

April 8, 2004

Mr. Jonathan G. Katz, Secretary
Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549

Re: Request to Testify – File No. S7 – 10- 04

Dear Mr. Katz:

I have attached as part of my request to testify at the April 21, hearing on NMS the required summary of what I intend to say. I have a special request for an early appearance, due to the fact that I will be sponsoring my grandson at his confirmation in Columbus, GA later in the day.

Sincerely,

James J. MaGuire

On January 29, 2001, the NYSE began trading with a 1 cent minimum price variation (MPV), a reduction of 84% from the previously existing 6 ¼ CENT MPV. This extreme reduction has created a trading dynamic that makes it nearly impossible to show transparency and size (liquidity) consistent with that which we are capable of providing. This obtains whether it be trading desks, specialists or vast cadre of traders.

While there is no doubt that the NYSE will continue to fulfill its mission with distinction, the real question is what kind of market we will be able to provide. As currently structured, with a 1 cent MPV we produce a market that falls woefully short (I estimate 50%) of achieving its full potential. I am confident that with a 5 cent MPV where liquidity naturally manifests itself at 5 cent increments in our high volume stocks, we would be able to provide a preeminent world-class market featuring cost efficiency, speed and simplicity of execution by giving investors the choice of automatic execution by giving investors the choice of automatic execution at the published bid and offer or the opportunity for auction price improvement and thereby eliminate the confusing and labor intensive requirements for “Institutional Express,” “NYSE Direct” and “Liquidity Quote” – precisely what the buy side wants and deserves. Therefore, I propose that a high priority project be undertaken by the Securities and Exchange Commission to form a coalition of buy side, sell side and floor interests to set up a comprehensive pilot program across all markets using a 5 cent MPV standard. I am confident that such a test would produce a result that would redound to the benefit of all concerned – most importantly those ninety million Americans who own stock.

Most will agree that the decision to trade in pennies has been an unmitigated disaster for the quality of our equity markets. I believe with all my being that this genie can be “put back in the bottle” simply because a 5 cent MPV is the most effective way to address the concerns of our customers by providing a market of unparalleled liquidity and efficiency. **I am totally frustrated to know that we have it within our grasp to structure a preeminent market as mentioned above or preside over one that will be mediocre at best. Given the enormity of the consequences, there can be no legitimate objection to a pilot program the results of which would be controlled by the Securities and Exchange Commission.**

There are those who oppose any thought of a 5 cent MPV for various reasons – not all of them objective – and have succeeded in beclouding the real issue as discussed above. It is common sense that a solid market structure must be in place if we are to project the best that we can be. I believe an overwhelmingly majority of users would agree that such a structure does not exist currently.

We owe it to our great nation and to the investing public to work tirelessly towards this end.