

**Disciplinary Panel  
American Stock Exchange LLC**

---

IN THE MATTER :  
OF :  
BEAR WAGNER SPECIALISTS, LLC, :  
BEAR HUNTER :  
STRUCTURED PRODUCTS, LLC :  
and :  
And HBH SPECIALISTS, LLC :  
Case Nos. 03-31, 04-36, 04-38, 04-49, :  
04-86, 04-87, 04-104, 04-113, 04-138, :  
04-150, 04-152, 04-158, 04-159, 04-190 :  
04-191, 04-194, 04-202, 04-215, 04-216 :  
04-257, 04-265, 04-270, 05-04, 05-04a, :  
05-04b, 05-04c, 05-04d, 05-04e, 05-31, :  
05-32, 05-33, 05-34, 05-35, 05-36, 05- :  
37, 05-38, 05-39, 05-40, 05-49, 05-50, :  
05-53, 05-55, 05-110, 05-111, 05-117, :  
05-139, 05-160, 05-165, 05-171, 05-176 :  
05-183, 05-183a, 05-187, 05-193, 05- :  
194, 05-197, 05-207, 05-233, 05-242, :  
05-296, 05-308, 05-308a, 05-319, 05- :  
354, 05-373, 05-394, 05-399, 05-402, :  
05-402a, 05-402b, 05-409, 05-428, 05- :  
433, 05-436, 05-436a, 05-486, :  
05-503, 06-32, 06-37, 06-48, 06-57 :  
Hearing Officer – RSH :  
**DECISION** :  
September 6, 2006 :

---

**In accordance with a Stipulation of Facts and Consent to Penalty, the Disciplinary Panel Chair determined that (1) Bear Wagner violated Exchange Rule 156(b), Article V, Section 4(h) of the Exchange Constitution, Exchange Rule 958A(e), SEC Rule 11Ac1-1, Exchange Rule 958A, Exchange Rule 941(e), Exchange Rule 943(a), Exchange Rule 719(d), and Exchange Rule 320; (2) HBH violated SEC Rule 11Ac1-4, Article V, Section 4(h) of the Exchange Constitution, SEC Rule 11Ac1-1, Exchange Rule 231(e), Exchange Rule 100, Exchange Rule 131A, Exchange Rule 236(b), Exchange Rule 232, Exchange Rule 7, SEC Rule 10a-1(i), Exchange Rule 170, Commentary .01 and .02, Exchange Rule 154, Commentary .08, Exchange Rule 154, Commentary .04(b), Exchange Rule 126(e), Exchange Rule 958A,**

**Exchange Rule 108(a), Exchange Rule 156(a), and Exchange Rule 320; and (3) Bear Hunter violated SEC Rule 11Ac1-4, Article V, Section 4(h) of the Exchange Constitution, Exchange Rule 156(b), Exchange Rule 958A(e), SEC Rule 11Ac1-1, Exchange Rule 231(e), Exchange Rule 236(d), Exchange Rule 1, and Exchange Rule 320, as stipulated, and as a penalty, imposed a censure and an undertaking for each firm to revise their written supervisory procedures. In addition, Bear Wagner was fined \$255,000; Bear Hunter was fined \$85,000; and HBH was fined \$85,000.**

## **I. Introduction**

The American Stock Exchange, LLC (“Exchange”) instituted a formal disciplinary proceeding against Bear Wagner Specialists LLC (“Bear Wagner”), Bear Hunter Structured Products, LLC (“Bear Hunter”), and HBH Specialists, LLC (“HBH”), Regular Member Organizations 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 10, 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, Bear Wagner, HBH, and Bear Hunter entered into the Stipulation for the purposes of settling this proceeding and concluding all disciplinary actions by the Exchange against Bear Wagner, HBH, and Bear Hunter based upon or arising out of the facts set forth in the Stipulation.

## **II. Facts**

Bear Wagner, HBH and Bear Hunter, 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**

A. Based upon the stipulated facts, the Chair concludes that **Bear Wagner and/or individual Bear Wagner specialists:**

(1) violated Exchange Rule 156(b) and/or Exchange Rule 958A(e), and Article V, Section 4(h) of the Exchange Constitution on numerous occasions between June 2002 and February 2005 by failing to use due diligence in handling customer limit orders;

(2) violated Exchange Rule 958A, SEC Rule 11Ac1-1, and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between January 2003 and April 2005 by failing to execute orders upon presentment, thereby failing to honor the published quotation, or executing orders at prices inferior to the published quoted market;

(3) violated SEC Rule 11Ac1-1, Exchange Rules 941(e) and 958A, and Article V, Section 4(h) of the Exchange Constitution in 25 cases between November 2004 and April 2005, by failing to execute orders entitled to an execution at the Firm's quoted markets in Linkage;

(4) violated Exchange Rule 943(a) and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between July 2003 and July 2004 by creating a Locked or Crossed Market and failing to unlock or uncross that market or failing to direct a Principal Order through the Linkage system to trade against the bid or offer that it locked or crossed;

(5) violated Exchange Rule 719(d) and Article V, Section 4(h) of the Exchange Constitution on 5 occasions during the period between January 2004 through February 2004 by failing to maintain specialist identification forms that identify the specialist responsible for each product on a given day and failing to have appropriate procedures and controls in place to properly maintain such forms; and

(6) violated Exchange Rule 320 between June 2002 and April 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.

