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Eric Brown, Esq. (*electronically and first class mail*)  
Arlene Collins-Day (*electronically and first class mail*)

**Disciplinary Panel  
American Stock Exchange LLC**

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IN THE MATTER	:	Case Nos. 03-57, 04-54, 04-80,
	:	04-98, 04-114, 04-144, 04-182,
OF	:	04-207, 04-259, 05-44, 05-73,
	:	05-153, 05-151, 05-196, 05-198,
JANE STREET SPECIALISTS, LLC f/k/a	:	05-313, 05-317, and 05-333
BOWERY SPECIALISTS GROUP, LLC	:	
	:	Hearing Officer – RSH
AND	:	
	:	<b>DECISION</b>
MICHAEL G. CHALLEN	:	
	:	September 14, 2006
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**In accordance with a Stipulation of Facts and Consent to Penalty, the Disciplinary Panel Chair determined that Jane Street violated Exchange Rules 156(b), 958A, 231(e), 943(a), 109, 16, 170(b), 320, SEC Rule 11Ac1-1, and Article V, Section 4(h) of the Exchange Constitution; Challen violated Exchange Rules 16, 170(b), 156(b) and Article V, Section 4(h) of the Exchange Constitution, and as a penalty imposed a censure on both Respondents; a \$100,000 fine on Jane Street; a \$36,500 joint and several fine on Jane Street and Challen; an order for Jane Street and Challen to pay restitution to customer JN of \$38,500 plus interest; and an undertaking for Jane Street to revise its written supervisory procedures.**

**I. Introduction**

The American Stock Exchange, LLC (“Exchange”) instituted a formal disciplinary proceeding against Jane Street Specialists, LLC (“Jane Street” or the “Firm”), a Regular Member Organization of the Exchange and Michael G. Challen (“Challen”), a Regular Member 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 15, 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, Jane Street, and Challen entered into the Stipulation for the purposes of settling this proceeding and concluding all disciplinary actions by the Exchange against Jane Street and Challen based upon or arising out of the facts set forth in the Stipulation.

## **II. Facts**

Jane Street and Challen, 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 Jane Street and/or individual Jane Street specialists:

(1) violated Exchange Rule 156(b) and Article V, Section 4(h) of the Exchange Constitution on numerous occasions between June 2002 and November 2004 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 January 2005 by failing to execute orders upon presentment, thereby failing to honor the published quotation, or by executing orders at prices inferior to the Firm’s published quoted market;

(3) violated SEC Rule 11Ac1-1, Exchange Rule 231(e) and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between July 2004 and

November 2004 by either i) failing to execute orders upon presentment; ii) executing orders at prices inferior to the Firm's published quoted market; or iii) failing to accept ITS commitments to trade at the Firm's quoted markets prior to the expiration or cancellation of such commitments;

(4) violated Exchange Rule 943(a) and Article V, Section 4(h) of the Exchange Constitution on 90 occasions between July 2003 and October 2004 by creating a Locked or Crossed Market and failing to unlock or uncross that market or failing to direct a Principal Order through Linkage to trade against the bid or offer that it locked or crossed;

(5) violated Exchange Rule 109 and Article V, Section 4(h) of the Exchange Constitution on 18 occasions between May and July 2004 by failing to comply with Exchange requirements regarding stopping options in accordance with Exchange Rule 109; and

(6) violated Exchange Rule 320 between June 2002 and January 2005 by failing to: (i) develop, maintain and enforce reasonable written supervisory procedures with regard to the aforementioned rules, so as to detect and deter the foregoing violations; (ii) establish a separate system of follow-up and review sufficient to reasonably ensure that supervisory authority and responsibility in connection with the aforementioned rules was being properly exercised; and (iii) establish adequate policies or procedures, or a system to implement such policies or procedures, which would reasonably be expected to detect and deter the foregoing violations.

B. Based upon the stipulated facts, the Chair concludes that Jane Street and Challen:

(1) violated Exchange Rules 16, 170(b), 156(b) and Article V, Section 4(h) of the Exchange Constitution by executing a customer's Good 'Til Cancelled limit order at .77 cents below parity, which resulted in a loss to customer JN of not less than \$38,500.

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

The Stipulation proposes that the Chair impose on Jane Street and Challen: a censure, a joint and several fine of \$36,500, and an order to pay \$38,500 plus interest in restitution to client JN as described in the disciplinary action section of the Stipulation. In addition, Jane Street is fined \$100,000 and must revise the Firm's written supervisory procedures 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

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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.

hereby imposes upon Jane Street and Challen a censure, a joint and several fine of \$36,500, and an order to pay \$38,500 plus interest in restitution to client JN. In addition, Jane Street is fined \$100,000 and must revise the Firm's written supervisory procedures.

