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Sent: Wednesday, April 20, 2005 6:52 PM
To: gonzalezl@sec.gov
Subject:

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Lourdes,

Just wanted to clarify that I do understand that firms have been trading net for years and reporting trades under NASD trade reporting rules. Rule 4632(d)(3)(A) does specifically say, though, that when acting as principal, trades are to be reported exclusive of any mark-up, mark-down or service charge. It must be that the NASD has not viewed net trades as including such charges. Here, it seems that they are at least acknowledging that the difference between the reported price and the member's offsetting execution price is the member's compensation in connection with the trade. Surely, the NASD would frown on a BD charging a disclosed commission on top of a net trade price. Whether the rule is clearly inconsistent will, I suppose, turn on how exactly the NASD characterizes the difference between the offsetting trade price and the reported price. Till now, it seems that they have not considered it to be a mark-up, mark-down or service fee or they would have had to give some relief from the trade reporting rules for net trading long ago. I did not want to take too much time on the phone with you after hours, but I did want to get you what I thought to be the whole story.

It was nice to speak to you, I hope all is well.

Regards,
David

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