

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 8-K/A

Current Report

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): 10/27/2006

NYMEX Holdings, Inc.

(Exact name of registrant as specified in its charter)

Commission File Number: 333-30332

DE

(State or other jurisdiction of
incorporation)

13-4098266

(IRS Employer
Identification No.)

One North End Avenue, World Financial Center, New York , NY 10282-1101

(Address of principal executive offices, including zip code)

(212) 299-2000

(Registrant's telephone number, including area code)

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01. Entry into a Material Definitive Agreement

On October 25, 2006, NYMEX Holdings, Inc. (the "Company") entered into a consulting agreement (the "Consulting Services Agreement") with Jerome Bailey, the Company's former Chief Financial Officer and Chief Operating Officer. The Consulting Services Agreement is attached herewith as Exhibit 10.1 to this Amended Current Report on Form 8-K.

Item 1.02. Termination of a Material Definitive Agreement

On October 24, 2006, the Company entered into a release agreement (the "Agreement and Release") with Jerome Bailey to terminate his employment as Chief Financial Officer and Chief Operating Officer of the Company. The Agreement and Release is attached herewith as Exhibit 10.2 to this Amended Current Report on Form 8-K.

Item 9.01. Financial Statements and Exhibits

Exhibit 10.1 Consulting Services Agreement, dated October 25, 2006.

Exhibit 10.2 Agreement and Release, dated October 24, 2006.

Signature(s)

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

NYMEX Holdings, Inc.

Date: October 27, 2006

By: /s/ Richard Kerschner

Richard Kerschner
SVP -- Corporate Governance and Strategic Initiatives

Exhibit Index

Exhibit No.	Description
EX-10.1	Consulting Services Agreement
EX-10.2	Agreement and Release

CONSULTING SERVICES AGREEMENT

WHEREAS, this Consulting Services Agreement ("Agreement") is entered into as of October 25, 2006 ("Effective Date") between Jerry Bailey ("Consultant"), an individual having his principal place of business at 101 Ironwood Ct., Middletown, New Jersey 07748 and the New York Mercantile Exchange, Inc. ("NYMEX"), a Delaware corporation having its principal place of business at One North End Avenue, New York, NY 10282 (Consultant and NYMEX are collectively referred to herein as the "Parties" and individually as a "Party").

WHEREAS, NYMEX wishes to utilize Consultant's services and abilities on a temporary basis to perform the Scope of Work set forth below during the term of this Agreement and any extension thereof; and

WHEREAS, Consultant is willing to render such consulting services to NYMEX on a temporary basis upon the terms and conditions contained in this Agreement.

NOW THEREFORE, in consideration of the promises contained herein, the Parties agree as follows:

1. SERVICES

A. **SERVICES.** Exhibit A shall describe the services to be performed ("Services"), which shall be rendered according to the terms and conditions of this Agreement. The terms and conditions of this Agreement shall govern with respect to the Services. Should the terms of this Agreement conflict with the terms in Exhibit A, the terms of this Agreement shall control.

B. **NYMEX SUPERVISOR.** Consultant shall report to and receive direction only from such NYMEX employees or officers as are listed in Exhibit A or as designated by such employees or officers ("NYMEX Supervisor").

C. **ACCEPTANCE.** The Services shall be subject to a verification of acceptability by NYMEX to ensure that such Services satisfy NYMEX's requirements. Unless otherwise specified on Exhibit A as Specific Acceptance Criteria, the acceptability of any of the Services shall be based on NYMEX's satisfaction or dissatisfaction with the Services, in NYMEX's sole discretion. The Services shall be deemed completed and accepted by NYMEX only when approved in writing.

2. **PERIOD OF AGREEMENT.** This Agreement shall commence on the Effective Date and will continue until December 31, 2006, unless earlier terminated in accordance with Article 5 hereof. The Agreement may be extended by the parties on mutual consent.

3. PAYMENT TERMS

A. NYMEX agrees to pay Consultant according to terms set forth in the attached Exhibit A ("Payment Terms").

B. Consultant will submit an invoice bi-weekly setting forth the time spent, Services rendered, and any Deliverables (as defined in Exhibit A below, if any) accepted. NYMEX will pay Consultant the amount invoiced within fifteen (15) days of receipt of such invoice, provided that there is no dispute as to the amount invoiced. Consultant shall also be reimbursed for any reasonable expenses incurred in performing the Services provided that such expenses have been previously approved by NYMEX in writing.