B. Based upon the stipulated facts, the Chair concludes that **HBH and/or individual HBH specialists**:

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

(2) violated SEC Rule 11Ac1-1, Exchange Rule 231(e) and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between April 2004 and May 2005 by failing to honor the published quotation or by executing orders at prices inferior to the published quoted market or by failing to accept ITS commitments to trade at the quoted markets prior to the expiration or cancellation of such commitments;

(3) violated SEC Rule 11Ac1-1 and Article V, Section 4(h) of the Exchange Constitution on 87 occasions between April and June 2003 by failing to honor the published quotation;

(4) violated Exchange Rule 100 and Article V, Section 4(h) of the Exchange Constitution on several occasions between November 2003 and January 2004 by transmitting ITS commitments to a Participant Exchange after the close of Exchange trading;

(5) violated Exchange Rule 131A and Article V, Section 4(h) of the Exchange Constitution on 16 occasions between March and December 2004 by failing to publish Market-on-Close (“MOC”) order imbalances in accordance with Exchange Rule 131A;

(6) violated Exchange Rule 236(b) and Article V, Section 4(h) of the Exchange Constitution on 40 occasions in December 2003 by failing to avoid trading through the posted bid or offer of a Participant Exchange;

(7) violated Exchange Rule 232 and Article V, Section 4(h) of the Exchange Constitution on 24 occasions between May and July 2004 by failing to issue required ITS pre-opening notifications in eligible securities to other participant markets;

(8) violated SEC Rule 10a-1(i), Exchange Rule 7, and Article V, Section 4(h) of the Exchange Constitution on 44 occasions between May 2002 and September 2003 by effecting short sales on a straight minus or a zero minus tick;

(9) violated Exchange Rule 170, Commentary .01 and .02, and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between January and December 2003 by failing to obtain necessary Floor approval;

(10) violated Exchange Rule 154, Commentary .08 and Article V, Section 4(h) of the Exchange Constitution on 66 occasions between January and September 2004 by failing to receive Floor Official approval prior to transactions subject to Exchange Rule 154, Commentary .08;

(11) violated SEC Rule 11Ac1-4 and Exchange Rule 156(a) and Article V, Section 4(h) of the Exchange Constitution on 19 occasions between July 2003 and October 2004 by failing to handle customer equity limit orders in accordance with SEC Rule 11Ac1-4, and on 9 occasions between July 2003 and October 2004 by failing to use

due diligence in the execution of orders which would have been entitled to better executions had the superior equity limit orders been reflected on specialist book;

(12) violated Exchange Rule 958A and Article V, Section 4(h) of the Exchange Constitution on 4 occasions between July 2003 and January 2004 by executing orders at prices inferior to the published quoted market;

(13) violated Exchange Rule 126(e) and Article V, Section 4(h) of the Exchange Constitution on 2 occasions between August and September 2003 by executing 2 orders on the specialist book out of proper sequence;

(14) violated Exchange Rule 154, Commentary .04(b), and Article V, Section 4(h) of the Exchange Constitution on September 29, 2003 by failing to execute a stop order at the same price as the electing sale and failing to first obtain Floor Official approval prior to the election of the stop order;

(15) violated Exchange Rule 108(a) and Article V, Section 4(h) of the Exchange Constitution on October 15, 2003 by failing to execute market orders ahead of limit orders on the opening, failing to execute such market orders at one price, and failing to use due diligence in the handling of such market orders; and

(16) violated Exchange Rule 320 between April 2003 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.

C. Based upon the stipulated facts, the Chair concludes that **Bear Hunter and/or individual Bear Hunter specialists:**

(1) violated SEC Rule 11Ac1-4 and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between January 2003 and June 2005 by failing to handle customer limit orders in accordance with SEC Rule 11Ac1-4 ;

(2) violated Exchange Rule 156(b) and/or Exchange Rule 958A(e), and Article V, Section 4(h) of the Exchange Constitution on numerous occasions between September 2004 and May 2005 by failing to use due diligence in handling customer limit orders and failing to handle customer limit orders in accordance with Exchange Rule 958A(e);

(3) violated SEC Rule 11Ac1-1, Exchange Rule 231(e) and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between October 2002 and August 2004 by failing to honor the published quotation or by executing orders at prices inferior to the published quoted market or by failing to accept ITS commitments to trade at the quoted markets prior to the expiration or cancellation of such commitments;

(4) violated Exchange Rule 236(d) and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between February and July 2005 by creating a Locked Market and failing to unlock that market or trade against the bid or offer locked on another ITS participating market center;

(5) violated Exchange Rule 1 and Article V, Section 4(h) of the Exchange Constitution on 10 occasions between January 2003 and August 2004 by failing to timely open equities in accordance with Exchange Rule 1; and

(6) violated Exchange Rule 320 between January 2003 and June 2005 by failing to provide for supervision reasonably designed to achieve compliance with respect to the

applicable securities laws and regulations, and the Exchange rules concerning the display of superior customer limit orders, firm quotes, ITS Locked Markets and untimely openings, so as to detect and deter the foregoing violations.

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

The Stipulation proposes that the Chair impose a censure against Bear Wagner, HBH and Bear Hunter; a fine of \$255,000 against Bear Wagner, a fine of \$85,000 against HBH, a fine of \$85,000 against Bear Hunter; and an undertaking for Bear Wagner, HBH, and Bear Hunter to revise each Firm's written supervisory procedures, and within 90 business days of acceptance of this Stipulation by the Disciplinary Panel, document the revisions to NASD Amex Regulation Division as described in the Disciplinary Action section of the 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**

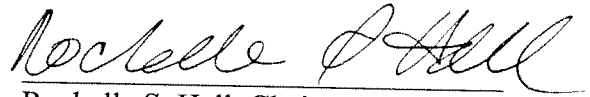
The Chair accepts the Stipulation of Facts and Consent to Penalty and hereby imposes a censure on Bear Wagner, HBH, and Bear Hunter; a \$255,000 fine on Bear Wagner, an \$85,000 fine on HBH, an \$85,000 fine on Bear Hunter; and an

---

<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.

undertaking for Bear Wagner, HBH, and Bear Hunter to revise the Firms' written supervisory procedures.