**FOR THE DISCIPLINARY PANEL**



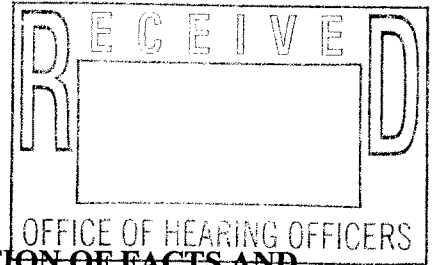
Rochelle S. Hall, Chair

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# **EXHIBIT A**

**Disciplinary Panel  
American Stock Exchange LLC**

IN THE MATTER  
OF  
JANE STREET SPECIALISTS, LLC f/k/a  
BOWERY SPECIALISTS GROUP, LLC  
and MICHAEL G. CHALLEN



**STIPULATION OF FACTS AND  
CONSENT TO PENALTY**

Case Nos. 03-57, 04-54, 04-80, 04-98, 04-114, 04-144, 04-182, 04-207, 04-259, 05-44, 05-73, 05-153, 05-151, 05-196, 05-198, 05-313, 05-317 and 05-333

This proceeding was instituted by the American Stock Exchange LLC (the "Exchange") against Jane Street Specialists, LLC f/k/a Bowery Specialists Group, LLC ("Jane Street" or the "Firm") (CRD No. 118232), a Regular Member Organization of the Exchange and Michael George Challen ("Challen") (CRD No. 4211460), a Regular Member of the Exchange. This Stipulation of Facts and Consent to Penalty ("Stipulation") is entered into with Jane Street and Challen pursuant to Article V, Section 2 of the Exchange Constitution in order to settle and conclude all disciplinary actions by the Exchange against Jane Street and Challen based upon or arising out of the facts hereinafter stipulated. Jane Street and Challen, without admitting or denying the facts, allegations and conclusions contained in this Stipulation, hereby consent to the entry of findings by the Hearing Panel and the imposition of the penalties hereinafter provided. Jane Street and Challen 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. Jane Street and Challen 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, Jane Street was a Regular Member Organization and a registered options and Exchange Traded Funds (“ETFs”) specialist organization of the Exchange.
- 1.1 During all relevant periods herein, Jane Street served as a specialist for various options and ETFs that traded on the Floor of the Exchange.
- 1.2 During all relevant periods herein, Challen was a Regular Member of the Exchange and a registered options specialist for various options that traded on the Floor of the Exchange.
- 1.3 During all relevant periods herein, Challen was employed as a specialist by Jane Street.
- 2.0 **Option Limit Order Display**
  - 2.1 Exchange Rule 156(b)<sup>1</sup> requires Exchange specialists to use due diligence in handling limited price orders.
  - 2.2 On 100 occasions during the period of June 3, 2002 through May 30, 2003, the Firm did not use due diligence in handling customer limit orders in that the Firm did not execute or display customer option limit orders immediately (Amex Case No. 04-80).

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<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. See Amex Notice – Immediate Display of Customer Options Limit Orders (August 20, 2003).

- 2.3 On 132 occasions during the period of December 1, 2003 through January 30, 2004, the Firm did not use due diligence in handling customer limit orders in that the Firm did not execute or display customer option limit orders immediately (Amex Case Nos. 04-98 and 04-144).
- 2.4 On 73 occasions during the period of March 1, 2004 through March 31, 2004, the Firm did not use due diligence in handling customer limit orders in that the Firm did not execute or display customer option limit orders immediately (Amex Case No. 04-207).
- 2.5 On 30 occasions during the period of September 1, 2004 through November 30, 2004, Jane Street Specialist A did not use due diligence in handling customer limit orders in that Jane Street Specialist A did not execute or display customer option limit orders immediately (Amex Case No. 05-151).
- 2.6 On 32 occasions during the period of September 1, 2004 through November 30, 2004, the Firm did not use due diligence in handling customer limit orders in that the Firm did not execute or display customer option limit orders immediately (Amex Case No. 05-153).
- 2.7 The conduct described in paragraphs 2.2 through 2.6 constitutes separate and distinct violations of Exchange Rule 156(b) and Article V, Section 4(h) of the Exchange Constitution.