C. NYMEX will pay all sales, use, transfer, privilege, excise or other taxes and all duties, whether international, national, state or local, however designated, which are levied or imposed by reason of the transactions contemplated hereby; excluding, however, income taxes on profits which may be levied against Consultant.

4. RELATIONSHIP BETWEEN THE PARTIES

A. Consultant acknowledges and agrees that Consultant has been retained solely as an independent contractor in a temporary capacity and not as an agent or employee of NYMEX. Nothing in this Agreement shall be construed to create a partnership, joint venture, or agency relationship between the Parties. Consultant is not authorized to enter into contracts or agreements on behalf of NYMEX or to otherwise create obligations of NYMEX to third parties. Consultant shall be solely responsible for the payment to any of its employees of compensation, expenses, and benefits associated with employment, workers' compensation payments, state disability insurance and claims, and unemployment, social security and other payroll taxes, as applicable.

B. Upon execution of this Agreement, Consultant shall provide to NYMEX the following documents:

(1) if Consultant is incorporated, a certificate of good standing of Consultant as a corporation under the laws of the state of Consultant's incorporation; and

(2) evidence of Consultant's federal employer identification number or, if an individual, social security number.

Failure by Consultant to provide NYMEX any documents required under this paragraph shall be grounds for withholding payments of Consultant's invoices.

5. TERMINATION

A. NYMEX may terminate this Agreement for any reason or for no reason at anytime upon written notice to Consultant. Such notice shall be delivered by certified mail or personal delivery.

B. Consultant may terminate this Agreement for any reason or for no reason at anytime upon two weeks prior written notice to NYMEX. Such notice shall be delivered by certified mail or personal delivery.

C. In the event of early termination of this Agreement, NYMEX will remain liable to the Consultant solely for payment of all approved expenses and all Services actually rendered by the Consultant through the effective date of such termination.

6. **CONFIDENTIAL INFORMATION** - The Consultant shall keep secret and retain in strictest confidence, and shall not use for his benefit or the benefit of others, except in connection with the business and affairs of the Company and its affiliates, all confidential matters relating to the Company and the business of any of its affiliates and to the Company and any of its affiliates, learned by the Consultant heretofore or hereafter directly or indirectly from the Company or any of its affiliates (the "Confidential Company Information"), and shall not disclose such Confidential Company Information to anyone outside of the Company except with the Company's express written consent and except for Confidential Company Information which is at the time of receipt or thereafter becomes publicly known through no wrongful act of the Consultant or is received from a third party not under an obligation to keep such information confidential and without breach of this Agreement. Nothing herein, however, shall limit Consultant from providing truthful information in response to a government investigation, pursuant to a valid subpoena or otherwise required by law.

7. INTELLECTUAL PROPERTY

A. Any and all original reports, documentation including, but not limited to Consultant's current user manuals, operating instructions and installation guides provided to NYMEX ("Documentation") or any Deliverable prepared by Consultant and any individual supplied by Consultant in the performance of the Services under this Agreement shall become the exclusive property of NYMEX, including any trademark or copyright rights and other tangible or intangible rights attaching thereto.

A. Consultant agrees to disclose promptly in writing to NYMEX any and all inventions, improvements, discoveries and copyrightable material, computer programs, processes, manufacturing techniques, trade secret formula or know how, patentable or unpatentable, copyrightable or uncopyrightable, protectable or unprotectable under any form of legal protection afforded to intellectual property, that during the term of this Agreement, and in relation to the performance of this Agreement, Consultant may conceive, make, develop, author or work on in whole or in part solely or jointly with others. NYMEX agrees to hold all such disclosures in confidence unless the invention, improvement, discovery or work is or becomes NYMEX's property as provided in Article 12 below.

C. **Work Made for Hire and Assignment.** In relation to the performance of this Agreement, Consultant may create certain works for NYMEX that may be copyrighted or copyrightable under the laws of the United States. To the extent that any such works are created, Consultant will be considered to have created a Work Made for Hire as defined in 17 U.S.C. Section 101, and NYMEX shall have the sole right to the copyright in such work. In the event that any such work created by Consultant does not qualify as a Work Made for Hire, Consultant hereby assigns its copyright and all rights, throughout the world, in and to the work to NYMEX, as provided for below.