**FOR THE DISCIPLINARY PANEL**

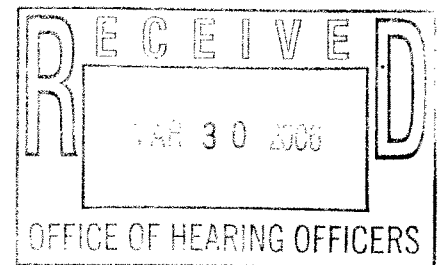


Rochelle S. Hall, Chair

Copies to: Bear Wagner Specialists, LLC (*overnight and first class mail*)  
Bear Hunter Structured Products, LLC (*overnight and first class mail*)  
HBH Specialists, LLC (*overnight and first class mail*)  
Michael Wolk, Esq. (*facsimile and first class mail*)  
Jennifer D. Kim, Esq. (*electronically and first class mail*)  
David E. Rosenstein, Esq. (*electronically and first class mail*)  
Eric S. Brown, Esq. (*electronically and first class mail*)  
Arlene Collins-Day (*electronically and first class mail*)

# **EXHIBIT A**

**Disciplinary Panel  
American Stock Exchange LLC**



IN THE MATTER  
OF  
BEAR WAGNER SPECIALISTS, LLC,  
BEAR HUNTER STRUCTURED  
PRODUCTS AND  
HBH SPECIALISTS, LLC

**STIPULATION OF FACTS  
AND CONSENT TO PENALTY**

Case No. 03-31, 04-36, 04-38, 04-49, 04-86, 04-87, 04-104, 04-113, 04-138, 04-150, 04-152, 04-158, 04-159, 04-190, 04-191, 04-194, 04-202, 04-215, 04-216, 04-257, 04-265, 04-270, 05-04, 05-04a, 05-04b, 05-04c, 05-04d, 05-04e, 05-31, 05-32, 05-33, 05-34, 05-35, 05-36, 05-37, 05-38, 05-39, 05-40, 05-49, 05-50, 05-53, 05-55, 05-110, 05-111, 05-117, 05-139, 05-160, 05-165, 05-171, 05-176, 05-183, 05-183a, 05-187, 05-193, 05-194, 05-197, 05-207, 05-233, 05-242, 05-296, 05-308, 05-308a, 05-319, 05-354, 05-373, 05-394, 05-399, 05-402, 05-402a, 05-402b, 05-409, 05-428, 05-433, 05-436, 05-436a, 05-486, 05-503, 06-32, 06-37, 06-48, 06-57

This proceeding was instituted by the American Stock Exchange LLC (the "Exchange") against Bear Wagner Specialists LLC ("Bear Wagner") (CRD #32691), HBH Specialists, LLC ("HBH") (CRD #111559) and Bear Hunter Structured Products ("Bear Hunter") (CRD #111198), Regular Member Organizations of the Exchange. This Stipulation of Facts and Consent to Penalty ("Stipulation") is entered into with Bear Wagner, HBH and Bear Hunter pursuant to Article V, Section 2 of the Exchange Constitution in order to settle and conclude all disciplinary actions by the Exchange against Bear Wagner, HBH and Bear Hunter based upon or arising out of the facts hereinafter stipulated. Bear Wagner, HBH and Bear Hunter, without admitting or denying the facts, allegations and conclusions contained in this Stipulation of Facts and Consent to Penalty, hereby consent to the entry of findings of

violations of the Exchange Constitution, Rules and Federal securities laws, and the imposition of the penalties hereinafter provided. Bear Wagner, HBH, and Bear Hunter understand 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. Bear Wagner, HBH and Bear Hunter understand and acknowledge that the Disciplinary Panel’s decision in this matter will become part of their respective disciplinary records and may be considered in any future proceeding brought by the Exchange.

**STIPULATED FACTS:**

- 1.0 During all relevant periods herein, Bear Wagner, HBH and Bear Hunter were Regular Member Organizations of the Exchange and registered options, equities and ETF specialist organizations of the Exchange.
- 1.1 During all relevant periods herein, Bear Wagner, HBH and Bear Hunter served as specialists for various options, equities and ETFs, which traded on the Floor of the Exchange.

**BEAR WAGNER**

**2.0 Options Limit Order Display Violations**

- 2.1 Exchange Rule 156(b)<sup>1</sup> requires Exchange specialists to use due diligence in handling limited price orders.
- 2.2 Subject to certain exceptions, Exchange Rule 958A(e)<sup>2</sup> requires Exchange specialists to publish immediately, but in no event later than 30 seconds from

---

<sup>1</sup> As of August 20, 2003, the Exchange notified options specialists that, subject to certain exceptions, failures to execute or display customer options limit orders immediately, but in no event later than 30 seconds from the time of receipt, would be enforced pursuant to Exchange Rule 156 and Article V, Section 4(h) of the Exchange Constitution.

<sup>2</sup> Effective January 21, 2005.

- the time of receipt, the price and size of each customer options limit order held by the specialist that is at a price or size that would improve the displayed bid or offer in the option that is the subject of the limit order.
- 2.3 On 100 occasions during the period June 1, 2002 through May 31, 2003, Bear Wagner failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 04-38).
  - 2.5 On 27 occasions during the period February 2, 2004 through February 27, 2004, Specialist A and Specialist B failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 04-216).
  - 2.6 On 71 occasions during the period March 1, 2004 through March 31, 2004, Specialist A and Specialist B failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 04-270).
  - 2.7 On 25 occasions during the period April 1, 2004 through August 31, 2004, Specialist C and Specialist D failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-31).
  - 2.8 On 25 occasions during the period April 1, 2004 through August 31, 2004, Specialist E failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-32).

