trainer and a company doctor who had formerly been Mr. Kozlowski's own physician.

Main Entry: **nev·er**
Pronunciation: \□ne-vər\
Function: *adverb*
Etymology: Middle English, from Old English *nǣfre,* from *ne* not + *ǣfre* ever — more at no
Date: before 12th century

1 : not ever : at no time <I never met her>
2 : not in any degree : not under any condition <never the wiser for his experience>

Execution Excellence and Investor Protection

U.S. House of Representatives
Committee on Financial Services

Subcommittee on Capital Markets, Insurance and
Government Sponsored Enterprises
"Market Structure III: The Role of the Specialist in the Evolving Modern Marketplace"

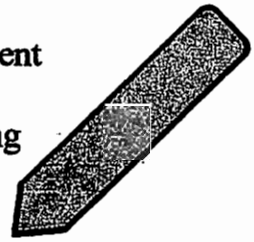
Testimony of John A. Thain
Chief Executive Officer
New York Stock Exchange, Inc.

Field Hearing
February 20, 2004
New York, NY

This volatility is particularly critical at market opening and market closing, when the lack of a specialist often leads to spikes in Nasdaq-listed shares. As reported in the New York Times January 29, 2004, Standard & Poor's, in reaction to investor concerns about volatility and possible price manipulation at the close of Nasdaq trading, will begin a pilot using the closing prices on the American Stock Exchange for certain Nasdaq stocks when compiling daily information for the S&P 500 index. The American Stock Exchange presently provides a market in a select group of Nasdaq listed stocks while the NYSE does not. David M. Blitzer, chief investment strategist at S&P, is quoted in that article:

> It's clear there are times when there are a lot of concerns about prices on Nasdaq. Our big concern is the close. I think it offers a real opportunity for mischief.

Our fill rate for NYSE-listed stocks, that is, the number of orders sent in which are actually executed, is 84%, compared to 45% for Nasdaq. These numbers show clearly that specialists play a useful role in providing liquidity and in matching buyers and sellers, to the benefit of all market participants.



Specialists never have been, nor will they ever be, allowed to trade for their principal account ahead of customers. Our Board of Directors recently approved a rule change now before the SEC which would restrict the specialist from participating even in trades alongside brokers' customers. If our proposal is approved, our customers will always have the right to transact first.

Sometimes lost in the public debate over the role of the specialist is the role of the floor brokers in the execution chain. Each broker attempts to obtain the best price for his or her customer. Brokers compete against brokers in the auction model, and it is this interaction of buy and sell interest that leads to the price improvement, order size improvement, and unequaled fill rates found at the NYSE.

It would be easy to conclude from the ongoing investigation by the NYSE and SEC of the major specialist firms that there is something inherently wrong with the specialist system, and indeed of the entire floor auction model. It is evident to me there were abuses in the past. We have made substantial investments in technology which, coupled with changes in practice, will go a long way to preventing future abuses. And we will monitor behavior carefully going forward and ensure violators are identified

separate phases. The initial phase of the Plan is to identify the customers who were injured as a result of the Specialist Firms' trading violations, as previously determined by the Commission staff and the NYSE using specific criteria in connection with the Specialist Firm Orders (the "Injured Customers"). The amount of disgorgement and the specific violative trades that will be eligible for proceeds from the Distribution Funds were determined through the use of a retroactive surveillance conducted by the NYSE at the request of the Commission's Office of Compliance, Inspections and Examinations. The surveillance was designed to identify specific transactions where specialists had unlawfully traded ahead of executable customer orders, and transactions where specialists had unlawfully interpositioned themselves between two customer orders that should have been matched against one another. The surveillance looked at various types of electronic trading data, including the time an order is entered, the time it is executed or canceled, the execution price, and whether there were any intervening trades for the specialist's proprietary account. In determining which trades to include, the surveillance used certain time parameters depending on the type of trading violation and the time frame in which the trading occurred. In accordance with the terms of the Specialist Firm Orders, Heffler must look at the violative trades that have already been identified by the Commission staff and the NYSE (the "Violative Transactions") in order to identify the customers who were injured as a result of such violative trades, and the class of claimants is limited to those injured customers. The second phase is to calculate each Injured Customer's Distribution Amount (defined below), which consists of the Disgorgement Amount (defined below) and the prejudgment interest. The final phase is to distribute the Distribution Funds to the Injured Customers. The Plan for each phase is outlined further below in this Section III.