D. **Title to Works, Trade-Marks, and Inventions Produced.** It is understood and agreed that the entire right, title and interest throughout the world to all works, trademarks, and/or inventions that are conceived of, prepared, procured, generated or produced, whether or not reduced to practice, by Consultant, either solely or jointly with others during the course of, in connection with, or as related to the performance of this Agreement, shall be and hereby are vested and assigned by Consultant to NYMEX.

E. **Further Assurances.** Consultant agrees to execute any and all documents prepared by NYMEX, and to do all other lawful acts as may be necessary, useful or convenient for NYMEX to establish, document, and protect such rights.

8. WARRANTIES BY CONSULTANT

A. **SERVICE WARRANTY.** Consultant represents and warrants that the Services, Deliverables and obligations performed by Consultant hereunder shall be in accordance with those standards of its profession recognized in its community by equally qualified, competent and experienced Consultants at the time of performance.

B. **CORPORATE WARRANTY.** Consultant represents and warrants to NYMEX that: (1) Consultant is duly organized, validly existing and in good standing under the laws of its state of incorporation and will perform its obligations under this Agreement without violation of any laws, rules or regulations, and (2) Consultant has the full

legal right, power and authority to enter into and perform all of its obligations hereunder without breach or violation of any obligation enforceable against it.

C. **DELIVERABLE WARRANTY.** For a period of ninety (90) days after acceptance of the applicable Deliverable, Consultant represents and warrants that the Deliverable shall conform in all material respects to the Documentation and any criteria listed in the attached Exhibit A.

D. **REMEDIES.** If Consultant breaches any warranty in this Agreement, Consultant shall make reasonable efforts to promptly repair or replace the non-conforming Deliverable without charge and the warranty for such affected Deliverable shall be extended to include the time necessary to make such repairs or provide a replacement. If, after a reasonable opportunity to cure, Consultant does not repair or replace the non-conforming Deliverable, NYMEX may return such Deliverable to Consultant or certify in writing that all copies have been destroyed and Consultant will refund the fees it received from NYMEX for such Deliverable.

9. INDEMNIFICATION

Consultant shall indemnify, defend and hold harmless NYMEX, its affiliates, and its and their respective directors, officers, members, employees, and agents ("NYMEX Parties") from and against any and all liabilities, damages, claims, losses, costs, expenses, judgments or settlements, including attorney fees and disbursements, in respect of (i) taxes on payments made to Consultant, (ii) all claims arising out of any bodily injury, death or damage to tangible personal property to the extent directly and proximately caused by the negligence or willful misconduct of Consultant, or (iii) third party claims that the Documentation or Deliverable(s) infringe on such party's intellectual property rights; provided, that: (1) NYMEX promptly provides Consultant written notice of any such claim and reasonable cooperation, information, and assistance in connection therewith, and (2) Consultant shall have sole control and authority to defend, settle or compromise such claim. NYMEX shall have the right to retain counsel to participate in the claim, in which case Consultant shall reasonably cooperate with NYMEX and its counsel. Consultant shall not settle any claim without the consent of NYMEX unless the sole relief awarded is money damages payable solely by Consultant.

10. **Limitation of Liability.** EXCEPT FOR THE GROSS NEGLIGENCE OR WILFULL MISCONDUCT OF NYMEX, NYMEX's aggregate liability to Consultant or any third parties for ANY AND ALL damages in any way related to this Agreement or the services provided hereunder, regardless of whether the claim for such damages is based in contract, tort, strict liability, or otherwise, shall not exceed the fees received by Consultant from NYMEX hereunder.

11. MISCELLANEOUS

A. This Agreement shall be governed by and construed in accordance with the applicable laws of the State of New York except for its laws governing conflict and choice of laws.

B. The Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age or national origin, and Consultant agrees to comply with all laws and ordinances relating thereto, and all orders, rules and regulations issued pursuant thereto.

C. Neither Party shall assign, sublet or transfer all of any part of its interest in this Agreement without the prior written consent of the other Party except that NYMEX may assign to any of its successors or affiliates. Except as otherwise provided, any attempted assignment by a Party in violation of this provision shall render this Agreement voidable by the other Party.

D. The provisions of Articles 4, 6, 7, 8, 9, 10 and 11 shall survive the completion or early termination of this Agreement.