- 2.9 On 25 occasions during the period April 1, 2004 through August 31, 2004, Specialist F failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-33).
- 2.10 On 25 occasions during the period April 1, 2004 through August 31, 2004, Specialist G failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-34).
- 2.11 On 25 occasions during the period April 1, 2004 through August 31, 2004, Specialist H failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-35).
- 2.12 On 40 occasions during the period April 1, 2004 through August 31, 2004, Specialist B failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-36).
- 2.13 On 40 occasions during the period April 1, 2004 through August 31, 2004, Specialist I failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-37).
- 2.14 On 40 occasions during the period April 1, 2004 through August 31, 2004, Specialist J failed to use due diligence in handling customer limit orders by

- failing to execute or display customer option limit orders immediately (Amex Case No. 05-38).
- 2.15 On 30 occasions during the period April 1, 2004 through August 23, 2004, Specialist K failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-39).
- 2.16 On 30 occasions during the period April 1, 2004 through August 31, 2004, Specialist L failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-40).
- 2.17 On 25 occasions during the period April 1, 2004 through August 31, 2004, Specialist M failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-53).
- 2.18 On 25 occasions during the period April 1, 2004 through August 31, 2004, Specialist E, Specialist M and Specialist N failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-55).
- 2.19 On 25 occasions during the period December 1, 2004 through February 28, 2005, Specialist A failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately, and by failing to handle customer limit orders in accordance with Exchange Rule 958A(e) (Amex Case No. 05-296).

2.20 The conduct described in above paragraphs 2.3 through 2.19 constitutes separate and distinct violations of Exchange Rule 156(b) and/or Exchange Rule 958A(e) and Article V, Section 4(h) of the Exchange Constitution.

### **3.0 Options Firm Quote Violations**

- 3.1 Subject to certain exceptions, Exchange specialists are required to execute orders to buy or sell options presented to them at a price at least as favorable to the published bid or offer, in accordance with SEC Rule 11Ac1-1 and Exchange Rule 958A.
- 3.2 On 10 occasions during the period of January 2, 2003 through May 30, 2003, an order was presented to Specialist P at the published bid or offer in an amount up to its published quotation size. Specialist P executed these orders at prices inferior to the published quoted market (Amex Case No. 04-36).
- 3.3 On 25 occasions during the period of January 2, 2003 through May 30, 2003, an order was presented to Specialist O and Specialist AA at the published bid or published offer in an amount up to its published quotation size. Specialist O and Specialist AA failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 04-49).
- 3.4 On 25 occasions during the period of January 2, 2003 through May 30, 2003, an order was presented to Specialist P at the published bid or offer in an amount up to the published quotation size. Specialist P failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 04-86).

- 3.5 On 25 occasions during the period of January 2, 2003 through May 30, 2003, an order was presented to Specialist J, Specialist Q, Specialist R and Specialist I at the published bid or offer in an amount up to the published quotation size. Specialist J, Specialist Q, Specialist R and Specialist I failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 04-87).
- 3.6 On 25 occasions during the period of January 2, 2003 through May 30, 2003, an order was presented to Bear Wagner at the published bid or offer in an amount up to the published quotation size. Bear Wagner failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 04-113).
- 3.7 On 9 occasions during the period of January 2, 2003 through May 30, 2003, an order was presented to Specialist O and Specialist F at the published bid or offer in an amount up to the published quotation size. Specialist O and Specialist F failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 05-49).
- 3.8 On 20 occasions during the period of January 2, 2004 through February 27, 2004, an order was presented to Specialist L at the published bid or offer in an amount up to the published quotation size. Specialist L failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 05-50).
- 3.9 On 22 occasions during the period of March 1, 2004 through August 23, 2004, an order was presented to Specialist G at the published bid or offer in an

amount up to the published quotation size. Specialist G failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 05-110).

- 3.10 On 46 occasions during the period of March 1, 2004 through September 30, 2004, an order was presented to Specialist K at the published bid or offer in an amount up to the published quotation size. Specialist K failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case Nos. 05-111 and 05-233).
- 3.11 On 23 occasions during the period of March 1, 2004 through August 23, 2004, an order was presented to Specialist A, Specialist C and Specialist D at the published bid or offer in an amount up to the published quotation size. Specialist A, Specialist C and Specialist D failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 05-165).
- 3.12 On 25 occasions during the period of March 1, 2004 through August 23, 2004, an order was presented to Specialist H at the published bid or offer in an amount up to the published quotation size. Specialist H failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 05-171).
- 3.13 On 52 occasions during the period of March 1, 2004 through September 30, 2004, an order was presented to Specialist F at the published bid or offer in an amount up to the published quotation size. Specialist F failed to execute these

- orders upon presentment and thereby failed to honor the published quotation (Amex Case Nos. 05-183 and 05-183(a)).
- 3.14 On 46 occasions during the period of March 1, 2004 through September 30, 2004, an order was presented to Specialist M and Specialist N at the published bid or offer in an amount up to the published quotation size. Specialist M and Specialist N failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case Nos. 05-193 and 05-194).
- 3.15 On 24 occasions during the period of March 1, 2004 through August 23, 2004, an order was presented to Specialist L at the published bid or offer in an amount up to the published quotation size. Specialist L failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 05-197).
- 3.16 On 25 occasions during the period of October 1, 2004 through January 31, 2005, an order was presented to Specialist S at the published bid or offer in an amount up to the published quotation size. Specialist S executed these orders at prices inferior to the Firm's published quoted market or failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 05-394).
- 3.17 On 25 occasions during the period of February 1, 2005 through April 29, 2005, an order was presented to Specialist S at the published bid or offer in an amount up to the published quotation size. Specialist S failed to execute these orders upon presentment and thereby failed to honor the published quotation,

or executed these orders at prices inferior to the published quoted market (Amex Case No. 05-503).

