

## SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

### In the Matter of Southwestern Medical Solutions, Inc.; Order of Suspension of Trading

September 11, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Southwestern Medical Solutions, Inc. (“Southwestern”), a non-reporting issuer quoted on the Pink Sheets under the ticker symbol SWNM, because of questions regarding the accuracy and adequacy of assertions by Southwestern, and by others, concerning, among other things: (1) The existence of applications for U.S. Food and Drug Administration approvals for its Labguard product, (2) the existence of a patent and trademark, and (3) the receipt of an order for the sale of several thousand units of Labguard.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, *it is ordered*, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EST, September 11, 2006 through 11:59 p.m. EST, on September 22, 2006.

By the Commission.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 06–7654 Filed 9–11–06; 12:03 pm]

BILLING CODE 8010–01–P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54407; File No. SR–NYSE–2005–43]

### Self-Regulatory Organizations; New York Stock Exchange LLC.; Order Approving Proposed Rule Change and Amendment No. 1 Thereto to Rule 607 Relating to the Classification of Arbitrators as Public or Industry

September 6, 2006.

#### I. Introduction

On June 17, 2005, the New York Stock Exchange, Inc. (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”), pursuant to section 19(b)(1) of the Securities Exchange Act

of 1934 (“Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to amend Rule 607 relating to the classification of arbitrators as public or industry. On August 4, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> In this amendment, the Exchange stated that the rule change will become effective 90 days following the publication of this order in the **Federal Register**. The NYSE will update and reclassify arbitrators during this time period. The proposed rule change was published for comment in the **Federal Register** on August 29, 2005,<sup>4</sup> and the Commission received 38 comments on the proposal.<sup>5</sup> The

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> In Amendment No. 1, which supplemented the original filing, the Exchange modified the implementation date for the proposed rule change and clarified certain aspects of the filing.

<sup>4</sup> See Exchange Act Release No. 52314 (Aug. 22, 2005), 70 FR 51104 (Aug. 29, 2005).

<sup>5</sup> Several commenters filed letters regarding the amendments to Exchange Rule 607 in connection with the proposed change to NASD Rule 10308 (NASD 2005–094), which also governs non-public/industry and public arbitrators. The NYSE and the Commission have identified letters in response to both rule filings that address the proposed changes to NYSE Rule 607.

See letters from Bradford D. Kaufman, Esq., Greenberg Traurig, dated Oct. 7, 2005 (“Kaufman”); Jonathan W. Evans, Esq., Jonathan W. Evans & Associates, dated Sept. 21, 2005 (“Evans”); L. Jerome Stanley, dated Sept. 20, 2005 (“Stanley”); Thomas D. Mauriello, Law Offices of Thomas D. Mauriello, dated Sept. 20, 2005 (“Mauriello”); William P. Torngren, Law Offices of William P. Torngren, dated Sept. 20, 2005 (“Torngren”); Jason R. Doss, Page Perry, LLC, dated Sept. 20, 2005 (“Doss”); Brian M. Greenman, Esq., dated Sept. 20, 2005 (“Greenman”); Teresa M. Gillis, Shustak, Jalis & Heller, dated Sept. 20, 2005 (“Gillis”); Susan N. Perkins, Esq., dated Sept. 20, 2005 (“Perkins”); Charles D. Mihalek, Esq. and Steven M. McCauley, Esq., Charles Mihalek, P.S.C., dated Sept. 20, 2005 (“Mihalek”); Steven J. Gard, Esq., Gard, Smiley, Bishop & Dovin LLP, dated Sept. 20, 2005 (“Gard”); Scott L. Silver, Blum & Silver, LLP, dated Sept. 20, 2005 (“Silver”); Mitchell S. Ostwald, Esq., Law Offices of Mitchell S. Ostwald, dated Sept. 20, 2005 (“Ostwald”); Joel A. Goodman, Esq., Goodman & Nekvasil, P.A., dated Sept. 20, 2005 (“Goodman”); Alan C. Friedberg, Pendleton, Friedberg, Wilson & Hennessey, P.C., dated Sept. 19, 2005 (“Friedberg”); Debra G. Speyer, Law Offices of Debra G. Speyer, dated Sept. 19, 2005 (“Speyer”); Harvey H. Eckart, Eckart & Leonetti, P.A., dated Sept. 19, 2005 (“Eckart”); G. Mark Brewer, Esq., Brewer Carlson, LLP, dated Sept. 19, 2005 (“Brewer”); Steve A. Buchwalter, first letter dated Sept. 19, 2005 and second letter dated Sept. 13, 2005 (“Buchwalter”); Royal B. Lea, III, Esq., Bingham & Lea, and Randall A. Pulman, Esq., Pulman, Bresnahan & Pullen, LLP, dated Sept. 19, 2005 (“Lea”); Richard P. Ryder, Securities Arbitration Commentator, Inc., dated Sept. 19, 2005 (“Ryder”); Eliot Goldstein, Esq., dated Sept. 19, 2005 (“Goldstein”); Philip M. Aidikoff, Aidikoff & Uhl, dated Sept. 16, 2005 (“Aidikoff”); Bruce E. Baldinger, Esq., Baldinger & Levine, L.L.C., dated Sept. 16, 2005 (“Baldinger”); Henry D. Fellows, Jr., Fellows Johnson & La Briola, LLP, dated Sept. 16, 2005 (“Fellows”); Rosemary J. Shockman, Public Investors Arbitration Bar Association, dated Sept. 15, 2005 (“PIABA”); James D. Keeney, dated Sept. 15, 2005 (“Keeney”); Bill