E. Failure of either Party to enforce any of the provisions of this Agreement shall not be construed as a waiver of such provisions or of the right thereafter to enforce such provisions.

F. This Agreement, the terms and conditions herein contained, together with all attachments hereto and other agreements and documents referred to herein, shall constitute the entire agreement between NYMEX and the Consultant and supersede any and all other agreements or arrangements, whether written or oral, with respect to the subject matter hereof. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns, as may be permitted hereunder. This Agreement may be amended or modified only by a writing signed by both Parties.

G. In case any one or more of the provisions contained in this Agreement shall be held to be invalid, illegal or unenforceable in any respect for any reason, such invalidity, illegality or unenforceability shall not affect any other provisions of the Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

H. All notices and other communications to be given or to otherwise be made to any Party to this Agreement shall be deemed to be sufficient if contained in a written instrument delivered in person or duly sent by first class registered or

certified mail or by a recognized national courier service, postage or charges repaid, to the Consultant and to the NYMEX, at the address set forth on the first page of this Agreement, or to such other address of which such Party may give written notice to the other in accordance with this provision.

I. Consultant shall not use NYMEX's name in connection with any marketing material including, but not limited to, press releases, without obtaining NYMEX's prior written consent.

J. The Article headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

K. This Agreement may be executed in one or more counterparts, which shall, collectively and separately, constitute one agreement.

IN WITNESS WHEREOF, the Parties hereto have duly executed and delivered this Agreement as of the Effective Date.

CONSULTANT NEW YORK MERCANTILE EXCHANGE, INC.

By: /s/Jerome Bailey By: /s/James Newsome

Name: Jerome Bailey Name: James Newsome

Title: Consultant Title: President and Chief Executive Officer

Exhibit A

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NYMEX SUPERVISOR:

Consultant shall receive direction from the Chairman of the Board and/or the President and Chief Executive Officer of NYMEX or such other person(s) designated by them.

PAYMENT TERMS:

Consultant shall be paid at a rate of \$1,923.00 for each day the Services are rendered.

SERVICES:

Consultant shall perform the following Services:

- o Assist the Senior Vice President in knowledge transfer in the areas of Consultant's competencies.
- o Assist the Company in its initial public offering processes as directed by the Company's Chairman of the Board and/or its President and Chief Executive Officer.
- o Provide such other Services within the Consultant's knowledge base and competencies as directed by the Chairman of the Board and/or its President and Chief Executive Officer.

Expense Authorization:

It is hereby agreed that during the term of the consulting agreement between the New York Mercantile Exchange, Inc. ("NYMEX") and Jerry Bailey dated October 23, 2006, and any extension thereof, that the NYMEX will pay the cost of my COBRA premium payments for coverage under NYMEX's medical and dental plans.

/s/James Newsome

James Newsome

October 24, 2006

Dear Jerry:

This letter (the "Agreement and Release") confirms the termination of your employment as a Chief Operating Officer and Chief Financial Officer of the New York Mercantile Exchange, Inc. (the "Company") effective October 24, 2006 ("Termination Date").

The various benefits and options available to you with respect to the termination of your employment are as follows:

1. Your employment with the Company is terminated effective October 24, 2006 (your "Termination Date").

2. Regardless of whether you sign this Agreement and Release, your total and final compensation, payments and benefits from the Company shall be as follows (in each case less applicable statutory deductions and withholdings):

- a. You will receive your regular base salary on a normal pay period cycle through your Termination Date.
- b. Your group disability, life and accidental death and dismemberment insurance benefits will remain in effect through your Termination Date.
- c. Your group medical and dental benefits remain in effect through October 31, 2006. Thereafter, you become eligible to participate in COBRA medical and dental insurance for a period of up to 18 months. You affirm that you have been provided with all documentation necessary in order to apply for such continued COBRA coverage. You will be responsible for all COBRA premium payments.
- d. You will receive payment for your accrued and unused vacation days in accordance with Company policy through your Termination Date.

3. As consideration for the release of claims and the waiver of rights contained in paragraph 6 below, and contingent upon your execution and delivery to the Company of this Agreement and Release within 21 calendar days of the date this Agreement was provided to you, and your not revoking your acceptance of this Agreement and Release within the seven-day period as set forth in paragraph 18, you will receive the following from the Company (in each case less applicable statutory deductions and withholdings) in addition to those items provided to you pursuant to paragraph 2:

(a) The Company will provide you with a one-time payment of \$500,000 to be made 10 business days following the date of your execution and delivery of this Agreement and Release to the Company in accordance with paragraph 18 below, provided you do not revoke this Agreement and Release.