- 3.18 The conduct described in above paragraphs 3.2 through 3.17 constitutes separate and distinct violations of SEC Rule 11Ac1-1, Exchange Rule 958A and Article V, Section 4(h) of the Exchange Constitution.

#### **4.0 Linkage Firm Quote Violations**

- 4.1 Subject to certain exceptions, SEC Rule 11Ac1-1 and Exchange Rules 941(e) and 958A require Exchange specialists to execute Linkage Principal and Principal as Agent orders received from other Participant Exchanges and entrusted to the specialist as agent at the best available price reflected in the Firm's quoted market.
- 4.2 On 25 occasions during the period of November 1, 2004 through April 30, 2005, the Firm failed to execute orders entitled to an execution at the Firm's quoted markets in Linkage (Amex Case No. 05-373).
- 4.3 The conduct described in paragraph 4.2 constitutes separate and distinct violations of SEC Rule 11Ac1-1, Exchange Rules 941(e) and 958A and Article V, Section 4(h) of the Exchange Constitution.

#### **5.0 Linkage/Locked and Crossed Violations**

- 5.1 Subject to certain exceptions, Exchange Rule 943(a) requires that an Eligible Market Maker that creates a Locked or Crossed Market unlock or uncross that market or direct a Principal Order through Linkage to trade against the bid or offer that the Eligible Market Maker locks or crosses.

- 5.2 On 30 occasions during the period of July 1, 2003 through April 30, 2004, Bear Wagner created a Locked or Crossed Market and failed to unlock or uncross that market or failed to direct a Principal Order through the linkage system to trade against the bid or offer that Bear Wagner locked or crossed (Amex Case No. 05-319).
- 5.3 On 195 occasions during the period of May 1, 2004 through July 31, 2004, Bear Wagner created a Locked or Crossed Market and failed to unlock or uncross that market or failed to direct a Principal Order through the linkage system to trade against the bid or offer that Bear Wagner locked or crossed (Amex Case No. 04-257).
- 5.4 The conduct described in paragraphs 5.2 through 5.3 constitutes separate and distinct violations of Exchange Rule 943(a) and Article V, Section 4(h) of the Exchange Constitution.

## **6.0 Specialist Identification Violations**

- 6.1 During all relevant periods herein, Exchange Rule 719(d) requires that the Firm maintain specialist identification forms, which identify the specialist responsible for each product on a given day and failed to have appropriate procedures and controls in place to properly maintain such forms.
- 6.2 On 5 occasions during the period January 2, 2004 through February 27, 2004, Bear Wagner failed to maintain specialist identification forms that identify the specialist responsible for each product on a given day and failed to have appropriate procedures and controls in place to properly maintain such forms (Amex Case No. 05-160).

- 6.3 The conduct described in paragraph 6.2 constitutes separate and distinct violations of Exchange Rule 719(d) and Article V, Section 4(h) of the Exchange Constitution.

## **HBH**

### **7.0 Equity Limit Order Display Violations**

- 7.1 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.
- 7.2 On 25 occasions during the period of November 1, 2004 through December 31, 2004, HBH failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 05-399).
- 7.3 On 30 occasions during the period of January 1, 2005 through March 31, 2005, HBH failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 05-433).
- 7.4 On 25 occasions during the period of April 1, 2005 through June 30, 2005, Specialist W failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 06-48).

7.5 The conduct described in paragraphs 7.2 through 7.4 constitutes separate and distinct violations of SEC Rule 11Ac1-4 (currently known as Rule 604 of Regulation NMS) and Article V, Section 4(h) of the Exchange Constitution.

#### **8.0 Equity and ITS Firm Quote Violations**

8.1 Subject to certain exceptions, SEC Rule 11Ac1-1 and Exchange Rule 231(e) require Exchange specialists to execute incoming ITS commitments to trade at the best available price reflected in the Firm's quoted market.

8.2 On 70 occasions during the period of December 1, 2004 through May 31, 2005 an order was presented to HBH at the published bid or offer in an amount up to its published quotation size. HBH failed to execute these orders upon presentment and thereby failed to honor the published quotation, or executed these orders at prices inferior to the published quoted market (Amex Case Nos. 05-402, 05-402a and 05-402b).

8.3 On 35 occasions during the period of December 1, 2004 through May 31, 2005, an ITS commitment to trade was transmitted to HBH at the published quoted market. HBH failed to accept these ITS commitments to trade at the quoted markets prior to the expiration or cancellation of such commitments (Amex Case Nos. 05-402, 05-402a and 05-402b).

8.4 On 40 occasions during the period of April 1, 2004 through June 30, 2004, an order was presented to HBH at the published bid or published offer in an amount up to its published quotation size. HBH failed to execute these orders upon presentment and thereby failed to honor the published quotation, or

executed these orders at a price inferior to the published quoted market (Amex Case No. 05-176).

8.5 The conduct described in paragraphs 8.2 and 8.4 constitutes separate and distinct violations of SEC Rule 11Ac1-1 and Article V, Section 4(h) of the Exchange Constitution.

8.6 The conduct described in paragraph 8.3 constitutes separate and distinct violations of SEC Rule 11Ac1-1, Exchange Rule 231(e) and Article V, Section 4(h) of the Exchange Constitution.

