

**BATS BZX EXCHANGE, INC.
OFFICE OF HEARING OFFICERS**

Department of Market Regulation, on behalf
of Bats BZX Exchange, Inc.,

Complainant,

v.

Lek Securities Corporation
(CRD No. 33135),

Respondent.

Disciplinary Proceeding
No. 20100215956-04

STATEMENT OF CHARGES

The Department of Market Regulation of the Financial Industry Regulatory Authority (“FINRA”), on behalf of the Bats BZX Exchange, Inc. (“BZX” or the “Exchange”),¹ alleges that:

Summary

1. This matter involves systemic supervisory violations committed by Lek Securities Corporation (“LSCI” or the “Firm”).
2. Specifically, LSCI’s supervisory procedures, including its written supervisory procedures (“WSPs”), were inadequate and failed to provide for all minimum requirements for adequate supervision in numerous areas.
3. Similarly, LSCI failed to evidence that it performed supervisory reviews in numerous areas, including in many of the same areas in which its WSPs were deficient.

¹ On October 15, 2010, BATS Exchange, Inc. was launched. However, on March 7, 2016, effective immediately, BATS Exchange, Inc. changed its name to Bats BZX Exchange, Inc. The rule citations prior to this time are the same for Bats Exchange, Inc. For the sake of convenience, rules will be cited as BZX Rules, as the rule numbering did not change.

4. By failing to establish, maintain, and enforce supervisory systems and procedures that were reasonably designed to achieve compliance with BZX rules and federal securities laws, rules and regulations, LSCI violated BZX Rules 5.1 and 3.1.

5. Due, in part, to these supervisory failures, LSCI violated Rule 200(g) of Regulation SHO (“Reg SHO”) of the Securities Exchange Act of 1934 (the “Exchange Act”) (Definition of “Short Sale” and Marking Requirements); Section 17(a) of the Exchange Act and Rule 17a-4 (Records to be Preserved by Certain Exchange Members, Brokers and Dealers), thereunder; and BZX Rules 11.19 (Short Sales), 4.1 (Books and Records – Requirements) and 5.5.02(c) (Prevention of the Misuse of Material, Non-Public Information).

6. In addition, LSCI violated BZX Rules 5.1, 5.5 and 3.1 in that it failed to establish, maintain and enforce written procedures reasonably designed to prevent the misuse of material, non-public information by the Firm or persons associated with the Firm.

Respondent and Jurisdiction

7. LSCI has been registered with the United States Securities and Exchange Commission (the “Commission”) since March 1990. LSCI has been a member of BZX since August 2008. LSCI operates as an independent order-execution and clearing firm providing customers direct market access to numerous exchanges, including BZX. BZX has jurisdiction over LSCI because it is currently registered as a BZX member firm and it committed the misconduct at issue while a BZX member.

Statement of Facts

8. This matter stems from the 2010 and 2014 Cycle Examinations of LSCI by Market Regulation’s Trading and Financial Compliance Examinations (“TFCE”) group, formerly known as Trading and Market Making Surveillance (“TMMS”).

9. The TFCE examination program supplements Market Regulation’s automated surveillance capabilities through the use of on-site market activity-focused examinations. TFCE staff primarily conducts yearly cycle trading examinations on behalf of FINRA and various exchanges, including BZX. The cycle examination program reviews compliance with various rules relating to equity trading, including but not limited to supervision (including both WSPs and maintaining documentary evidence of supervisory reviews conducted), by FINRA member organizations and the members of the various exchanges, including BZX.

10. TFCE’s cycle examinations assess a broker-dealer’s compliance across a range of regulatory obligations. Accordingly, TFCE focuses its review on a sample of trading activity during selected trading dates as indicative of overall compliance with relevant trading rules.

11. In connection with the 2010 Cycle Examination of LSCI, TFCE reviewed LSCI’s trading activity, with particular focus on activity during the period of June 21, 2010, through June 25, 2010 (the “2010 Review Period”).

12. In connection with the 2014 Cycle Examination of LSCI, TFCE reviewed LSCI’s trading activity, with particular focus on activity during the period of June 9, 2014 through June 13, 2014 (the “2014 Review Period”).

First Cause of Action

(Definition of “Short Sale” and Marking Requirements – Rule 200(g) of Reg SHO and BZX Rule 3.1)

13. Market Regulation re-alleges and incorporates by reference each preceding paragraph.

14. Pursuant to Rule 200(g) of Reg SHO, “[a] broker or dealer must mark all sell orders of any equity security as ‘long,’ ‘short,’ or ‘short exempt.’”