4. Other than as set forth herein, you will not receive any compensation, payments or benefits of any kind from the Company and Releasees (as that term is defined below), and you expressly acknowledge and agree that you are not entitled to and will not receive any additional compensation, payments or benefits of any kind from the Company or Releasees, including, without limitation, any grant or award under the NYMEX Holdings, Inc. 2006 Long-Term Incentive Plan, and that no representations or promises have been made to you to the contrary.

5. You understand and agree that you are receiving compensation, payments and/or benefits under this Agreement and Release that are in excess of those to which you are now or in the future may be entitled from the Company and Releasees, and that such compensation, payments and benefits are being provided to you in consideration for your acceptance and execution of, and in reliance upon your representations in, this Agreement and Release, and you acknowledge that such consideration is adequate and satisfactory to you.

6. In exchange for the compensation, payments, benefits and other consideration provided to you pursuant to this Agreement and Release, you agree as follows:

(a) You agree to accept the severance payment and benefits provided for in paragraph 3 above in full resolution and satisfaction of, and hereby irrevocably and unconditionally remise, release, waive and forever discharge the Company and Releasees from, any and all manner of liabilities, actions, causes of action, contracts, agreements, promises, claims and demands of any kind or nature whatsoever, in law or equity, whether known or unknown, which you have ever had, now have, or in the future may have against the Company and Releasees, including, but not limited to, claims arising out of or relating to your employment with the Company, compensation and benefits with the Company and the termination of your employment, including any claim under the Age Discrimination in Employment Act, 29 U.S.C. Section 621 et seq., as amended, Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e et seq., as amended, the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq., the Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 301 et seq., as amended, the Older Workers Benefit Protection Act, 29 U.S.C. Section 621 et seq., the New York State Human Rights Law, the New York State Labor Law, the New York City Human Rights Law, and any and all other federal, state or local laws, and any common law claims now or hereafter recognized, as well as all claims for counsel fees and costs.

(b) You hereby waive and relinquish any and all rights you may have under any federal, state or local statute, rule, regulation or principle of common law or equity which may in any way limit the effect of this release with respect to claims which you did not know or suspect to exist in your favor at the time you executed this Agreement and Release, including any and all claims that you have filed with any court, administration agency, judicial, or other body, provided that it is understood and agreed that you are not

waiving your ability to sue on any claim which may arise in the future from events or actions occurring after the date of the execution of this Agreement and Release.

(c) Notwithstanding the foregoing, nothing herein shall constitute a waiver of claims for:

- (i) unemployment, state disability and/or paid family leave insurance benefits pursuant to the terms of applicable state law;
- (ii) continuation of existing participation in Company-sponsored group health benefit plans, at your expense, under the federal law known as "COBRA" and/or under an applicable state counterpart law;
- (iii) any benefit entitlements that are vested as of the Termination Date pursuant to the terms of a Company-sponsored benefit plan governed by the federal law known as "ERISA;"
- (iv) violation of any federal, state or local statutory and/or public policy right or entitlement that, by applicable law, is not waivable; and
- (v) any wrongful act or omission occurring after the date you sign this Agreement and Release.

(d) Nothing herein prevents or prohibits you from filing a claim with a government agency, such as the U.S. Equal Employment Opportunity Commission, that is responsible for enforcing a law on behalf of the government. However, you agree and covenant that should any person, organization, or other entity file, charge, claim, sue, or cause or permit to be filed any charge, civil action, suit or legal proceeding involving any matter occurring at any time in the past, including but not limited to relating to your employment relationship with the Company, termination by the Company, or any compensation or benefits with the Company, you will not seek or accept any personal relief in such charge, civil action, suit or legal proceeding.

(e) For purposes of this Agreement and Release, the terms "the Company and Releasees" includes the New York Mercantile Exchange, Inc. and its past, present and future direct and indirect parents, subsidiaries, affiliates, divisions, predecessors, successors, and assigns, and their respective past, present and future stockholders, officers, directors, members, representatives, agents and employees, in their official and individual capacities, and all other related individuals and entities, jointly and individually, and this Agreement and Release shall inure to the benefit of and shall be binding upon and enforceable by all such entities and individuals.