#### **9.0 Equity Firm Quote Violations**

9.1 Subject to certain exceptions, Exchange specialists are required to execute orders to buy or sell equities presented to them at a price at least as favorable to the published bid or offer, in accordance with SEC Rule 11Ac1-1.

9.2 On 87 occasions during the period of April 1, 2003 through June 30, 2003, an order was presented to HBH at the published bid or published offer in an amount up to its published quotation size. HBH failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 04-202).

9.3 The conduct described in paragraph 9.2 constitutes separate and distinct violations of SEC Rule 11Ac1-1 and Article V, Section 4(h) of the Exchange Constitution.

## **10.0 Post-4 p.m. Trading Violations**

- 10.1 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.
- 10.2 On one occasion on trade date November 11, 2003, Specialist U transmitted an ITS commitment to a Participant Exchange after the close of Exchange trading (Amex Case No. 04-152).
- 10.3 On two occasions on trade date November 21, 2003, Specialist W transmitted ITS commitments to a Participant Exchange after the close of Exchange trading (Amex Case Nos. 04-158 and 04-159).
- 10.4 On one occasion on trade date December 8, 2003, Specialist V transmitted an ITS commitment to a Participant Exchange after the close of Exchange trading (Amex Case No. 04-190).
- 10.5 On one occasion on trade date January 12, 2004, Specialist W transmitted an ITS commitment to a Participant Exchange after the close of Exchange trading (Amex Case No. 04-191).

10.6 The conduct described in paragraphs 10.2 through 10.5 constitutes separate and distinct violations of Exchange Rule 100 and Article V, Section 4(h) of the Exchange Constitution.

**11.0 Publication of Market-on Close Order Imbalance Information Violations**

11.1 During all relevant periods provided herein, Exchange Rule 131A and Amex Notice – Market-on-Close Policy and Expiration Opening Procedures (March 17, 2004) required equity specialists to publish Market-on-Close (“MOC”) 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.

11.2 On 16 occasions during the period of March 19, 2004 through December 17, 2004, HBH failed to publish MOC order imbalances in accordance with Exchange Rule 131A and the aforementioned Amex Notice (Amex Case No. 05-117).

11.3 The conduct described in paragraph 11.2 constitutes separate and distinct violations of Exchange Rule 131A, the aforementioned Amex Notice and Article V, Section 4(h) of the Exchange Constitution.

**12.0 ITS Trade-Through Violations**

12.1 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.

12.2 On 40 occasions during the period of December 2003, Specialist W failed to avoid trading through the posted bid or offer of a Participant Exchange (Amex Case No. 04-194).

12.3 The conduct described in paragraph 12.2 constitutes separate and distinct violations of Exchange Rule 236(b) and Article V, Section 4(h) of the Exchange Constitution.

### **13.0 ITS Pre-Opening Application Violations**

13.1 During all relevant periods herein, Exchange Rule 232 required Exchange specialists to issue Pre-opening notifications to other Participant markets when the opening transaction on the Exchange in an Eligible Listed Security was more than the applicable price change as defined by Rule 232.

13.2 On 24 occasions during the period May 1, 2004 through July 31, 2004, Specialist W failed to issue required ITS pre-opening notifications in eligible securities to other participant markets (Amex Case No. 04-215).

13.3 The conduct described in paragraph 13.2 constitutes separate and distinct violations of Exchange Rule 232 and Article V, Section 4(h) of the Exchange Constitution.

#### **14.0 Short Sales**

- 14.1 Subject to certain exceptions, SEC Rule 10a-1(i) and Exchange Rule 7 prohibit Exchange specialists from effecting short sales on a straight minus or a zero minus tick.
- 14.2 On 44 occasions during the period of May 23, 2002 through September 30, 2003, Specialist T, Specialist U, Specialist V and Specialist W effected short sales on a straight minus or a zero minus tick (Amex Case No. 04-150).
- 14.3 The conduct described in paragraph 14.2 constitutes separate and distinct violations of Exchange Rule 7, SEC Rule 10a-1(i) and Article V, Section 4(h) of the Exchange Constitution.

#### **15.0 Destabilizing Transactions**

- 15.1 During all relevant periods herein, Exchange Rule 170, Commentary .01 and .02, requires the Exchange specialist to obtain Floor Official approval: 1) prior to purchasing stock, while long or short in the firm's proprietary account on a straight plus tick; 2) when buying greater than 50% of the shares in the market on the offer while long in the firm's proprietary account; 3) when selling greater than 50% of the share in the market on the bid while short in the firm's proprietary account; and 4) prior to selling stock on a straight minus tick while long in the firm's proprietary account.
- 15.2 On 72 occasions during the period January 1, 2003 through June 30, 2003, HBH failed to obtain the necessary Floor approval as set forth in Exchange Rule 170, Commentary .01 and .02 (Amex Case No. 04-104).

- 15.3 On 6 occasions during the period July 1, 2003 through December 31, 2003, HBH failed to obtain the necessary Floor approval as set forth in Exchange Rule 170, Commentary .01 and .02 (Amex Case No. 04-138).
- 15.4 The conduct described in paragraphs 15.2 through 15.3 constitutes separate and distinct violations of Rule 170, Commentary .01 and .02 and Article V, Section 4(h) of the Exchange Constitution.

**16.0 Amex Rule 154, Commentary .08 Violations**

- 16.1 During all relevant periods herein, Exchange Rule 154, Commentary .08 requires 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 \$2) 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.
- 16.2 On 66 occasions during the period January 1, 2004 through September 30, 2004, HBH failed to receive Floor Official approval prior to transactions subject to Exchange Rule 154, Commentary .08 (Amex Case No. 04-265).
- 16.3 The conduct described in paragraph 16.2 constitutes separate and distinct violations of Exchange Rule 154, Commentary .08 and Article V, Section 4(h) of the Exchange Constitution.

