

**Disciplinary Panel  
American Stock Exchange LLC**

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IN THE MATTER	:	Case Nos. 04-227 i-q, 04-228, 04-251,
	:	04-264, 05-78, 05-120,
OF	:	05-120a, 05-127, 05-206, 05-522,
	:	05-234, 05-247, 05-294, 05-316,
AIM SECURITIES, LLC	:	05-351, 05-355, 05-410, 05-446,
	:	05-470, 06-03, 06-42, 06-43 and 06-47
	:	
	:	Hearing Officer – Rochelle Hall
	:	
	:	<b>DECISION</b>
	:	September 6, 2006

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**In accordance with a Stipulation of Facts and Consent to Penalty, the Disciplinary Panel Chair determined that Respondent violated SEC Rule 11Ac1-4, Article V, Section 4(h) of the Exchange Constitution, SEC Rule 11Ac1-1, Exchange Rule 154, Commentary .08, Exchange Rule 131A, Exchange Rule 1, Exchange Rule 100, Exchange Rule 236(b), and Exchange Rule 320; as stipulated, and as a penalty imposed a censure, a \$55,000 fine and an undertaking for Respondent to revise the Firm’s written supervisory procedures.**

**I. Introduction**

The American Stock Exchange, LLC (“Exchange”) instituted a formal disciplinary proceeding against AIM Securities LLC (“AIM” or the “Firm”), a Regular Member Organization of the Exchange. The Disciplinary Panel Chair (“Chair”), presiding without convening a full Disciplinary Panel, pursuant to Article V, Section 1(b) of the Exchange Constitution, held a hearing on May 11, 2006, pursuant to Article V, Section 2 of the Exchange Constitution, to review a Stipulation of Facts and Consent to Penalty (“Stipulation”), which is attached as Exhibit A. The Exchange and AIM entered into the Stipulation for the purposes of settling this proceeding and concluding all

disciplinary actions by the Exchange against AIM based upon or arising out of the facts set forth in the Stipulation.

## **II. Facts**

AIM, without admitting or denying liability, stipulated to the facts set forth in the attached Stipulation. The Chair has determined to accept the facts for purposes of this Decision, and they are incorporated herein.

## **III. Violations**

Based upon the stipulated facts, the Chair concludes that AIM and/or individual AIM specialists:

(1) violated SEC Rule 11Ac1-4 (currently known as Rule 604 of Regulation NMS) and Article V, Section 4(h) of the Exchange Constitution on numerous occasions between November 2004 and June 2005 by failing to handle customer limit orders in accordance with Rule 604;

(2) violated SEC Rule 11Ac1-1 and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between March 2002 and November 2004 by failing to execute orders upon presentment, thereby failing to honor AIM's published quotation;

(3) violated Exchange Rule 154, Commentary .08 and Article V, Section 4(h) of the Exchange Constitution on 212 occasions between January 2004 and September 2005 by failing to receive Floor Official approval prior to transactions subject to Exchange Rule 154;

(4) violated Exchange Rule 131A and Article V, Section 4(h) of the Exchange Constitution on numerous occasions between November 2003 and February 2005 by failing to publish Market-On-Close order imbalances in accordance with Exchange Rule 131A;

(5) violated Exchange Rule 1 and Article V, Section 4(h) of the Exchange Constitution on 15 occasions between January 2003 and March 2005 by failing to timely open equities in accordance with Exchange Rule 1;

(6) violated Exchange Rule 100 and Article V, Section 4(h) of the Exchange Constitution on 25 occasions on February 9, 2005 by transmitting ITS commitments to a Participant Exchange after the close of Exchange trading;

(7) violated Exchange Rule 236(b) and Article V, Section 4(h) of the Exchange Constitution on 22 occasions on March 29, 2004 by failing to avoid trading through the posted bid or offer of a Participant Exchange; and

(8) violated Exchange Rule 320, during the period between March 2002 and June 2005, by failing to have written supervisory procedures providing for: a) identification of the person(s) responsible for supervision with respect to the applicable rules; b) a statement of the supervisory step(s) to be taken by the identified person(s); c) a statement as to how often such person(s) should take such step(s); and d) a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented.

