

MEMORANDUM

To: The File

From: David Rosenfeld

Re: NYSE Specialists Distribution Funds

Date: March 28, 2011

On December 9, 2009, I attended a meeting with the Honorable Judge Sweet of the United States District Court for the Southern District of New York and several lawyers in the pending class action *In re NYSE Specialists Securities Litigation*, 03 Civ. 08264 (RWS) (SDNY). Also attending on behalf of the SEC were Sanjay Wadhwa and Mona Akhtar.

Lawyers for the class action plaintiffs, led by David Mitchell of the law firm Coughlin, Stoia, Geller, Rudman & Robbins, and the class action defendants, led by Paul Engelmayer of the law firm Wilmer Hale, each argued that the remaining funds in the NYSE Specialist Distribution Funds, or some portion thereof, should be used to compensate the class members in the pending class action litigation. Each stressed the language of the settlement orders, which state that any remaining funds are to be used “for the benefit of investors.” They also pointed out that the violations at issue in the class action are the same type of violations that were at issue in the Commission’s settlements. Plaintiff’s counsel also stated that, if there was a class settlement, they would use methods to identify victims that were not employed by the Commission in its distributions, including placing advertisements soliciting putative victims to submit claim forms.