

NYSE ARCA, INC.
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020067122305

TO: NYSE Arca, Inc.

RE: Jeffrey Tabak, Respondent
CRD No. 856416

During the period of October 2019 through July 2022 (the “Relevant Period”), Jeffrey Tabak violated NYSE Arca Rule 11.18(b) and (c) (Supervision) by failing to establish, maintain, and enforce a supervisory system, including written supervisory procedures (“WSPs”), reasonably designed to achieve compliance with the federal securities laws and NYSE rules prohibiting market manipulation in exchange-listed and traded securities. Tabak consents to a \$769 fine (resolved simultaneously with similar matters for a total fine of \$10,000),¹ a suspension from association with a NYSE member in a principal capacity for a period of six months, and an undertaking requiring Tabak to complete 10 hours of continuing education on identifying potentially manipulative trading.

* * *

Pursuant to Rule 10.9216 of the NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) Code of Procedure, Jeffrey Tabak (“Tabak” or “Respondent”) submits this Letter of Acceptance, Waiver, and Consent (“AWC”) for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, NYSE Arca will not bring any future actions against me alleging violations based on the same factual findings described herein.

I. ACCEPTANCE AND CONSENT

A. Respondent hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of NYSE Arca, or to which NYSE Arca is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by NYSE Arca:

BACKGROUND AND JURISDICTION

1. Tabak has been registered with NYSE Arca through associations with NYSE Arca members at various times since 2007. Tabak was registered with NYSE Arca as a

¹ Those matters were brought by FINRA, Investors’ Exchange LLC, The Nasdaq Stock Market, LLC, Nasdaq PSX, LLC, Nasdaq BX, Inc., New York Stock Exchange LLC, NYSE American LLC, NYSE National, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe BYX Exchange, Inc., and Cboe BZX Exchange, Inc., and concern the same conduct at issue here.

General Securities Principal, among other registrations, through his association with Lek Securities Corp. (“LSC” or the “Firm”) from December 18, 2018 through August 10, 2022. From October 2019 to July 2022, Tabak was LSC’s Chief Compliance Officer. During this time, he also maintained a separate, full-time role as a registered representative for a broker-dealer business affiliated with LSC. Tabak is currently registered with NYSE Arca as a General Securities Principal through an association with another NYSE Arca member. Tabak has no relevant disciplinary history.

VIOLATIONS

2. NYSE Arca Rule 11.18(b) requires each member to “establish and maintain a system to supervise the activities of its associated persons and the operations of its business,” which “must be reasonably designed to ensure compliance with applicable federal securities laws and regulations and NYSE Arca Rules.”
3. NYSE Arca Rule 11.18(c) requires each member to “establish, maintain, and enforce written procedures to supervise the business in which it engages and to supervise the activities of its associated persons that are reasonably designed to ensure compliance with applicable federal securities laws and regulations, and with the NYSE Arca Rules.”
4. During the Relevant Period, LSC’s WSPs designated Tabak as the principal responsible for establishing and maintaining the Firm’s systems and procedures to detect, investigate, and address potentially manipulative trading in exchange-listed and traded securities. He was also responsible for reviewing, assessing the effectiveness of, and modifying, if necessary, the Firm’s exception reports designed to detect potentially manipulative activity in exchange-listed and traded securities.
5. At all relevant times, the Firm’s WSPs and system for applying such procedures, and Tabak’s conduct as the principal designated as responsible under the Firm’s WSPs, were deficient in the following ways.
6. The Firm’s WSPs, for which Tabak was responsible, did not reasonably describe how the Firm would detect and prevent potentially manipulative trading or provide reasonable guidance to personnel responsible for the surveillance of potentially manipulative trading in exchange-listed and traded securities. The WSPs did not identify the exception reports the Firm used, what conduct a reviewer should escalate, or how issues noted during the review should be documented or escalated.
7. Additionally, the Firm’s exception reports used to detect potentially manipulative trading in exchange-listed and traded securities did not contain information that a reviewer would need to assess whether the Firm’s customers were engaged in potentially manipulative trading. For example, one exception report designed to identify potentially prearranged trading did not identify the customers, the stock symbols at issue, or other information about the trades, such as timing and venue of execution. Absent such information, a reviewer would be unable to reasonably assess whether the activity reflected on the report was potentially manipulative. Tabak knew

that the Firm's exception reports were not reasonably designed for these reasons. Further, he did not understand how exceptions were generated or what the information reflected on the reports meant.