15. Moreover, Rule 200(g)(1) of Reg SHO states that “(1) An order to sell shall be marked ‘long’ only if the seller is deemed to own the security being sold . . . and either: (i) The security to be delivered is in the physical possession or control of the broker or dealer; or (ii) It is reasonably expected that the security will be in the physical possession or control of the broker or dealer no later than the settlement of the transaction.”

16. The marking of orders as long or short serves multiple purposes in the financial markets. Order marking facilitates the surveillance of the Commission and self-regulatory organizations for compliance with (or violations of) various short sale related obligations. Additionally, requiring a broker-dealer to have possession or control of the securities before it can mark an order long assists in mitigating settlement and credit risks that can affect the stability and integrity of the financial system as a whole.

17. As part of the 2014 Cycle Examination of LSCI, TFCE reviewed 407 customer orders, of which 58 were entered into the BZX System,² to determine if such orders were marked consistent with Rule 200(g) of Reg SHO.

18. Of the orders entered into the BZX System, LSCI, on seven occasions (set forth on the attached Exhibit A), marked a sale order “short” when the customer’s position was long.

19. Of the orders entered into the BZX System, LSCI, on three occasions (set forth on the attached Exhibit A), marked a sale order “long” when the customer’s position was short.

20. As a result of the foregoing, LSCI willfully violated Rule 200(g) of Reg SHO, with each instance constituting a separate and distinct violation.

² Pursuant to BZX Rule 1.5(a)(a), the term “System” shall mean the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.

21. In addition, as a result of the foregoing conduct, LSCI failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of BZX Rule 3.1.

Second Cause of Action

(Order Marking Requirements – BZX Rules 11.19 and 3.1)

22. Market Regulation re-alleges and incorporates by reference each preceding paragraph.

23. Pursuant to BZX Rule 11.19, “all short sale orders shall be identified as ‘short’ or ‘short exempt’ when entered into the [BZX] System.”

24. As noted above, LSCI, on seven occasions (set forth on the attached Exhibit A), identified a sell order entered into the BZX System as “short” when the customer’s position was long.

25. As noted above, LSCI, on three occasions (set forth on the attached Exhibit A), identified a sell order entered into the BZX System as “long” when the customer’s position was short.

26. As a result of the foregoing, LSCI violated BZX Rule 11.19.

27. In addition, as a result of the foregoing conduct, LSCI failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of BZX Rule 3.1.

Third Cause of Action

(Books and Records – Section 17(a) of the Exchange Act, Rule 17a-4, thereunder, and BZX Rules 4.1, 5.5.02(c) and 3.1)

28. Market Regulation re-alleges and incorporates by reference each preceding paragraph.

29. Rule 17a-4(b)(4) of the Exchange Act requires broker dealers to preserve, “for a period of not less than three years, the first two years in an accessible place . . . [o]riginals of all communications received. . . by the member, broker or dealer relating to its business as such. . .”

30. Pursuant to BZX Rule 4.1, “[e]ach Member shall make and keep books, accounts, records, memoranda and correspondence in conformity with Section 17 of the [Exchange] Act and the rules thereunder, with all other applicable laws and the rules, regulations and statements of policy promulgated thereunder, and with Exchange Rules.”

31. BZX Rule 5.5.02(c) states, in relevant part, that “[e]ach Member must receive and retain copies of trade confirmations and monthly account statements for each account in which an associated person: has a direct or indirect financial interest or makes investment decisions.”

32. The policy underlying the record-keeping provisions is to ensure that regulators have access to certain basic information to allow it to adequately police the securities markets. The recordkeeping requirements are therefore fundamental requirements imposed on those who wish to engage in the securities business.

33. As part of the 2014 Cycle Examination of LSCI, TFCE conducted an Outside Brokerage Account Review, in which it requested LSCI to provide an account statement for its CEO and an account statement for the wife of its registered employee, PAP.

34. LSCI failed to maintain either.

35. As a result of the foregoing, LSCI willfully violated Section 17(a) of the Exchange Act and Rule 17a-4, thereunder, and BZX Rules 4.1 and 5.5.02(c), with each instance constituting a separate and distinct violation.

36. Furthermore, as a result of the foregoing conduct, LSCI failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of BZX Rule 3.1.