#### **IV. Penalties and Publicity**

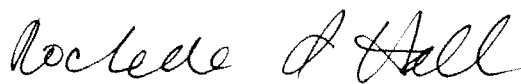
The Stipulation proposes that the Chair impose a censure, a \$55,000 fine, and an undertaking for AIM to revise the Firm's written supervisory procedures as described in the Disciplinary Action section of the attached Stipulation. After considering the stipulated facts and the statements of the parties, as well as the decisions cited in the Exchange's precedent memorandum, the Chair finds that the proposed penalty is appropriate under the facts and circumstances of this case, and therefore it will be

imposed. The Chair further finds that the results of this disciplinary proceeding should be publicly disclosed, as provided in Rule 12 of the Exchange Rules on Disciplinary Proceedings.<sup>1</sup>

**V. Conclusion**

The Chair accepts the Stipulation of Facts and Consent to Penalty and hereby imposes upon AIM Securities, LLC a censure, a \$55,000 fine, and an undertaking for AIM to revise the Firm's written supervisory procedures.

**FOR THE DISCIPLINARY PANEL**



Rochelle S. Hall, Chair

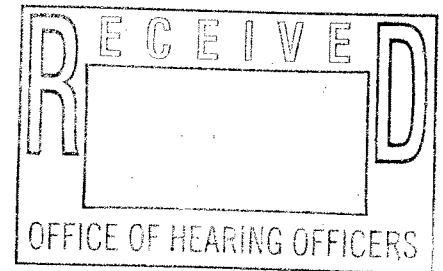
Copies to: AIM Securities LLC (*via overnight and first class mail*)  
Allan S. Sexter, Esq. (*via facsimile and first class mail*)  
Shawn Mallon, Esq. (*electronically and via first class mail*)  
David E. Rosenstein, Esq. (*electronically and via first class mail*)  
Eric S. Brown, Esq. (*electronically and via first class mail*)  
Arlene Collins-Day (*electronically and via first class mail*)

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<sup>1</sup> Rule 12 exempts from publicity those cases in which the Panel finds that the offense "related solely to minor administrative requirements of the Exchange and does not materially affect the public interest or the interest of investors." That exemption does not apply to the facts of this case.

# **EXHIBIT A**

**Disciplinary Panel  
American Stock Exchange LLC**



IN THE MATTER  
OF  
AIM SECURITIES, LLC

**STIPULATION OF FACTS AND  
CONSENT TO PENALTY**

Case Nos. 04-227 i-q, 04-228, 04-251, 04-264,  
05-78, 05-120, 05-120a, 05-127, 05-206, 05-  
234, 05-247, 05-294, 05-316, 05-351, 05-355,  
05-410, 05-446, 05-470, 05-522, 06-03, 06-  
42, 06-43 and 06-47

This proceeding was instituted by the American Stock Exchange LLC (the "Exchange") against AIM SECURITIES, LLC ("AIM" or the "Firm") (CRD No. 33801), a Regular Member Organization of the Exchange. This Stipulation of Facts and Consent to Penalty ("Stipulation") is entered into with AIM pursuant to Article V, Section 2 of the Exchange Constitution in order to settle and conclude all disciplinary actions by the Exchange against AIM based upon or arising out of the facts hereinafter stipulated. AIM, without admitting or denying the facts, allegations and conclusions contained in this Stipulation of Facts and Consent to Penalty, hereby consents to the entry of findings of violations of the Exchange Constitution and Rules, and the Federal securities laws, and the imposition of the penalties hereinafter provided. AIM understands that this settlement is subject to approval by an Exchange Disciplinary Panel and can be the subject of review by the Amex Adjudicatory Council ("AAC") and that, if so approved, shall constitute a final decision, which may not be appealed by the parties. AIM understands and acknowledges that the Disciplinary Panel's decision in this matter will become part of the firm's disciplinary record and may be considered in any future proceeding brought by the Exchange.

**STIPULATED FACTS:**

1.0 During all relevant periods herein, AIM was a Regular Member Organization and a registered equities and Exchange Traded Funds (“ETFs”) specialist organization of the Exchange.

1.1 During all relevant periods herein, AIM served as a specialist for various equities and ETFs that traded on the Floor of the Exchange.

**2.0 Limit Order Display Violations**

2.1 Subject to certain exceptions, SEC Rule 11Ac1-4 (currently known as Rule 604 of Regulation NMS) requires an exchange specialist to immediately display customer limit orders in its public quotation, when each such order is at a price that would improve the specialist’s bid or offer in each such security; or when the order is priced equal to the specialist’s bid or offer and the national best bid or offer for each such security, and the size of the order represents more than a de minimis change in relation to the size associated with the specialist’s bid or offer in each such security.

2.2 On 87 occasions during the period of November 1, 2004 through March 31, 2005, the Firm failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case Nos. 05-410, 05-446 and 05-522).

2.3 On 25 occasions during the period of April 1, 2005 through June 30, 2005, AIM Specialist C failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 06-03).