### **3.0 Option Firm Quote**

- 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 84 occasions during the period of January 2, 2003 through July 31, 2003, an order was presented to the Firm at the Firm's published bid or offer in an amount up to its published quotation size. The Firm either did not execute these orders upon presentment and thereby did not honor its published quotation or executed these orders at prices inferior to the Firm's published quoted market (Amex Case Nos. 04-114 and 03-57).
- 3.3 On 25 occasions during the period of January 2, 2003 through May 30, 2003, an order was presented to Jane Street Specialist A at the specialist's published bid or offer in an amount up to the published quotation size. Jane Street Specialist A did not execute these orders upon presentment and thereby did not honor the published quotation (Amex Case No. 04-54).
- 3.4 On 69 occasions during the period of March 1, 2004 through January 31, 2005, an order was presented to the Firm at the Firm's published bid or offer in an amount up to its published quotation size. The Firm did not execute these orders upon presentment and thereby did not honor its published quotation (Amex Case Nos. 05-196, 05-198 and 05-333).
- 3.5 The conduct described in paragraphs 3.2 through 3.4 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 Equity and ITS Firm Quote**

- 4.1 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.
- 4.2 On 65 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 offer in an amount up to its published quotation size. The Firm either did not execute these orders upon presentment and thereby did not honor its quotation, or executed these orders at prices inferior to the Firm's published quoted market (Amex Case No. 05-313).
- 4.3 On 87 occasions during the period of July 1, 2004 through November 30, 2004, an ITS commitment to trade was transmitted to the Firm at the Firm's published quoted market. The Firm did not accept these ITS commitments to trade at the Firm's quoted markets prior to the expiration or cancellation of such commitments (Amex Case No. 05-313).
- 4.4 The conduct described in paragraph 4.2 constitutes separate and distinct violations of SEC Rule 11Ac1-1 and Article V, Section 4(h) of the Exchange Constitution.
- 4.5 The conduct described in paragraph 4.3 constitutes separate and distinct violations of SEC Rule 11Ac1-1, Exchange Rule 231(e) and Article V, Section 4(h) of the Exchange Constitution.

## **5.0 Linkage Locked/Crossed Markets**

- 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 Marker locks or crosses.
- 5.2 On 90 occasions during the period of July 1, 2003 through October 31, 2004, the Firm created a Locked or Crossed Market and did not unlock or uncross that market or did not direct a Principal Order through Linkage to trade against the bid or offer that the Firm locked or crossed (Amex Case Nos. 05-317, 04-259 and 05-44).
- 5.3 The conduct described in paragraph 5.2 constitutes separate and distinct violations of Exchange Rule 943(a) and Article V, Section 4(h) of the Exchange Constitution.

## **6.0 Option Stopped Orders**

- 6.1 Subject to certain exceptions, Exchange Rule 109<sup>2</sup> requires an Exchange specialist to take certain steps when stopping stock and prohibits a specialist from stopping stock against the book or for his own account at a price at which he holds an order capable of execution at that price.
- 6.2 On 18 occasions during the period of May 3, 2004 through July 30, 2004, the Firm did not comply with Exchange requirements regarding stopping options in accordance with Exchange Rule 109 (Amex Case No. 05-73).

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<sup>2</sup> The provisions of Exchange Rule 109 and Commentary thereto regarding “stopping” stock apply to Exchange options transactions. See Exchange Rule 950(o).

6.3 The conduct described in paragraph 6.2 constitutes separate and distinct violations of Exchange Rule 109 and Article V, Section 4(h) of the Exchange Constitution.

## **7.0 Miscellaneous**

7.1 Exchange Rule 16 requires that every member and member organization adhere at all times to principles of good business practice in the conduct of their business affairs.

7.2 Exchange Rule 170(b) requires that as a condition of a member being registered as a specialist in one or more securities, a specialist is to engage in a course of dealings for his own account to assist in the maintenance, insofar as reasonably practicable, of a fair and orderly market on the Exchange in accordance with and when viewed in relation to the criteria set forth in paragraphs (c) and (d) of this rule and the commentary thereto.

7.3 During all relevant periods herein, Jane Street was the specialist firm and Challen was the individual specialist responsible for UnitedGlobalCom, Inc. (Underlying Stock Symbol: UCOMA) options (Option Symbol: UHZ), which were listed for trading on the Exchange.

7.4 On August 11, 2003, at 1:27:33, Jane Street and Challen's quoted market in UHZ November 2003 5 calls ("UHZ Nov 5 calls") was 1.30 – 1.65 (20 x 20) with the underlying stock, UCOMA, valued at 6.05. This represented the closing quotation in UHZ Nov 5 calls on August 11, 2003. Based on the value of the underlying stock of UCOMA at 6.05, parity, the amount by which the UHZ Nov 5 calls were "in the money", was 1.05.