## **17.0 Various Order Handling Violations**

- 17.1 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. Exchange Rule 156 requires that due diligence be used in the execution of these orders.
- 17.2 Subject to certain exceptions, SEC Rule 11Ac1-1 and Exchange Rule 231(e) require Exchange specialists to execute customer orders entrusted to the Firm/specialist as agent at the best available price reflected in the quoted market.
- 17.3 During all relevant periods herein, Exchange Rule 126(e) requires Exchange specialists to execute orders on the specialist book in a proper sequence.
- 17.4 During all relevant periods herein, Exchange Rule 154, Commentary .04(b) requires Exchange specialists to execute stop orders at the same price as the electing sale and first obtain Floor Official Approval prior to the election of the stop order.
- 17.5 Subject to certain exceptions, Exchange Rule 108(a) and Exchange Rule 156(a) require that at opening, all market orders (whether entrusted to or left

with the specialist or represented by a broker or brokers in the Trading Crowd), have precedence over limit orders and shall be executed at one price and be handled with due diligence.

- 17.6 On 19 occasions during the period July 23, 2003 through October 27, 2004, HBH failed to handle customer equity limit orders in accordance with SEC Rule 11Ac1-4. On 9 occasions during the same time period, HBH failed to use due diligence in the execution orders which would have been entitled to better executions had the superior equity limit orders been reflected on specialist book (Amex Case No. 05-187).
- 17.7 On 4 occasions during the period July 23, 2003 through January 8, 2004, an order was presented to HBH at the published bid or offer in an amount up to its published quotation size. HBH executed these orders at prices inferior to the published quoted market (Amex Case No. 05-187).
- 17.8 On 2 occasions on August 19, 2003 and September 29, 2003, HBH executed two orders on the specialist book out of proper sequence (Amex Case No. 05-187).
- 17.9 On September 29, 2003, HBH failed to execute a stop order at the same price as the electing sale and failed to first obtain Floor Official approval prior to the election of the stop order (Amex Case No. 05-187).
- 17.10 On October 15, 2003, HBH failed to execute on the opening market orders ahead of limit orders, failed to execute such market orders at one price and failed to use due diligence in the handling of such market orders (Amex Case No. 05-187).

- 17.11 The conduct described in paragraph 17.6 constitutes separate and distinct violations of SEC Rule 11Ac1-4 and Exchange 156(a) and Article V, Section 4(h) of the Exchange Constitution.
- 17.12 The conduct described in paragraph 17.7 constitutes separate and distinct violations of Exchange Rule 958A and Article V, Section 4(h) of the Exchange Constitution.
- 17.13 The conduct described in paragraph 17.8 constitutes separate and distinct violations of Exchange Rule 126(e) and Article V, Section 4(h) of the Exchange Constitution.
- 17.14 The conduct described in paragraph 17.9 constitutes separate and distinct violations of Exchange Rule 154, Commentary .04(b) and Article V, Section 4(h) of the Exchange Constitution.
- 17.15 The conduct described in paragraph 17.10 constitutes separate and distinct violations of Exchange Rule 108(a) and Article V, Section 4(h) of the Exchange Constitution.

## **BEAR HUNTER**

### **18.0 Equity Limit Order Display Violations**

- 18.1 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.

- 18.2 On 30 occasions during the period November 2004 through December 2004, Bear Hunter failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 05-409).
- 18.3 On 57 occasions during the period August 1, 2004 through March 31, 2005, Bear Hunter failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case Nos. 05-436 and 05-436a).
- 18.4 On 25 occasions during the period April 1, 2005 through June 30, 2005, Specialist Y failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 06-32).
- 18.5 On 25 occasions during the period April 1, 2005 through June 30, 2005, Specialist D failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 06-37).
- 18.6 On 146 occasions during the period January 1, 2003 through May 31, 2003, January 1, 2004 through March 31, 2004 and April 1, 2004 through July 31, 2004, Bear Hunter failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 06-57).
- 18.7 The conduct described in paragraphs 18.2 through 18.6 constitutes separate and distinct violations of SEC Rule 11Ac1-4 (currently known as Rule 604 of Regulation NMS) and Article V, Section 4(h) of the Exchange Constitution.

## **19.0 Option Limit Order Display Violations**

- 19.1 Exchange Rule 156(b) requires Exchange specialists to use due diligence in handling limited price orders.
- 19.2 Subject to certain exceptions, Exchange Rule 958A(e) requires Exchange specialists to publish immediately, but in no event later than 30 seconds from the time of receipt, the price and size of each customer options limit order held by the specialist that is at a price or size that would improve the displayed bid or offer in the option that is the subject of the limit order.
- 19.3 On 25 occasions during the period September 1, 2004 through November 30, 2004, Specialist X failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-139).
- 19.4 On 25 occasions during the period March 1, 2005 through May 31, 2005, Specialist D failed to handle customer limit orders in accordance with Exchange Rule 958A(e) (Amex Case No. 05-428).
- 19.5 The conduct described in above paragraphs 19.3 through 19.4 constitutes separate and distinct violations of Exchange Rule 156(b) and/or Exchange Rule 958A(e) and Article V, Section 4(h) of the Exchange Constitution.

## **20.0 Equity and ITS Firm Quote Violations**

- 20.1 Subject to certain exceptions, SEC Rule 11Ac1-1 and Exchange Rule 231(e) require Exchange specialists to execute incoming ITS commitments to trade at the best available price reflected in the Firm's quoted market.