8. For the majority of the Relevant Period, Tabak, as the principal designated as responsible under the Firm's WSPs, was responsible for reviewing the Firm's exception reports for trading in exchange-listed and traded securities. However, Tabak failed to document his review of the reports or demonstrate that he in fact had conducted such reviews. Most of the exception reports generated during the Relevant Period contained no reviewer comments other than the comment, "report reviewed," which was automatically populated whenever anyone opened the exception report. To the extent the Firm's exception reports identified potentially manipulative trading in exchange-listed and traded securities, Tabak failed to ensure that the activity was reasonably investigated, including by failing to require reasonable documentation of such review or investigation.
9. Finally, Tabak failed to reasonably investigate and address potentially manipulative wash trades in exchange-listed and traded securities in an account of LSC's foreign affiliate. The foreign affiliate maintained an omnibus account at LSC through which the affiliate's foreign customers bought and sold securities in the U.S. markets. From at least June 2020 through June 2022, the Firm's exception reports identified thousands of potentially manipulative wash trades by a customer of LSC's foreign affiliate (Customer A) in the stock of Customer A's parent, but Tabak, as the principal designated as responsible under the Firm's WSPs, did not reasonably investigate the potentially manipulative trading.
10. For the reasons set forth above, Tabak violated NYSE Arca Rule 11.18(b) and (c) during the Relevant Period.

SANCTIONS

B. Respondent also consents to the imposition of the following sanctions:

- a six month suspension from associating with any FINRA member in all principal capacities,
- a \$769 fine (resolved simultaneously with similar matters for a total fine of \$10,000),² and
- a requirement that Respondent attend and satisfactorily complete 10 hours of continuing education concerning supervisory responsibilities, including manipulative trading.

² Those matters were brought by FINRA, Investors' Exchange LLC, The Nasdaq Stock Market, LLC, Nasdaq PSX, LLC, Nasdaq BX, Inc., The New York Stock Exchange, NYSE American, NYSE National, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe BYX Exchange, Inc., and Cboe BZX Exchange, Inc., and concern the same conduct at issue here.

Respondent agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. Respondent has submitted a Method of Payment Confirmation form showing the method by which he will pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim that he is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

The sanctions herein are imposed pursuant to NYSE Arca Rule 10.8310 and shall be effective on a date set by NYSE Regulation staff.

II. WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under the NYSE Arca Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against him;
- B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the Exchange's Board of Directors and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudice of the Chief Regulatory Officer of NYSE Arca; the Exchange's Board of Directors, Disciplinary Action Committee ("DAC"), and Committee for Review ("CFR"); any Director, DAC member, or CFR member; Counsel to the Exchange Board of Directors or CFR; any other NYSE Arca employee; or any Regulatory Staff as defined in Rule 10.9120 in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Respondent further specifically and voluntarily waives any right to claim that a person violated the ex parte communication prohibitions of Rule 10.9143 or the separation of functions prohibitions of Rule 10.9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III. OTHER MATTERS

Respondent understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed by NYSE Regulation, and accepted by the Chief

Regulatory Officer of NYSE Arca pursuant to NYSE Arca Rule 10.9216;

- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and
- C. If accepted:
 - 1. The AWC shall be sent to each Director and each member of the Committee for Review via courier, express delivery or electronic means, and shall be deemed final and shall constitute the complaint, answer, and decision in the matter, 10 days after it is sent to each Director and each member of the Committee for Review, unless review by the Exchange Board of Directors is requested pursuant to NYSE Arca Rule 10.9310(a)(1)(B);
 - 2. This AWC will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by the Exchange, or any other regulator against him;
 - 3. NYSE Arca shall publish a copy of the AWC on its website in accordance with NYSE Arca Rule 10.8313;
 - 4. NYSE Arca may make a public announcement concerning this agreement and the subject matter thereof in accordance with NYSE Arca Rule 10.8313; and
 - 5. Respondent may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Respondent may not take any position in any proceeding brought by or on behalf of the Exchange, or to which the Exchange is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects Respondent's (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Exchange is not a party.
- D. A signed copy of this AWC and the accompanying Method of Payment Confirmation form delivered by email, facsimile or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy.
- E. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that he may not deny the charges or make any statement that is inconsistent with the AWC in this statement. A Corrective Action Statement does not constitute factual or legal findings by the Exchange, nor does it reflect the views of NYSE Regulation or its staff.

Respondent certifies that, in connection with each of the Exchange's requests for information in connection with this matter, Respondent made a diligent search of all files in his possession,

custody, or control, that are reasonably likely to contain responsive documents and that all responsive documents have been produced. In agreeing to the AWC, the Exchange has relied upon, among other things, the completeness of the document productions.

I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have agreed to the AWC's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce me to submit it.

July 23, 2024

Date

Respondent,

Jeffrey Tabak

Jeffrey Tabak

Reviewed by:

James Nealon

James Nealon
Counsel for Respondent
Nealon Law LLC
442 Fifth Avenue, Suite 2455
New York, New York 10018
Counsel for Respondent

Accepted by FINRA

July 23, 2024

Date

Christina Stanland

Christina Stanland
Senior Director
FINRA, Department of Enforcement

Signed on behalf of NYSE Arca, Inc., by
delegated authority from its Chief
Regulatory Officer