Fourth Cause of Action
(Supervision – BZX Rules 5.1 and 3.1)

37. Market Regulation re-alleges and incorporates by reference each preceding paragraph.

38. BZX Rule 5.1 states that “[e]ach Member shall establish, maintain and enforce written procedures which will enable it to supervise properly the activities of associated persons of the Member and to assure their compliance with applicable securities laws, rules, regulations and statements of policy promulgated thereunder, with the rules of the designated self-regulatory organization, where appropriate, and with Exchange Rules.”

39. LSCI violated BZX Rules 5.1 and 3.1 in that it failed to establish, maintain and enforce written procedures to assure compliance with, among other rules and regulations, Section 17(a) of the Exchange Act and Rule 17a-4, thereunder, Rule 200(g) of Reg SHO, and BZX Rules 4.1, 5.5.02(c) and 11.19.

40. LSCI violated BZX Rules 5.1 and 3.1 in that it failed to establish and maintain written procedures to assure compliance with applicable securities laws, rules, regulations and statements of policy promulgated thereunder, with the rules of the designated self-regulatory organization, where appropriate, and with Exchange Rules.

41. At a minimum, WSPs should describe:
- a. Specific identification of the individual(s) responsible for supervision;
 - b. The supervisory steps and reviews to be taken by the appropriate supervisor;

- c. The frequency of such reviews; and
- d. How such reviews shall be documented.

42. Without adequate WSPs on a particular topic, broker-dealer supervisory personnel lack sufficient written direction on how to conduct supervisory reviews so as to reasonably ensure compliance with applicable securities laws and regulations.

43. Creating documentary evidence of supervisory reviews allows broker-dealers to verify that their supervisory personnel are discharging their supervisory obligations and those of the broker-dealer. Absent documentary evidence of review, neither the broker-dealer nor its regulators can adequately review to ensure that the broker-dealer has, in fact, conducted required supervision.

44. During the 2010 Review Period, for the following areas, LSCI's WSPs failed to identify the individual(s) for supervision, the supervisory steps and review to be taken, the frequency of such reviews and how such reviews are to be documented:

- a. BZX Trading Practice Rules: prevention and detection of prohibited trading practices; and
- b. Other Trading Rules: BZX clearly erroneous trades and maintaining security of BZX systems.

45. In addition, during the 2010 Review Period, LSCI's WSPs failed to set forth the supervisory steps and reviews to be taken to ensure the accuracy of short sale orders sent to the BZX System.

46. During the 2010 Review, LSCI also failed to maintain documentary evidence that it performed the supervisory reviews set forth in the WSPs concerning the prevention and detection of prohibited trading practices.

47. During the 2014 Review Period, for the following areas, LSCI's WSPs failed to identify the individual(s) for supervision, the supervisory steps and review to be taken, the frequency of such reviews and how such reviews are to be documented:

- a. Supervisory Systems, Procedures & Qualifications: authorized traders;
- b. Trade Reporting: order capacity;
- c. Other Trading Rules: controls to ensure the accuracy of orders entered into BZX systems, BZX clearly erroneous filings, review and detection of potential BZX order entry errors and accurately identifying short sale orders when entered into BZX systems; and
- d. Other Rules: signed attestation regarding misuse of inside information and disclosure of ownership and control of publicly traded companies.

48. In or about December 2014, LSCI revised its WSPs; however, the revised WSPs failed to adequately address the deficiencies set forth in paragraph 47.

49. During the 2014 Examination, LSCI also failed to provide documentary evidence that it performed the supervisory reviews set forth in the WSPs concerning BZX trading practice rules.

50. As a result of the foregoing, LSCI violated BZX Rule 5.1.

51. In addition, as a result of the foregoing conduct, LSCI failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of BZX Rule 3.1.

Fifth Cause of Action

(Prevention of the Misuse of Material, Non-Public Information – BZX Rules 5.1, 5.5 and 3.1)

52. Market Regulation re-alleges and incorporates by reference each preceding paragraph.

53. BZX Rule 5.5 states, in relevant part, that “[e]ach Member must establish, maintain and enforce written procedures reasonably designed, taking into consideration the nature of such Member’s business, to prevent the misuse of material, non-public information by such Member or persons associated with such Member.”