- 20.2 On 374 occasions during the period of October 1, 2002 through February 28, 2003, an order was presented to Bear Hunter at the published bid or offer in an amount up to its published quotation size. Bear Hunter executed these orders at prices inferior to the published quoted market (Amex Case No. 03-31).
- 20.3 On 22 occasions during the period of January 1, 2003 through March 31, 2004, an order was presented to Bear Hunter at the published bid or offer in an amount up to its published quotation size. Bear Hunter executed these orders at prices inferior to the published quoted market (Amex Case No. 05-207).
- 20.4 On 37 occasions during the period of July 1, 2004 through November 30, 2004 and March 1, 2004 through August 31, 2004, Bear Hunter failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case Nos. 05-308 and 05-308a).
- 20.5 On 3 occasions during the period of July 1, 2004 through November 30, 2004 and March 1, 2004 through August 31, 2004, an ITS commitment to trade was transmitted to Bear at the published quoted market. Bear Hunter failed to accept these ITS commitments to trade at the quoted markets prior to the expiration or cancellation of such commitments (Amex Case Nos. 05-308 and 05-308a).
- 20.6 On 104 occasions during the period of January 2, 2004 through July 31, 2004, an order was presented to Bear Hunter at the published bid or offer in an amount up to its published quotation size. Bear Hunter executed these orders at prices inferior to the published quoted market (Amex Case No. 05-242).

- 20.7 The conduct described in paragraphs 20.2, 20.3, 20.4 and 20.6 constitutes separate and distinct violations of SEC Rule 11Ac1-1 and Article V, Section 4(h) of the Exchange Constitution.
- 20.8 The conduct described in paragraph 20.5 constitutes separate and distinct violations of SEC Rule 11Ac1-1, Exchange Rule 231(e) and Article V, Section 4(h) of the Exchange Constitution.

#### **21.0 ITS Locked Market Violations**

- 21.1 Subject to certain exceptions, Exchange Rule 236(d) requires that an Eligible Market Maker that creates a Locked Market unlock the market or trade against the bid or offer that the Eligible Market Maker locked on another ITS participating market center.
- 21.2 On 314 occasions during the period of February 1, 2005 through April 30, 2005, Specialist Y created a Locked Market and failed to unlock that market or trade against the bid or offer that Specialist Y locked on another ITS participating market center (Amex Case No. 05-354).
- 21.3 On 549 occasions during the period of May 1, 2005 through July 31, 2005, Specialist Y created a Locked Market and failed to unlock that market or trade against the bid or offer that Specialist Y locked on another ITS participating market center (Amex Case No. 05-486).
- 21.4 The conduct described in paragraphs 21.2 through 21.3 constitutes separate and distinct violations of Exchange Rule 236(d) and Article V, Section 4(h) of the Exchange Constitution.

## **22.0 Untimely Openings**

- 22.1 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.
- 22.2 On 10 occasions during the period of January 1, 2003 through August 31, 2004, Bear Hunter failed to timely open equities in accordance with Exchange Rule 1 (Amex Case No. 05-04, 05-04(a)-(e)).
- 22.3 The conduct described in paragraph 22.2 constitutes separate and distinct violations of Exchange Rule 1 and Article V, Section 4(h) of the Exchange Constitution.

### **SUPERVISORY DEFICIENCIES:**

#### **Bear Wagner**

- 23.0 For the period June 1, 2002 through April 29, 2005, Bear Wagner'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 the display of superior customer limit orders, firm quotes, Linkage Locked and Crossed Markets and Specialist Identification forms. 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.

23.1 The conduct described in paragraph 23.0 constitutes a violation of Amex Rule 320.

**HBH**

24.0 For the period April 1, 2003 through June 30, 2005, HBH'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 the display of superior customer limit orders, 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, short sale provisions, Destabilizing Transactions, ITS Pre-Opening Commitments and various order handling provisions. 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.

24.1 The conduct described in paragraph 24.0 constitutes a violation of Amex Rule 320.

**Bear Hunter**

25.0 For the period January 1, 2003 through June 30, 2005, Bear Hunter'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 the display of superior customer limit orders, firm quotes, ITS Locked Markets and untimely openings, so as to detect and deter the foregoing violations.

25.1 The conduct described in paragraph 25.0 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:

- (a) a censure to be imposed against Bear Wagner, HBH and Bear Hunter;
- (b) a total fine of \$425,000 to be imposed against Bear Wagner, HBH and Bear Hunter to be paid as follows:
  - 1) Bear Wagner - \$255,000
  - 2) HBH - \$85,000
  - 3) Bear Hunter - \$85,000; and
- (c) an undertaking for Bear Wagner, HBH and Bear Hunter to revise the Firms' written supervisory procedures with respect to the areas described in paragraphs 23.0, 24.0 and 25.0. Within 90 business days of acceptance of this Stipulation by an Exchange Hearing Panel, a registered principal of Bear Wagner, HBH and Bear Hunter 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 paragraphs 23.0, 24.0 and 25.0; and, (3) the date the revised procedures were implemented.

Bear Wagner, HBH and Bear Hunter hereby acknowledge 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 Bear Wagner, HBH and Bear Hunter by the Exchange, its staff or representatives to induce Bear Wagner, HBH and Bear Hunter 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.

ON BEHALF OF AMERICAN STOCK EXCHANGE LLC

By: \_\_\_\_\_

David Rosenstein  
Vice President and Chief Counsel  
Enforcement Department  
NASD Amex Regulation Division

Agreed to this 17<sup>th</sup> day of March, 2006.

[Signature]  
Bear Wagner Specialists, LLC

[Signature]  
HBH Specialists, LLC

[Signature]  
Bear Hunter Structured Products