

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**

**Release No. 53137 / January 18, 2006**

**ADMINISTRATIVE PROCEEDING**

**File No. 3-12148**

**In the Matter of**

**JB OXFORD HOLDINGS,  
INC.,**

**Respondent.**

**ORDER INSTITUTING CEASE-AND-  
DESIST PROCEEDINGS, MAKING  
FINDINGS, AND IMPOSING A CEASE-  
AND-DESIST ORDER PURSUANT TO  
SECTION 21C OF THE SECURITIES  
EXCHANGE ACT OF 1934**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against JB Oxford Holdings, Inc. (“JBOH” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and prior to a hearing pursuant to the Commission’s Rules of Practice, 17 C.F.R. § 201.100 *et seq.*, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings, Making Findings, and Imposing a Cease-and-Desist Order Pursuant to Section 21C of the Securities Exchange Act of 1934 (“Order”), as set forth below.

**III.**

On the basis of this Order and Respondent’s Offer, the Commission finds<sup>1</sup> that:

**Summary**

1. This matter involves Respondent, JBOH, its officers, and its wholly-owned subsidiary National Clearing Corporation (“NCC”). JBOH is a Beverly Hills, California

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<sup>1</sup> The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

public holding company. One of its wholly-owned subsidiaries, NCC, provided securities clearing and execution services. From June 2002 until September 2003, NCC and its officers and employees facilitated late trading in mutual fund shares<sup>2</sup> and deceptive market timing by several customers, correspondent brokers, investment advisers, and hedge funds (“institutional customers”).

2. From June 2002 until September 2003, NCC’s personnel facilitated late trades in shares of mutual funds. JBOH’s former president and chief operating officer, who was also a member of its board of directors, as well as NCC’s former president and chief executive officer (the “JBOH/NCC executive”) worked with the former general counsel of both JBOH and NCC (the “general counsel”) to negotiate, draft, and execute an agreement that provided NCC’s institutional customers with the ability to confirm, cancel, or revise mutual fund trades facilitated by NCC after 4:00 p.m. Eastern time, the time as of which the relevant mutual funds calculated their net asset value (“NAV”).

3. In addition to late trading, from June 2002 until September 2003, NCC and its officers and employees utilized various methods to conceal certain of its institutional customers’ market timing activity from the mutual funds. During a portion of this period, NCC engaged in practices that circumvented the restrictions that the mutual funds had placed on certain accounts as a result of market timing activities.

4. JBOH prepared its financial statements on a consolidated basis, which included revenues and other financial information of NCC. As a result, in 2002 through 2003, JBOH’s consolidated financial statements included over \$1 million in gross revenue that NCC received from compensation arrangements with its mutual fund customers.

### **Respondent**

5. **JB Oxford Holdings, Inc.**, based in Beverly Hills, California, is a holding company. NCC, one of JBOH’s wholly-owned subsidiaries, provided mutual fund clearing and execution services. Prior to October 2003, NCC was known as JB Oxford & Company. JBOH trades on the Nasdaq Small Cap market.

### **Background**

6. In May 2002, the JBOH/NCC executive began negotiating with a Swiss money management firm to open two \$5 million accounts at NCC. In the course of the negotiations, the JBOH/NCC executive learned that the Swiss firm’s main trading strategy was market timing shares of mutual funds and that it was interested in late trading. Representatives from the Swiss firm explained that they were permitted to submit trades to one clearing firm until 7:00 p.m. Eastern time. The JBOH/NCC executive understood that in order to obtain this business, NCC would have to provide similar services.

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<sup>2</sup> As used herein, “late trading” refers to the practice of placing orders to buy or sell mutual fund shares after 4:00 p.m. Eastern time, the time as of which mutual funds typically calculate their NAV, but receiving the price based on the NAV already determined as of 4:00 p.m. Eastern time. The practice of late trading potentially enables the trader to profit from market events that occur after 4:00 p.m. Eastern time but that are not reflected in that day’s price. See In the Matter of Steven B. Markovitz, Advisers Act Release No. 2180 (October 2, 2003).

7. Subsequently, the JBOH/NCC executive tasked a subordinate to find out how late mutual fund trades could be submitted for execution. The subordinate reported to the JBOH/NCC executive that mutual fund trades could be submitted to the electronic system that connected NCC to FundServ and the National Securities Clearing Corporation until 3:50 p.m. Pacific time (6:50 p.m. Eastern time).

8. The JBOH/NCC executive then worked with the general counsel to draft an agreement with the Swiss customer that established the terms of the relationship. That agreement, called a mutual fund procedural agreement, was used as a template for each successive procedural agreement that NCC executed with future institutional customers. The portion of the agreement relating to late trading stated:

Each day that Customer intends to engage in mutual fund transactions, Customer shall send via Excel spreadsheet or other mutually acceptable means to [NCC] a list of proposed transactions before 4:15 p.m. New York time. Transaction detail shall include mutual fund names and symbols, plus all other information necessary to effect the transaction(s) as agreed to by the parties. Customer intends to confirm and activate such trade communication via telephone by 4:45 p.m., New York time, which shall be deemed made upon oral or written verification by [NCC]. . . .