- 7.5 On August 11, 2003, at 2:53:50, Jane Street and Challen received a Good 'Til Cancelled limit order to sell 500 UHZ Nov 5 calls from customer JN at a limit price of 1.75 (TA# IF2) ("JN order"). JN's order was not executable upon receipt. The last sale in UCOMA prior to receipt of JN's order was 6.09, making parity in the UHZ Nov 5 calls 1.09, and making the closing offer of 1.65 in UHZ Nov 5 calls, .56 over parity.
- 7.6 From the receipt of JN's order on August 11, 2003 through August 18, 2003, JN's order was properly displayed when representing the best offer. During this period, no trades occurred at or through JN's 1.75 limit price.
- 7.7 On August 18, 2003, at 3:47:45, the closing quotation in UHZ Nov 5 calls was 1.45 – 1.75 (20 x 500), with the last sale in the underlying UCOMA stock prior to the quotation taking place at 6.37, making parity in the UHZ Nov 5 calls 1.37, and making the closing offer in UHZ Nov 5 calls, .38 over parity.
- 7.8 On August 19, 2003, the opening sale in the underlying UCOMA stock was 7.535 at 9:30:00, which was up 1.44 from the previous day's closing sale of 6.10. At 9:30:03, 400 shares of UCOMA stock traded at 7.52, making parity 2.52.
- 7.9 On August 19, 2003, at 9:30:04 Jane Street and Challen executed JN's entire 500 contract order in UHZ Nov 5 calls at its 1.75 limit price, .77 below parity, by buying all 500 contracts from JN for the Firm's account. At 9:30:16, the opening quotation in UHZ Nov 5 calls was 1.35 – 3.90 (20

x 20), with the underlying UCOMA stock valued at 7.52, making the quoted offer in UHZ Nov 5 calls, 1.38 above parity.

7.10 Jane Street and Challen's purchase of JN's 500 contract order in UHZ Nov 5 calls at .77 cents below parity resulted in pecuniary harm to JN in an amount not less than \$38,500 (50,000 shares x .77).

7.11 The conduct described in paragraphs 7.3 through 7.10 constitutes separate and distinct violations of Exchange Rules 16, 156(b), 170(b) and Article V, Section 4(h) of the Exchange Constitution (Amex Case No. 04-182).

## **8.0 Supervision**

8.1 Although Jane Street had implemented procedures in an effort to inform its personnel and to deter violations of the rules regarding the display of superior customer limit orders, adherence to the firm quote provisions, the rules applicable to Linkage Locked and Crossed Markets, and stopped orders during the period June 2002 through January 2005, Jane Street nevertheless did not: (i) develop, maintain and enforce reasonable written supervisory procedures with regard to the aforementioned rules, so as to detect and deter the foregoing violations; (ii) establish a separate system of follow-up and review sufficient to reasonably ensure that supervisory authority and responsibility in connection with the aforementioned rules was being properly exercised; and (iii) establish adequate policies or procedures, or a system to implement such policies or procedures, which would reasonably be expected to detect and deter the foregoing.

8.2 The conduct described in paragraph 8.0 constitutes a violation of Amex Rule 320.

**DISCIPLINARY ACTION:**

By reason of the foregoing Stipulated Facts, a Disciplinary Panel may impose the following penalties:

- (a) a censure to be imposed against Jane Street and Challen;
- (b) a fine of \$100,000 to be imposed against Jane Street;
- (c) a fine of \$36,500 to be imposed jointly and severally against Jane Street and Challen;
- (d) an order for Jane Street and Challen to pay restitution to customer JN the total amount of \$38,500, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from August 19, 2003, the date of the violative conduct, until the date this Stipulation is accepted by the AAC. Satisfactory proof of payment of restitution or of reasonable and documented efforts undertaken to effect restitution shall be provided to Exchange staff no later than 120 days after acceptance of this Stipulation by the AAC. If for any reason Jane Street and Challen cannot locate customer JN after reasonable and documented efforts within such period, or such additional period agreed to by the Exchange staff, Jane Street and Challen shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed property, or abandoned property fund for the state in which customer JN is last known to have resided; and
- (e) an undertaking for Jane Street to revise the Firm's written supervisory procedures with respect to the areas described in paragraphs 8.1. Within 90 business days of acceptance of this Stipulation by an Exchange Hearing Panel, a registered principal of Jane Street 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 8.1; and, (3) the date the revised procedures were implemented.

Jane Street and Challen 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 Jane Street or Challen by the Exchange, its staff or representatives to induce Jane Street and Challen 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 13<sup>th</sup> day of March, 2006.

  
On behalf of Jane Street Specialists, LLC

Agreed to this 13<sup>th</sup> day of March, 2006.

  
Michael G. Challen