54. BZX Rule 5.5.02 provides that, at a minimum, each Member establish, maintain, and enforce the following policies and procedures:

- a. All associated persons of the Member must be advised in writing of the prohibition against the misuse of material, non-public information; and
- b. All associated persons of the Member must sign attestations affirming their awareness of, and agreement to abide by the aforementioned prohibitions. These signed attestations must be maintained for at least three years, the first two years in an easily accessible place; and
- c. Each Member must receive and retain copies of trade confirmations and monthly account statements for each account in which an associated person: has a direct or indirect financial interest or makes investment decisions. The activity in such brokerage accounts should be reviewed at least quarterly by the Member for the purpose of detecting the possible misuse of material, non-public information; and
- d. All associated persons must disclose to the Member whether they, or any person in whose account they have a direct or indirect financial interest, or make investment decisions, are an officer, director or 10% shareholder in a company whose shares are publicly traded. Any transaction in the stock (or option thereon) of such company shall be reviewed to determine

whether the transaction may have involved a misuse of material non-public information.

55. During the 2010 Review Period, LSCI's WSPs failed to set forth the supervisory steps and reviews to be taken regarding the use of material non-public information.

56. During the 2010 Review Period, LSCI failed to maintain documentary evidence that it performed the supervisory reviews set forth in its WSPs related to the use of material non-public information.

57. During the 2014 Examination, LSCI failed to provide TFCE with:

- a. written statements outlining the employee trading policies as evidence for this item;
- b. evidence of its outside account request process; and
- c. evidence of reviewed activity (initialed order records and statements) from an approved outside employee account.

58. During the 2014 Review Period, for the following areas LSCI's WSPs failed to identify the individual(s) for supervision, the supervisory steps and review to be taken, the frequency of such reviews and how such reviews are to be documented:

- a. signed attestation regarding misuse of inside information; and
- b. disclosure of ownership and control of publicly traded companies.

59. During the 2014 Review Period, LSCI's WSPs failed to set forth the frequency of supervisory reviews regarding the following areas: information barriers, advising associated persons in writing against the misuse of inside information and outside brokerage accounts and confirmations.

60. In or about December 2014, LSCI revised its WSPs; however, the revised WSPs failed to adequately address the deficiencies set forth in paragraphs 58 and 59.

61. Likewise, LSCI also failed to provide documentary evidence that it performed the supervisory reviews set forth in the WSPs concerning: (i) information barriers; (ii) advising associated persons against the misuse of inside information; and (iii) outside brokerage accounts and confirmations.

62. As a result of the foregoing, LSCI violated BZX Rules 5.1 and 5.5.

63. In addition, as a result of the foregoing conduct, LSCI failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of BZX Rule 3.1.

RELIEF REQUESTED

WHEREFORE, the Department of Market Regulation, on behalf of BZX, respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under BZX Rule 8.1(a), including expulsion, suspension, disgorgement, and monetary sanctions, be imposed;
- C. order that Respondent bears such costs of the proceeding as are deemed fair and appropriate under the circumstances, in accordance with BZX Rule 8.13; and
- D. make specific findings that LSCI willfully violated Section 17(a) of the Exchange Act and Rule 17a-4, thereunder, and Rule 200(g) of Reg SHO; and
- E. grant all further relief, legal or equitable, that is warranted under the circumstances.

Dated: November 18, 2016
New York, New York

Respectfully submitted,

FINRA Department of Market Regulation



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EXHIBIT A

Trade Date	Order Time	Symbol	# of Shares
Long Sale Marked "Short"			
6/9/2014	10:38:35	KORS	300
6/9/2014	10:42:12	KORS	2,000
6/9/2014	10:43:00	KORS	416
6/9/2014	10:47:27	HUM	116
6/11/2014	11:08:10	EXP	500
6/13/2014	11:01:39	LPNT	1,000
6/13/2014	11:01:42	LPNT	800
Short Sale Marked "Long"			
6/10/2014	10:43:21	ESLT	902
6/10/2014	10:43:28	ESLT	1002
6/10/2014	10:47:45	ESLT	601

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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of November 2016, copies of the foregoing Notice of Statement of Charges, Statement of Charges, and this Certificate of Service were served on Respondent via certified mail, return receipt requested, at the address listed below:

Lek Securities Corporation
One Liberty Plaza
165 Broadway
52nd Floor
New York, NY 10006


Michael W. Bautz
Senior Counsel

**Statement of the Exchange Regarding Allegations
In a Disciplinary Complaint Pursuant to Exchange Rule 8.18(b)(1)**

This statement of charges is a disciplinary complaint under Exchange Rules. A disciplinary complaint represents the initiation of a formal proceeding by the Exchange in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint.