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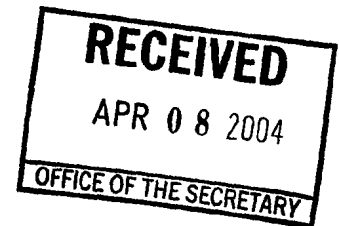
GARBAN
CORPORATES LLC

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April 5, 2004

The Honorable William H. Donaldson
Chairman
U.S. Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-0601



Dear Chairman Donaldson,

As an independent member of the NYSE with a viable and healthy business I feel compelled to respond to the Regulation NMS proposal set before the SEC. Recently, as the debate continues concerning the national market structure and the future of the equity trading in this country I would like to offer my view.

It is difficult to understand why the concept of best price is under attack. In the late 70's, congress and the SEC mandated that all regional markets be linked so that investors could determine where to buy and sell stock based on the best available price. This was accomplished via ITS. During this time the ITS protocol served the needs of the investing community well and proved to be successful in linking the regionals to the NYSE.

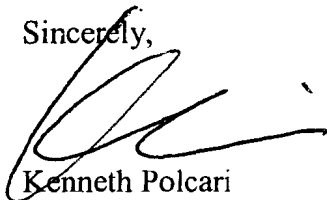
During the past 6 years, the technology has clearly re-defined the way that stocks can be traded, while we embrace the efficiency of the technology, we are committed to the hybrid structure of the NYSE. The debate over ITS is clearly at the center of the current ECN vs. NYSE issue. What we should be considering is a way to link all points of liquidity so that all bids/offers are available, exposed and tradable to any participant at any time. ECN's want fast, albeit not necessarily good, executions, because good (or correct pricing) is not defined by nanosecond executions. The NYSE wants efficient/fair pricing and executions while embracing technology to accomplish this.

I embrace the auction market structure as a way of achieving best execution and pricing based on the needs of the asset manager. I do not advocate that all executions should be done this way, only that all executions need to be responsible to the market and that best price should remain the ultimate goal. If an automatic execution is preferred, then so be it, but buyers and sellers need to be rewarded for showing their intent and liquidity by exposing their interest on a recognized market center that all participants will respect and honor. Allowing customers to trade through these best prices seems at the most elementary level, to negate the interest of all investors and leave some to question the viability, reliability and integrity of our capital markets. If the trade through rule is successfully altered, the impact could have severe and unintended consequences, some of which will give the proponents of this change the ability to "internalize" their order flow at the expense of the equity markets and ultimately the investing public. We should at this time

consider the *injured parties* as a result of any change to this rule. Additionally, it is apparent to me that the ones endorsing the change to the rule, are all investors in these alternative trading venues. This clearly creates a conflict of interest between what is good for the investor vs. what is good for the broker/dealer by diverting liquidity away from exposure to the best price model for the benefit of those owners at the expense of the investing public. As these broker/dealers and institutions divert volume away from the central marketplace they further fragment the market and reduce liquidity since these trades do not have the benefit of exposure to the auction market

Allowing institutions to "Opt-Out" of the best price when executing would also result in bifurcation of the marketplace, reducing liquidity, further fragmenting the market and ultimately harm the investing public. Additionally, this option would essentially negate the reasons for decimal pricing of securities. Allowing executions to trade away from best published quotes would nullify penny pricing and the benefits that the SEC and congress sought. I believe that the "Trade-Through" rule and its reliance on best price over nanosecond executions have served the industry well. Any change to this basic tenet of our auction market model should be carefully reviewed and researched so that all we may understand all consequences, intended and unintended.

Sincerely,



Kenneth Polcari
Managing Director
Polcari/Weicker