9. Prior to drafting this agreement, however, no one, including the JBOH/NCC executive, sought input from NCC's compliance officer about the propriety of accommodating the Swiss firm's desire to submit mutual fund trades after 4:00 p.m. Eastern time. Moreover, no one from NCC consulted mutual fund prospectuses or dealer agreements on this issue. Indeed, some dealer agreements specified a 4:00 p.m. Eastern time cut-off for order entry at the current day's NAV and many prospectuses stated that only trades received prior to 4:00 p.m. Eastern time are given that day's NAV.

10. The procedural agreement also required the Swiss firm to pay NCC 90 basis points on assets held in the Swiss firm's accounts used for late trading and market timing. Later agreements required future institutional customers, including customers who engaged in late trading and market timing to pay 100 basis points. The basis point charges and other charges paid by these customers ultimately generated approximately \$1,000,000 in gross revenue for NCC.

11. The JBOH/NCC executive and general counsel reviewed and edited the original procedural agreement between NCC and the Swiss firm and the JBOH/NCC executive signed the agreement on behalf of NCC in or about May 2002.

### **The Late Trading Scheme**

12. From June 2002 through September 2003, NCC, under the supervision of the JBOH/NCC executive, facilitated thousands of late purchases and redemptions of mutual fund shares on behalf of its institutional customers in dozens of mutual fund families.

13. With the knowledge of and at the direction of the JBOH/NCC executive, NCC obtained additional institutional customers who were permitted to engage in late trading. The JBOH/NCC executive signed procedural agreements with these subsequent institutional

customers and as of September 25, 2002, NCC held accounts used for late trading and market timing worth over \$40 million.

14. The institutional customers conducted business with NCC based upon procedures set forth in procedural agreements virtually identical to the agreement drafted by the JBOH/NCC executive and general counsel. Indeed, all institutional customers that confirmed mutual fund trades after 4:00 p.m. Eastern time received the NAV determined as of 4:00 p.m. Eastern time despite the fact that they confirmed the trades late.

15. Prior to being permitted to facilitate trades in a particular mutual fund, NCC was required to enter into a dealer agreement with affiliates of that fund family. As a result, NCC had dealer agreements with many mutual fund families. Many of these agreements obligated NCC to comport with the mutual funds' prospectuses and to sell and redeem shares at the price determined in accordance with the prospectuses. Many mutual fund prospectuses stated that the NAV was calculated at or as of 4:00 p.m. Eastern time. Moreover, some prospectuses for mutual funds in which NCC facilitated late trades also stated that only trades received by a broker prior to 4:00 p.m. Eastern will be given that day's NAV.

16. The JBOH/NCC executive routinely approved overtime for employees knowing that they were staying late to enter late trades. Indeed, the JBOH/NCC executive communicated to his subordinates that he considered the late trading and market timing customers to be a very important line of business that would generate significant revenues for the firm.

### **The Market Timing Scheme**

17. NCC employees also facilitated market timing activities on behalf of NCC's institutional customers in certain accounts after those accounts had been restricted by mutual funds.

18. Throughout 2002 and 2003, mutual funds tracked market timing through customer identifiers such as customer account numbers (assigned by the broker), representative codes (identifying the originating broker), and office codes (identifying where the trade originated). Once a fund identified a potential timer by its account number or representative code, it often began rejecting the potential timer's trades. If trading continued, the fund frequently restricted the account or representative number from future trading in the fund.

19. From June 2002 through September 2003, NCC employees employed various methods to conceal certain of NCC's institutional customers' market timing activities from the mutual funds. In order to facilitate their market timing, NCC opened over 100 different accounts for one institutional customer and at least 48 accounts for another. Specifically, from June 2002 through September 2003, NCC executed almost 25,000 mutual fund trades in at least 74 fund families for these customers.

20. In about July 2002, NCC began receiving notification from mutual funds that trades were being rejected due to market timing. These "kick-out letters" noted a particular account number and/or the representative code and indicated that the trade was rejected because of impermissible "market timing," "short-term trading," or "excessive trading." The kick-out letters often quoted language from the fund's prospectus stating the fund's market timing policy.

21. Between December 2002 and February 2003, the NCC/JBOH executive

learned about these kick-out letters and that mutual funds had placed restrictions on certain accounts as a result of market timing activities. He also learned that, as a result of NCC's market timing, several mutual funds cancelled or threatened to cancel NCC's dealer agreements.

22. In some instances, to avoid the restrictions on accounts contained in the mutual funds' letters, NCC employees provided certain institutional customers with new account numbers and registered representative numbers to use in place of the information that was associated with previously restricted accounts. In fact, in July 2003, the JBOH/NCC executive received an email indicating that new account numbers had been assigned to certain accounts that had previously been restricted by fund companies. Because the funds did not know the identity of the institutional customer behind an account number, those customers continued market timing without the funds discovering that the customers' trading had previously been restricted because of market timing.

23. As a result of the conduct described above, JBOH violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

#### **IV.**

#### **Undertaking**

Respondent JBOH shall refrain, for a period of five (5) years, from having a controlling interest in or operating a firm engaged in the broker dealer clearing business. After the five (5) year period, if JBOH seeks to conduct any clearing business relating to broker dealers, or to obtain a controlling interest in or operate any such clearing business, JBOH agrees to retain an independent consultant not unacceptable to the Commission staff to review the policies and procedures of the clearing business to ensure compliance with the federal securities laws.

#### **V.**

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent JBOH's Offer.

Accordingly, it is hereby ORDERED that:

A. Respondent JBOH cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

B. Respondent shall comply with the undertakings enumerated in Section IV. above.

By the Commission.

Nancy M. Morris  
Secretary