- 2.4 On 47 occasions during the period of April 1, 2005 through June 30, 2005, AIM Specialist A failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case Nos. 06-42 and 06-43).
- 2.5 On 24 occasions during the period of April 1, 2005 through June 30, 2005, AIM Specialist D failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 06-47).
- 2.6 The conduct described in paragraphs 2.1 through 2.5 constitutes separate and distinct violations of SEC Rule 11Ac1-4 and Article V, Section 4(h) of the Exchange Constitution.

### **3.0 Firm Quote Violations**

- 3.1 Subject to certain exceptions, SEC Rule 11Ac1-1 (currently known as Rule 602(b) of Regulation NMS) requires Exchange specialists to execute orders to buy or sell a subject security presented to them at a price at least as favorable to the published bid or published offer in an amount up to the specialist's published quotation size.
- 3.2 On 9 occasions during the period of March 7, 2002 through August 8, 2003, an order was presented to the Firm at the Firm's published bid or published offer in an amount up to its published quotation size. The Firm failed to execute these orders upon presentment and thereby failed to honor its published quotation (Amex Case No. 04-227 i-q).
- 3.3 On 19 occasions during the period of January 1, 2003 through March 31, 2004 an order was presented to the Firm at the Firm's published bid or published offer in an amount up to its published quotation size. The Firm

failed to execute these orders upon presentment and thereby failed to honor its published quotation (Amex Case No. 05-206).

3.4 On 20 occasions during the period of July 1, 2004 through November 30, 2004, an order was presented to the Firm at the Firm's published bid or published offer in an amount up to its published quotation size. The Firm failed to execute these orders upon presentment and thereby failed to honor its published quotation (Amex Case No. 05-294).

3.5 The conduct described in paragraph 3.1 through 3.4 constitutes separate and distinct violations of SEC Rule 11Ac1-1 and Article V, Section 4(h) of the Exchange Constitution.

#### **4.0 Amex Rule 154, Commentary .08 Violations**

4.1 During all relevant periods herein, Exchange Rule 154, Commentary .08 required equity specialists to receive Floor Official approval prior to effecting one or more of the following transactions: a transaction in a stock at a price of \$20 or more a share, made at the greater of 1% or two dollars away from the last previous sale; a transaction in a stock at a price of \$10 or more (but less than \$20) a share, made at one dollar or more away from the last previous sale; or a transaction in a stock at a price of less than \$10 a share, made at 50 cents or more away from the last previous sale.

4.2 On 212 occasions during the period January 1, 2004 through September 30, 2005, the Firm failed to receive Floor Official approval prior to

transactions subject to Exchange Rule 154, Commentary .08 (Amex Case Nos. 04-264, 05-78, 05-234, 05-355 and 05-470).

- 4.3 The conduct described in paragraphs 4.1 through 4.2 constitutes separate and distinct violations of Exchange Rule 154, Commentary .08 and Article V, Section 4(h) of the Exchange Constitution.

## **5.0 Publication of Market-on Close Order Imbalance Information Violations**

- 5.1 During all relevant periods provided herein, Exchange Rule 131A and Amex Notice – Market-on-Close (“MOC”) Policy and Expiration Opening Procedures (March 17, 2004) required equity specialists to publish Market-on-Close order imbalances of 25,000 shares or more at or as close to 3:40 p.m. as possible, and further required equity specialists to publish a second imbalance at or near 3:50 p.m. if an imbalance of 25,000 shares or more existed at that time. Additionally, Exchange Rule 131A only permitted the publication of order imbalances of less than 25,000 shares at the aforementioned times with Floor Official approval.
- 5.2 On 28 occasions during the period of November 7, 2003 through December 31, 2004, the Firm failed to publish MOC order imbalances in accordance with Exchange Rule 131A and the aforementioned Amex Notice (Amex Case No. 05-120 and 05-120a).
- 5.3 On 5 occasions during the period of February 2, 2005 through February 28, 2005, the Firm failed to publish MOC order imbalances in accordance

with Exchange Rule 131A and the aforementioned Amex Notice (Amex Case No. 05-316).

- 5.4 The conduct described in paragraphs 5.1 through 5.3 constitutes separate and distinct violations of Exchange Rule 131A and Article V, Section 4(h) of the Exchange Constitution.