DEFINITIONS

"Clearing Member" shall mean a member firm of a clearinghouse. They are institutions through which transactions executed on the floor of the exchange are settled using a process of matching purchases and sales.

"Disgorgement Amount(s)" shall refer to the amount of loss incurred on each Violative Transaction.

"Distribution Amount" shall refer to the total amount of disgorgement and prejudgment interest paid to Injured Customers.

"Injured Customers" means those individuals or entities whose trades were previously identified by the Commission staff and the NYSE in connection with the Specialist Firm Orders.

"Mid-Term AFR" shall mean the applicable federal rates published monthly by the U.S. Internal Revenue Service and used to calculate interest on the losses incurred by the Injured Customers. The Mid-term period is for instruments having a term in excess of three years but no greater than nine years. Interest is compounded on a quarterly basis.

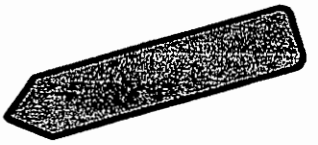
"Nominee" is a brokerage firm, bank, investment firm, etc., with current or former clients that are Injured Customers.

"Violative Transactions" means the trades identified by the Commission staff and the NYSE as violating various federal securities laws and NYSE rules in connection with the Specialist Firm Orders.

From Administrator's Proposed Distribution Plan

Insider Trading

The securities laws broadly prohibit fraudulent activities of any kind in connection with the offer, purchase, or sale of securities. These provisions are the basis for many types of disciplinary actions, including actions against fraudulent insider trading. Insider trading is illegal when a person trades a security while in possession of material nonpublic information in violation of a duty to withhold the information or refrain from trading.



which individual specialists are registered. A specialist is expected to maintain, insofar as reasonably practicable, a "fair" and "orderly" market. A "fair" market is free from manipulative and deceptive practices, and affords no undue advantage to any participant. An "orderly" market is characterized by regular, reliable operation, with price continuity and depth, in which price movements are accompanied by appropriate volume, and unreasonable price variations between sales are avoided.

5. Specialists have two primary duties: performing their "negative obligation" to execute customer orders at the most advantageous price with minimal dealer intervention, and fulfilling their "affirmative obligation" to offset imbalances in supply and demand. Specialists participate as both broker (or agent), absenting themselves from the market to pair executable customer orders against each other, and as dealer (or principal), trading for the specialists' dealer or proprietary accounts when needed to facilitate price continuity and fill customer orders when there are no available contra parties to those orders.

6. Whether acting as brokers or dealers, specialists are required to hold the public's interests above their own and, as such, are prohibited from trading for their dealers' accounts ahead of pre-existing customer buy or sell orders that are executable against each other. When matchable customer buy and sell orders arrive at specialists' trading posts - generally either through the NYSE's Super Designated Order Turnaround System ("DOT")[3] to an electronic display book (the "Display Book")[4], or by floor brokers gathered in front of the specialists' trading posts ("the crowd") - specialists are required to act as agent and cross or pair off those orders and to abstain from participating as principal or dealer.

Unlawful Proprietary Trading by SLKS

7. During the period January 1999 through 2003, SLKS breached its duty to refrain from dealing for its own account while in possession of executable buy and sell customer orders. Instead, SLKS effected improper proprietary trades at the expense of customer orders.

8. Through the Display Book, the specialist reports trade executions electronically, and can view all the incoming DOT market and limit orders on both sides of the market.[5] Executable buy and sell customer orders can appear on the Display Book at the same time. In such instances, specialists should simply "pair off" or cross the buy and sell orders. In numerous instances, however, SLKS specialists improperly chose not to "pair off" or cross these buy and sell orders with each other. Sometimes, SLKS specialists did this by effecting proprietary trades with orders that arrived electronically through the DOT system to the Display Book. At other times, SLKS specialists effected improper proprietary trades with orders that came in from the crowd. In either case, the disadvantaged order was a DOT order visible on the Display Book that the SLKS specialist should have paired with the other order, instead of filling that other order through a proprietary trade.