7. Nothing contained in this Agreement and Release shall be deemed to constitute an admission or evidence of any wrongdoing or liability on the part of the Company and Releasees.

8. You agree not to make or issue any statement or communication, written or otherwise, that disparages, criticizes or otherwise reflects adversely or encourages any adverse action against the Company and Releasees, except if testifying truthfully under oath pursuant to any court order or subpoena or otherwise responding to or providing disclosures required by law, and you affirmatively represent and affirm that you have not done so.

9. This Agreement and Release may not be changed orally, and no modification, amendment or waiver of any of the provisions contained in this Agreement and Release, nor any future representation, promise or condition in connection with the subject matter of this Agreement and Release, shall be binding upon any party hereto unless made in writing and signed by such party.

10. You agree that: (a) you have kept, and shall keep, the existence and terms of this Agreement and Release confidential, and shall not disclose them to anyone except your attorneys, financial advisors and immediate family members; and (b) your attorneys, financial advisors, and immediate family members who become privy to the existence and terms of this Agreement and Release shall be bound by the terms and conditions of the confidentiality provisions of this paragraph. You agree that your entitlement to the terms set forth in paragraph 3 above is expressly contingent upon your full compliance with the terms of this paragraph, and upon the full compliance with the terms of this paragraph by your attorneys, financial advisors and/or immediate family members who become privy to the existence and terms of this Agreement and Release.

11. Notwithstanding anything to the contrary herein, nothing in this Agreement and Release shall prohibit you from: (a) disclosing the existence and terms of this Agreement and Release pursuant to an action to enforce the terms of this Agreement and Release (in which it case it shall be provided to the Court under seal); (b) advising, or responding truthfully to a request by, any federal, state or local governmental or regulatory agency or any self-regulatory organization; or (c) providing information to, testifying or otherwise assisting in any investigation or proceeding brought by any federal, state or local governmental or regulatory agency, or any self-regulatory organization.

12. Notwithstanding anything to the contrary herein, nothing in this Agreement and Release is intended or shall be deemed to prohibit you from cooperating with any governmental agency in any action brought by such governmental agency pursuant to 18 U.S.C. Section 1514A or otherwise, provided that you agree and acknowledge that you are not entitled to and that you will not seek or authorize anyone to seek on your behalf any personal equitable or monetary relief in such action.

13. This Agreement and Release shall be subject to and governed by and interpreted in accordance with the laws of the State of New York without regard to conflicts of law principles.

14. This Agreement and Release shall inure to the benefit of and shall be binding upon (i) the Company, its successors and assigns, and any company with which the Company may merge or consolidate or to which the Company may sell all or substantially all of

its assets, and (ii) you and your executors, administrators, heirs and legal representatives. You may not sell or otherwise assign your rights, obligations or benefits under this Agreement and Release, and any attempt to do so shall be void.

15. (a) Unless you first secure the Company's written consent or the secret, confidential or proprietary information becomes generally known to the public, or was generally known to the public, before the date on which this Agreement and Release is executed, you agree not to directly or indirectly publish, disclose, market, use or authorize, advise, hire, counsel or otherwise procure any other person or entity, directly or indirectly, to publish, disclose, market or use, any secret, confidential, proprietary information of the Company of which you became aware or informed during your employment with the Company.

(b) By signing this Agreement and Release you affirm that to the best of your knowledge and belief, you have returned to the Company all Company property issued to you, including but not limited to keys, credit cards, if any, ID cards, beepers, cell phones, computers(except your personal computer that you have used in your work for the Company and which will be cleansed of any Company data prior to your departure), computer software and hardware, any and all original and duplicate copies of all your work product and of files, calendars, books, records, notes, notebooks, manuals, computer disks, diskettes and any other magnetic and other media materials you have in your possession or under your control belonging to the Company or Releasees or containing confidential or proprietary information concerning the Company or Releasees or their customers or operations. Furthermore, should you or the Company discover that you inadvertently possess any of the documents or materials described in this paragraph you agree to return such documents or materials to the Company immediately. The Company will provide you with a pre-paid express mailing box or envelope to facilitate the return of such items.