## **6.0 Untimely Openings**

- 6.1 During all relevant periods provided herein, Exchange Rule 1 required equity specialists to commence the opening of equities on the Exchange Floor at 9:30 a.m.
- 6.2 On 9 occasions during the period of January 1, 2003 through August 31, 2004, the Firm failed to timely open equities in accordance with Exchange Rule 1 (Amex Case No. 04-251).
- 6.3 On 6 occasions during the period of December 1, 2004 through March 31, 2005, the Firm failed to timely open equities in accordance with Exchange Rule 1 (Amex Case Nos. 05-247 and 05-351).
- 6.4 The conduct described in paragraphs 6.1 through 6.3 constitutes separate and distinct violations of Exchange Rule 1 and Article V, Section 4(h) of the Exchange Constitution.

## **7.0 Post 4:00 p.m. Trading**

- 7.1 On the relevant trade date herein, Exchange Rule 100 required equity specialists to limit their dealings upon the Floor of the Exchange, including dealings effected through the System defined in Exchange Rule 230 ("ITS"), to the hours when the Exchange is open for the transaction of

business except that (i) a specialist may issue and receive pre-opening notifications and responses, as provided in Exchange Rule 232, before the official opening of the Exchange, and (ii) loans of money or securities may be made after the official closing of the Exchange.

7.2 On 25 occasions on trade date February 9, 2005, the Firm transmitted ITS commitments to a Participant Exchange after the close of Exchange trading (Amex Case No. 05-127).

7.3 The conduct described in paragraphs 7.1 through 7.2 constitutes separate and distinct violations of Exchange Rule 100 and Article V, Section 4(h) of the Exchange Constitution.

#### **8.0 ITS Trade-Throughs**

8.1 On the relevant trade date herein, Exchange Rule 236(b) required equity specialists to avoid trading through the posted bid or offer of a Participant Exchange when purchasing or selling any ITS Security on the Exchange or issuing a commitment to trade through the System.

8.2 On 22 occasions on trade date March 29, 2004, the Firm failed to avoid trading through the posted bid or offer of a Participant Exchange (Amex Case No. 04-228).

8.3 The conduct described in paragraphs 8.1 through 8.2 constitutes separate and distinct violations of Exchange Rule 236(b) and Article V, Section 4(h) of the Exchange Constitution.

## 9.0 Supervision

9.1 During the period March 7, 2002 through June 30, 2005, the Firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and the Exchange rules, concerning limit order display, firm quotes, Amex Rule 154, Commentary .08, the publication of Market-On-Close order imbalances, timely openings, trading through ITS after the close of Exchange trading, and trading through the posted bids and offers of ITS Participant Exchanges. Specifically, the firm's supervisory system did not include written supervisory procedures providing for: (1) identification of the person(s) responsible for supervision with respect to the applicable rules; (2) a statement of the supervisory step(s) to be taken by the identified person(s); (3) a statement as to how often such person(s) should take such step(s); and (4) a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented.

9.2 The conduct described in paragraph 9.1 constitutes a violation of Amex Rule 320.

### **DISCIPLINARY ACTION:**

By reason of the foregoing Stipulated Facts and violations, a Disciplinary Panel may impose the following penalties against AIM Securities, LLC:

- (a) a censure;

- (b) a fine of \$55,000;
- (c) an undertaking for AIM Securities, LLC to revise the Firm's written supervisory procedures with respect to the areas described in paragraphs 9.1 and 9.2. Within 90 business days of acceptance of this Stipulation by an Exchange Hearing Panel, a registered principal of AIM shall submit to the COMPLIANCE ASSISTANT, NASD AMEX REGULATION DIVISION, ENFORCEMENT DEPARTMENT, ONE LIBERTY PLAZA, NEW YORK, NY 10006, a signed, dated letter, providing the following information: (1) a reference to this matter; (2) a representation that the firm has revised its written supervisory procedures to address the deficiencies described in paragraph 9.1 through 9.2; and, (3) the date the revised procedures were implemented.

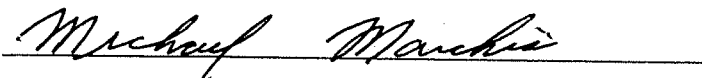
AIM hereby acknowledges that they have read carefully this Stipulation and understand all of the provisions contained herein; that they have agreed to its provisions voluntarily; and that no offer, promise, threat or inducement of any kind has been tendered to AIM by the Exchange, its staff or representatives to induce AIM to enter into this Stipulation, aside from the prospect of settling this disciplinary proceeding based on the terms and conditions set forth in this Stipulation rather than adjudicating this matter by way of a hearing on a Charge Memorandum as provided by Exchange rules.

AMERICAN STOCK EXCHANGE LLC

By: 

David Rosenstein  
Vice President and Chief Counsel  
NASD Amex Regulation Division

Agreed to this 8<sup>th</sup> day of MARCH, 2006.



AIM Securities, LLC