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Memorandum

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This memorandum documents follow-up phone conferences the author had with Joe Cella, Chief, Office of Market Surveillance, Division of Enforcement, SEC regarding the insider trading investigation. On May 7, 2004, the author faxed to Cella the AMR/UAL option trading volume numbers provided to the Staff by the Options Clearing Corporation (OCC) and asked him to reconcile the OCC volume numbers with the numbers in the SEC report. We agreed to focus on September 6 and 7 UAL and September 10 AMR as examples.

On May 10, 2004, Cella called back with Eric Ribelin, who worked on the investigation for him. Cella confirmed that generally the OCC volume figures double the actual trading volume by counting the buy and sell sides as separate trades. There were several other anomalies in the data, explaining the discrepancies. Cella said that he spoke with John Fennel of the OCC, who confirmed Cella's reconciliation.

As to 9/6 UAL trading, the actual put volume was 1575 (1/2 the OCC figure) and not 2075 as indicated in the SEC report. Cella explained that the SEC relied on various sources of information to double check the volume data, including a Customer/Firm Market Watch Report. This report included the 1575 puts, but also included a 500 put sale that was canceled. The SEC failed to notice the cancellation and included the trade in the volume. As to 9/10, AMR trading, the SEC's 2,282 number was almost exactly half the OCC's 4,516, with the difference being the SEC's inclusion of certain LEAP options. Cella said neither these differences nor any similar differences in the volume data changed the SEC's conclusion that no illicit trading occurred in advance of 9/11. He faxed over some materials supporting his reconciliation.

On May 11, the author spoke with Cella and Ribelin again to clarify the materials they sent over. They confirmed the 9/6 UAL put mistake described above. As to the 87 UAL call figure for 9/6, they professed no idea of where their number came from; they have not been able to reconstruct it. The correct number is the OCC number (divided by two to get the actual number of contracts traded). They similarly could not explain their 9/7 UAL numbers, except to suggest that somehow the 9/5 line was reproduced on 9/7.

Again, the OCC numbers are the correct ones. The 9/10 SEC AMR put number differs from the OCC number because of the SEC's inclusion of LEAPs and, an apparent mathematical error (inclusion of the 40 leaps brings the OCC volume to 4556, half of which is 2278 – not 2282). The slight discrepancy in 9/10 puts AMR likely results from a similar anomaly.

Cella emphasized that these numerical discrepancies do not change the SEC's conclusions in any way. They still thoroughly investigated and referred to the FBI any suspicious trading, and their conclusion remains valid: there was no evidence of any illicit trading. Moreover, the investigation encountered no mysterious offshore or otherwise suspicious trading that could not be explained – there were no blind alleys or dead ends.