9. From 1999 through 2003, this conduct at SLKS resulted in customer disadvantage of $28,776,072. The conduct basically fell within three categories, described in paragraphs 10 through 12 below.

Unlawful Proprietary Trading by Bear Wagner

7. During the period January 1999 through 2003, Bear Wagner breached its duty to refrain from dealing for its own account while in possession of executable buy and sell customer orders. Instead, Bear Wagner effected improper proprietary trades at the expense of customer orders.

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leet Specialists, Inc.; Admin. Proc. Rel. No. 34-49499 / March 30, 2004 http://www.sec.gov/litigation/admin/34-49499.htm

Unlawful Proprietary Trading by FSI

7. During the period January 1999 through 2003, FSI breached its duty to refrain from dealing for its own account while in possession of executable buy and sell customer orders. Instead, FSI effected improper proprietary trades at the expense of customer orders.

Branche & Co. LLC: Admin. Proc. Rel. No. 34-49500 / March 30,... http://www.sec.gov/litigation/admin/34-49500.htm

Unlawful Proprietary Trading by LaBranche

7. During the period January 1999 through 2003, LaBranche breached its duty to refrain from dealing for its own account while in possession of executable buy and sell customer orders. Instead, LaBranche effected improper proprietary trades at the expense of customer orders.

Interpositioning Analysis

NYSE Specialist Firms					
FIRM	# Issues	% NYSE $ Volume	% NYSE Share Volume	# Issues Violations	Issues
Bear Wagner	340	15%	16%	6	TXN,MOT,MER,C,EMC,GLW
Fleet Socialists (FSI)	430	20%	19%	6	GE.GS.Applera-Celera Genomics, JPM,Charles Schwab, JNJ
LaBranche	577	27%	28%	6	Nokia,Lucent Technologies, MWD,TYC,Compac, MRK
Spear, Leeds & Kellogg (SLK)	568	25%	21%	6	AOL,IBM,MU,AIG,TER,VZ
Van der Moolen (VDMS)	377	11%	12%	6	Nortel Networks,PFE,HWP,Time Warner,Disney,LLY
Susquehanna Specialists	127	1%	2%	6	ADI,SLR,ESV,LXK,CPN,LLL
Performance Specialists	168	1%	2%	6	SNE,SFE,ITW,INF,CBS,GTE
Totals	2587	100%	100%		
Source:					
SEC / NYSE Settlement Releases					

Also analyzed data:

Baruch COLLEGE

Bharat Sarath
Deputy Chair
Stan Ross Department of Accountancy

One Bernard Baruch Way
Box B 12-225
New York, NY 10010-5585
Tel: 646-312-3170
Fax: 646-312-3161
bharat_sarath@baruch.cuny.edu

SCHOOL OF Zicklin BUSINESS

Binomial Distribution Analysis:

Issues	# of viols	Binomial Coeff	Probability of violation	Prob of B# viols	Prob all firms have B# viols
164	1	164	0.017094	0.16871	2.30591E-05
164	2	13366	0.017094	0.239128	0.000186974
164	3	721764	0.017094	0.224572	0.000128274
164	4	29051001	0.017094	0.157201	1.50913E-05
164	5	929632032	0.017094	0.087486	4.48351E-07
164	6	24635248848	0.017094	0.040319	4.29622E-09
164	7	5.56053E+11	0.017094	0.015827	1.57193E-11
164	8	1.09125E+13	0.017094	0.005402	2.48476E-14
164	9	1.89151E+14	0.017094	0.001628	1.86453E-17
164	10	2.93183E+15	0.017094	0.000439	7.15407E-21
				0.940712	

Probability that all firms havethe same number of violations (one of 4,5,6,7or 8 violations)	1.554E-05	1 chance in 155,400
Probability that all firms have 6 violations	4.296E-09	1 chance in 4,296,000,000

	A	B	C	D	E	F	G	H
1	Assumptions							
2								
3	1	Average daily volume on NYSE is 1.25 billion shares a day						
4	2	Average transaction size is 500 shares						
5	3	250 trading days in a year						
6								
7	Then							
8		2,500,000	transactions per day on the NYSE					
9		625,000,000	Transactions per year on NYSE					
10		3,125,000,000	Transactions for the 5 year period ending December 31, 2003					
11								
12		2,600,000	Number of violative transactions that the NYSE gave to the SEC					
13			for the five year period ending December 31, 2003					
14								
15		0.083%	# of violative transactions as a percentage of all transactions					
16			for the five year period ending Decmber 31, 2003					