(c) You hereby acknowledge that, to the extent you have not already done so, you will promptly make full written disclosure to the Company, hold in trust for the sole right and benefit of the Company, and hereby assign to the Company and Releasees, all of your rights, title and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements or trade secrets, whether or not patentable or registrable under copyright or similar laws, solely or jointly conceived, developed or reduced to practice, or caused to be conceived, developed or reduced to practice, during the period of time in which you were employed by the Company (collectively referred to as "Inventions"), including the copyright thereon. You further acknowledge that all original works of authorship which were made by you (solely or jointly with others) within the scope of your employment and which are protectable by copyright are "works made for hire" as the term is defined in the U.S. Copyright Act.

16. In the event any non-material provision of this Agreement and Release shall be held to be void, voidable, and unlawful or, for any reason, unenforceable, the remaining portions shall remain in full force and effect. The unenforceability or invalidity of a provision of this Agreement and Release in one jurisdiction shall not invalidate or render that provision unenforceable in any other jurisdiction.

17. You agree that at all reasonable times after your Termination Date, you will reasonably assist and cooperate with the Company in connection with any ongoing or future investigation, dispute or claim of any kind involving the Company and Releasees for which you may have performed duties or services, to the extent that such claims, investigations or proceedings related to services performed or required to be performed by you, pertinent knowledge possessed by you or any act or omission by you. In addition, you acknowledge and agree that the payments and other consideration described in paragraph 3 are expressly conditioned upon you working for the Company, supporting current job duties, transitioning your work and other reasonable assigned tasks until your Termination Date

18. If this Agreement and Release conforms to your understanding and is acceptable to you, please indicate your agreement by signing and dating the Agreement and Release, and returning it to me within 21 calendar days. You will then be permitted to revoke this Agreement and Release at any time during the period of (7) calendar days following its execution (the "Revocation Period") by delivering to me, by facsimile or United States Mail, a written notice of revocation. This Agreement and Release will not be effective or enforceable and no benefits shall be provided hereunder unless and until the seven-day Revocation Period has expired without your having exercised your right of revocation. In the event you fail to execute and return this Agreement and Release on a

{Remainder of Page Intentionally Left Blank}

timely basis, this Agreement and Release will be of no force or effect, and neither you nor the Company will have any rights or obligations hereunder.

Sincerely,

NEW YORK MERCANTILE EXCHANGE, INC.

By: /s/Christopher K. Bowen
Christopher K. Bowen

General Counsel & Chief Administrative Officer

THIS AGREEMENT AND RELEASE IS A LEGAL DOCUMENT. YOU SHOULD CONSULT WITH AN ATTORNEY PRIOR TO SIGNING THIS AGREEMENT AND RELEASE.

BY SIGNING THIS AGREEMENT AND RELEASE, YOU ACKNOWLEDGE THAT YOU ARE COMPETENT; THAT YOU WERE AFFORDED A REASONABLE PERIOD OF AT LEAST 21 DAYS TO REVIEW AND CONSIDER THIS AGREEMENT AND RELEASE WITH ATTORNEYS OF YOUR CHOICE; THAT YOU HAVE READ AND UNDERSTAND AND ACCEPT THIS AGREEMENT AND RELEASE AS FULLY AND FINALLY RESOLVING, WAIVING AND RELEASING ANY AND ALL RIGHTS AND CLAIMS WHICH YOU MAY HAVE AGAINST THE COMPANY AND RELEASEES (AS DEFINED ABOVE) AS SET FORTH IN PARAGRAPH 6 OF THIS AGREEMENT AND RELEASE, INCLUDING WITHOUT LIMITATION ANY AND ALL CLAIMS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT, THAT YOU UNDERSTAND YOU HAVE SEVEN DAYS FROM THE DATE YOU EXECUTE THIS AGREEMENT AND RELEASE DURING WHICH YOU MAY REVOKE YOUR ACCEPTANCE OF THIS AGREEMENT AND

RELEASE; THAT NO PROMISES, REPRESENTATIONS OR INDUCEMENTS HAVE BEEN MADE TO YOU EXCEPT AS SET FORTH IN THIS AGREEMENT AND RELEASE; AND THAT YOU HAVE SIGNED THIS AGREEMENT AND RELEASE FREELY AND VOLUNTARILY, INTENDING TO BE LEGALLY BOUND BY ITS TERMS.

I acknowledge that I have
read this Agreement and Release
and that I understand and
voluntarily accept its terms.

/s/Jerome Bailey Date: October 24, 2006