Ola Holmstrom

Office of the Secretary
United States Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-9303
UNITED STATES OF AMERICA

COMMENTS on the:
FUND ADMINISTRATOR'S PROPOSED FAIR FUND DISTRIBUTION PLAN
Regarding Administrative Proceeding File Nos.:
3-11445, 3-11446, 3-11447, 3-11448, 3-11449, 3-11558, and 3-11559.

Introduction

I worked at Sea Carriers in Greenwich, CT from the summer of 2002 until the summer of 2004. During this time, I served as a trader, programmer, and analyst first during a time when Sea Carriers had a Joint Venture with Empire Programs[1] and traded a managed account, as well as when Sea Carriers was completely independent of Empire Programs and had outside investors.

At Sea Carriers, large quantities of public shares listed mainly on the New York Stock Exchange (NYSE) were traded electronically in small lots at a time, in an extremely active manner. We traded mainly the most active shares, all of which have been specifically named by the SEC as issues having been manipulated by the specialists. We often made profits of less than one penny per share, and two pennies per share would have been considered extraordinarily profitable. As such, our strategy is a prime example of someone who would have been injured by the NYSE fraud. The smallest violations that most investors would never notice, and possibly not care about, hurt us in a way that made it impossible to continue operating, leaving several people out of all compensation for many months, and will continue to hurt the reputation of the people and entities involved as track records are of utmost importance in the asset management business.

In addition to working at Sea Carriers during both these stages, I was an investor in Sea Carriers Limited Partnership I and I have an equity position in Independent Asset Management LLC (IAM) of Stamford, CT, which in turn, was invested in Sea Carriers and was very adversely affected by the violative behavior of the specialists. I have therefore been damaged in at least four different ways:

[1] Empire Programs (of New Jersey) is run by Robert and Allan Martin and has been named co-lead plaintiff along with CALPERS in the Class Action Lawsuit against the specialist firms of the NYSE regarding trading violations.

1. Loss of compensation (which was primarily based on trading performance) while trading Empire Programs account while at Sea Carriers.
2. Loss of compensation while trading funds in Sea Carriers Limited Partnership I.
3. Loss of capital invested in Sea Carriers Limited Partnership I
4. Consequential damage to value of my equity stake in IAM.

I have now relocated to my native Sweden from where I maintain contact with IAM, very little contact with Sea Carriers, and absolutely no contact with Empire Programs.

Comments on the Plan

These comments address two main issues;

1. The failure to identify several potentially injured customers.
2. The non-disclosure of the methodology employed to arrive at the total amount of money collected by the SEC thus far.

Discussion

The failure to identify several potentially injured customers:

The plan fails to identify persons or entities such as myself, in all 4 different ways listed above. As someone who does not actually hold the account from which the trades were executed, but were DIRECTLY affected by the NYSE fraud that injured the actual account holder. This is of course extremely unfair to many people who have taken great personal risks by relying on income based on the performance of trading with specialists who apparently had no qualms about denying small but frequent profits from active trading. The Fund should ideally distribute the funds directly to the 'end-injured' person/entity to limit the number of claims created between traders and former or current account managers. Understanding that this is a difficult and time-consuming task for one Administrator to complete, I suggest each recipient of funds needs to be legally bound to disclose all details of all compensation received to possible derivative injured persons. Details need to be given by the Administrator to each recipient of each and every trade where a violation occurred specific enough to identify it (including account numbers, mnemonic codes, time and date-stamps down to the second, price, disbursement amount, symbol, specialist firm, and others).

I specifically need such information from Sea Carriers, Empire Programs, IAM, and any entities associated with and controlled by them.

The non-disclosure of the methodology employed to arrive at the total amount of money collected by the SEC thus far.

So far, there has been no public disclosure of the methodology used to arrive at the just less the $250mm disgorgement and civil penalty amounts. The little information that has been released is that it was arrived at by the specialist firms themselves who submitted figures to the NYSE, who then submitted it to the SEC. As someone who has personally spent a CONSIDERABLE amount of time analyzing very specific trade data from our own (Sea Carriers) executions as well as the TAQ database available from the exchange I am absolutely astonished at how this issue has been dealt with. It is a very complicated process, and violative trades can occur in many ways other than the two (!!) ways listed in the plan; "trading ahead" and "interpositioning". Bids and offers displayed by the specialists were often moved/removed as orders arrived, resulting in a potential loss for the customer, but would not appear as either of the two types of violations analyzed by the NYSE. There are many other ways to manipulate the executions as well. I would be extremely surprised if the retroactive surveillance conducted by the NYSE did not miss several violations, leading to a much too small Fair Fund collection. The large specialist firms come out on top and investors are not fairly compensated.

Conclusions

Despite the shortcomings of the plan I strongly urge the Commission and Administrator to carry on with the distribution of funds in the quickest possible way. I cannot emphasize this point enough as the process has already taken much longer than the time limits set out by the Commission it self, and there are many injured customers who have experienced personal economic hardship at the expense of a few extremely profitable specialist firms.

However, the Commission and the Administrator should in no way consider the distribution to be the end of this matter. You both need to stay involved, make sure the proper methods were/are used to compute damage, and make sure the Fair Fund distributions reach the end customer. Most individuals do not have the means to pursue their fair share of the distributions from the presumable larger entity(ies) that received them, and it would become a terrible mess if lawyers were required to be involved in each case, drastically reducing the amount eventually arriving at the actual injured customer.

Please contact me should you want to discuss the comments above. I am very hopeful of receiving funds in the near future and will continue to monitor this issue and related class action lawsuit(s) as closely as I can.

Sincerely Yours,

Ola Holmstrom