YAHOO! MAIL Classic

Re: Your Correspondence re NYSE Specialists Case Wednesday, September 8, 2010 10:37 AM

From: "Robert Peacock" <[redacted]>
To: "Matthew D.Strada" <[redacted]>
Cc: "Mary L. Schapiro" <[redacted]>, "Elizabeth M. Murphy" <[redacted]>, "Kathleen L. Casey" <[redacted]>, "William Schulz" <[redacted]>, "JanetSchmautz" <[redacted]>

Dear Mr. Strada,

Thank you for your email yesterday. Please extend my thanks to Chairman Schapiro as well.

Immediate recovery, without any further delays, of my damages from the documented violations of the NYSE and its members is my most important priority. I can meet with you any day the week of September 13th or the week of September 20th. The sooner the better, so if Monday, September 13th works for you, let's plan on Monday.

From Summit, New Jersey, I will be taking the 6:38 AM Amtrack train from Metropark, arriving Union Station at 8:48 AM. This train runs every day.

If possible, I would like to meet for an hour with Chairman Schapiro.

I fully understand that Chairman Schapiro and her fellow Commissioners had nothing to do with the NYSE fraud/violation adjudication process (riddled with conflicts of interest and total disregard for even the most basic ethical principals), and its shocking lack of transparency. However, in deciding what to do with the Fund's remaining surplus of $135,000,000, the Chairman and the Commissioners have a duty and an obligation to carefully examine the documented facts of the NYSE Execution Fraud, the duration of which was ***longer*** **than five years.** The Chairman and her fellow Commissioners have a duty and an obligation to make this right, and authorize fair compensation to victims of the NYSE Violations.

From my perspective, I see no evidence (with the exception of my meeting with Commissioner Casey and William Schulz, and with the exception of the professionalism, and responsiveness of Secretary Murphy and Janet Schmautz) that the SEC/US Government has any intention to make this right.

To the contrary, from my perspective, I witnessed the massive federal bailout of Goldman Sachs and Bank of America where billions of dollars were pumped into the very institutions most responsible for the NYSE Fraud. When I filed my pro se complaint 08 CIV 10144 in US District Court, SDNY, both Goldman and Bank of America used the US Government TARP funds to hire the best attorneys on the planet in order that the NYSE execution data would never see the light of day. This is how Goldman Sachs and Bank of America respond to customer complaints.

From my perspective, the most tell tale sign that the SEC has no intention of making this right is the documented fact that on December 17, 2010, the SEC staff recommended, and the Commission so ordered, a de minimis gross up provision in the Funds distribution plan (please see page 3, paragraph #6 of SEC release 61199A 12.17.2009 - Tab B of the Casey presentation blinder). In this provision, victims

> ***"who would have otherwise received an amount of less than $5.00 will instead receive a distribution check that is grossed-up to $5.00. Heffler has identified 192,713 such customers, for a total of $963,565,000, including prejudgment and post-judgment interest. In the absence of a gross-up provision, such customers would have been due $314,478.60."***

From my perspective, there are several, very disturbing aspects of this modification to the distribution plan:

1. SEC staff recommended a $649,086.40 "give away" to the least harmed victims of the NYSE violations. In other words, the staff recommended elevating the status of the least harmed victims of NYSE violations to that of EXTRAORDINARY SPECIAL VICTIMS, paying these really special victims multiple times the amount that was due to them.

2. If one of these Extraordinary Special NYSE Fraud Victims was owed 50 cents, what could possibly be the justification for "grossing-up" the payment to 10 times that amount or $5.00?

3. The SEC staff made this "gross-up" and give away recommendation with full knowledge that there were victims of the NYSE violations that had not received a single penny of damage reimbursement. These were victims that submitted written comments to staff, met with staff, had their Congressmen petition for relief to both Chairman Donaldson and Cox of the SEC on their behalf, wrote countless letters to staff and Commissioners, requested countless meetings... I know it may be difficult, ***but can you imagine how I felt when I learned of this $649,086.40 giveaway to the least affected victims of NYSE violations, victims who may have been incidentally nicked for a penny on a hundred lot order?***

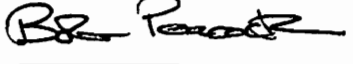
4. The most disturbing aspect of this distribution modification is the SEC staff's recommendation and Commission approval of the notion that an amount of money less than $5.00 is ***de minimis***. Although an improvement to the SEC documented $37.00 NYSE ***de minimis*** threshold for Specialist violations (please refer to the first exhibit in Tab B from SEC Release 51524 4.12.2005), it is my understanding that it is illegal in United States to steal, cheat, defraud even one cent from another person. The basis for my request for emergency financial relief is a 3.37 cent average stealing rate per share on my volume of approximately 500,000,000 shares. Won't the SEC staff recommend that the Commissioners reject my request for emergency financial relief based upon their belief that 3.37 cents is a de minimis amount that does not even warrant any consideration whatsoever?

5. In my pro se complaint 08 CIV 10144 (see tab J of the binder, page 3, paragraph 5) I argued the NYSE's $37.00 Fraud bar, if universally adopted by US law enforcement officials would have serious consequences. One such consequence would be, "that domestic or foreign terrorists could produce and distribute billions and billions of counterfeit $20 bills without penalty or consequence because each, single violation (i.e. a counterfeit $20 bill) is less that $37.00.

6. Equally disturbing, is the fact that the ongoing discussions about de minimis cash amounts parallels the discussion about "time parameters" that the NYSE used in its fraud/violation identification process. The debate is what is the cutoff time frame which makes Specialists proprietary trading ahead of customer orders illegal? Is it three minutes? Is it one minute? Is it 10 seconds? John Thain (who by the way spent $100,000 of TARP funds remodeling his bathroom at Merrill Lynch/Bank of America) testified before members of the US House of Representatives' Committee on Financial Services that, "**Specialists never have been,nor will they ever be, allowed to trade for their principal accounts ahead of customers."** This is a false statement.

I look forward to discussing these and all the issues regarding my request for emergency financial relief.

Best regards,



[redacted]

NYSE Execution Fraud : 2 Accounts

1998-2002

Empire Programs - **Approximate Total Volume: 4.5 Billion Shares**
Bob Martin – President (Designated Co-Lead Plaintiff in Class Action (CalPERS volume 1998-2003 2.8 Billion Shares)
Alan Martin – Bob's son, trading assistant, trader, CFO, COO
Provided trading Capital – Goldman Sachs/SLK prime broker

Sea Carriers Corporation
Per Barre – Owner, Head Trader
Developed Trading Platform, Recruited Independent Traders and Contractors

Independent Contractors and Traders (Peacock 2001-2002: Volume : 392,000,000 shares)

2003-March 2005

Sea Carrier LP 1 **Approximate Total Volume: 1.2 Billion Shares**

Sea Carriers – General Partner
Per Barre Owner and Head Trader

Limited Partners – provided trading capital (Peacock a limited partner)

Independent Contractors and Traders (Peacock 2003-March 2005: Volume: 128,000,000 shares)

Robert J. Peacock: Independent Contractor and Trader
No Salary, No Health Benefits, No Pension – Performance Compensation Only
Operated a Sole Proprietorship

Request for Emergency Financial Relief

Submitted by:

Robert J. Peacock

9.14.2010

A	Recent Exhibits, John Thain Complaint
B	*De minimis* violations / gross-up provisions
C	Damage Recovery Documentation
D	NYSE Execution Data : Destroyed or Lost ???
E	John Thain : Execution Excellence and Investor Protection
F	SEC Documents: "F—K the DOTS, Screw the DOTS"
G	President Obama's Transparency Order / Absolute Immunity
H	Sarbanes Oxley : "for the benefit of the victims of the violations"
I	SEC Definition : Insider Trading
J	Pro Se Complaint : 08 CIV 10144 US District Court, SDNY
K	NYSE's 2nd Threat
L	Grasso, Kwalwasser, Flow of Stolen Funds...
M	The NYSE Execution Fraud Adjudication Process...
N	Public Comments
O	Peacock "Investor" Documentation
P	NYSE Hearing Decision Panel Re: Bonnano
Q	SEC Release 51524 : NYSE Censure, Cease and Desist Order
R	
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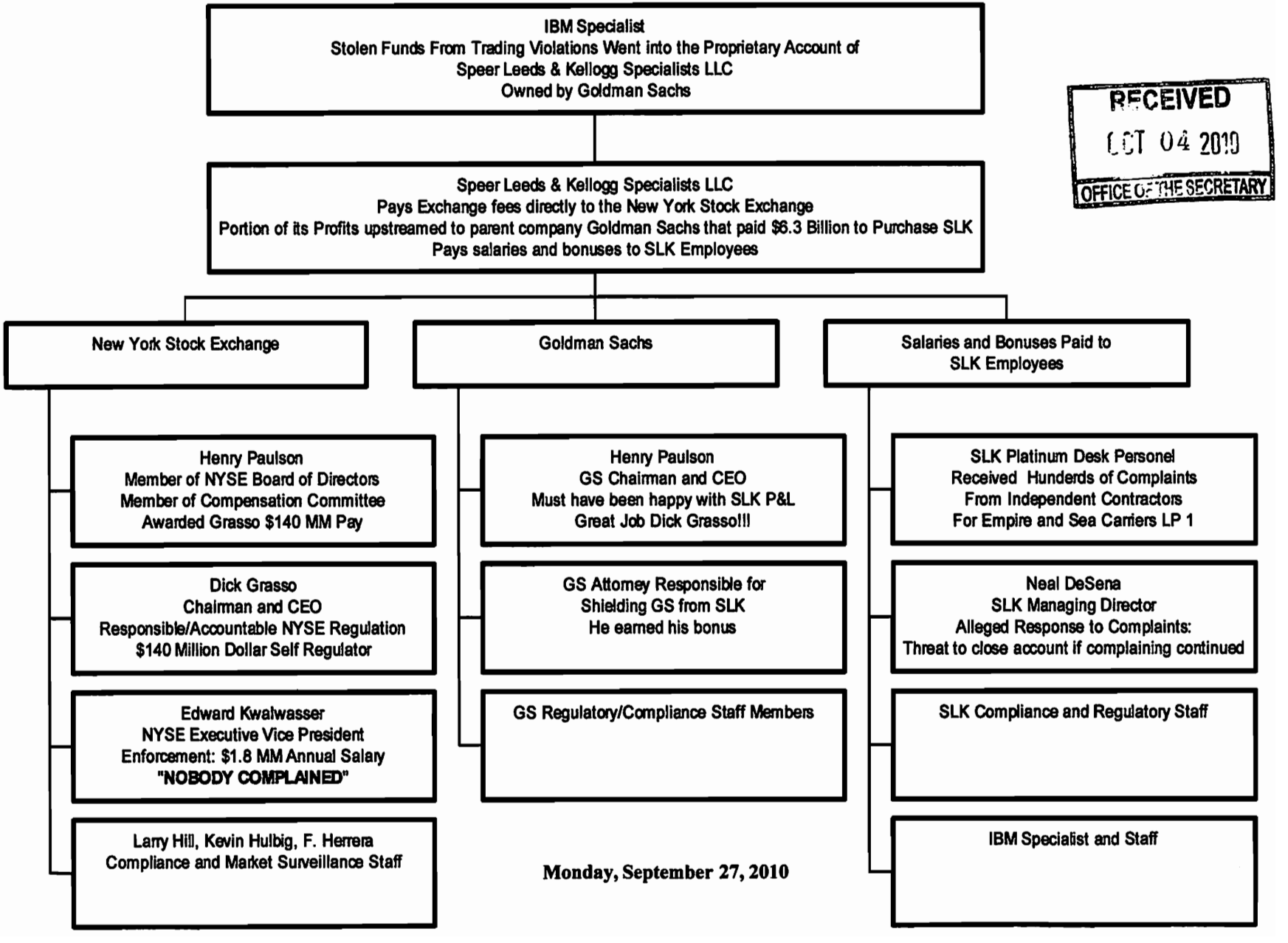
Flow Chart of Stolen Funds
NYSE Execution Fraud



Monday, September 27, 2010