majority of commenters are lawyers that represent investors in arbitrations. This order approves the proposed rule change as amended.

#### II. Description of the Proposal

Arbitration panels for disputes involving customers or non-members in which the damages are alleged to exceed \$25,000 are comprised of three arbitrators: Two public arbitrators and one from the securities industry. A customer or non-member also may request at least a majority of arbitrators from the securities industry.

Exchange Rule 607(a)(2) currently classifies an arbitrator as from the securities industry if he or she: (1) Is, or within the past five years was, associated with certain entities related to the securities industry (or retired from, or spent a substantial part of his or her career with such an entity); (2) is an attorney or other professional who devoted 20 percent or more of his or her work effort to securities industry clients within the past two years; or (3) is registered under the Commodity Exchange Act, or is a member of a registered futures association or any commodity exchange or is associated with any such person.

Exchange Rule 607(a)(3) currently classifies an arbitrator who is not from the securities industry as a public arbitrator. However, a person cannot be classified as a public arbitrator if he or she has a spouse or household member who is associated with certain entities related to the securities industry.

The NYSE is concerned that some arbitrators currently classified as public have affiliations with entities that have securities industry ties such as banks, insurance companies, mutual funds, holding companies and asset management firms. In an effort to enhance investor confidence in the NYSE arbitration forum, and in order to further ensure that persons serving as public arbitrators do not have ties to the securities industry or related firms, the Exchange proposed to amend Rule 607.

Fynes, dated Sept. 15, 2005 (“Fynes”); Jay A. Salamon, Hermann, Cahn & Schneider LLP, dated Sept. 14, 2005 (“Salamon”); Jorge A. Lopez, Esq., Law Offices of Jorge A. Lopez, P.A., dated Sept. 14, 2005 (“Lopez”); Steven B. Caruso, Esq., Maddox Hargett & Caruso, P.C., dated Sept. 14, 2005 (“Caruso”); Scott C. Ilgenfritz, dated Sept. 14, 2005 (“Ilgenfritz”); Tracey Pride Stoneman, Tracey Pride Stoneman, P.C., dated Sept. 14, 2005 (“Stoneman”); Michael J. Willner, Miller Faucher and Cafferty LLP, dated Sept. 13, 2005 (“Willner”); Richard M. Layne, Layne & Lewis, LLP, dated Sept. 13, 2005 (“Layne”); Michael Knoll, Esq., Law Offices of Michael Knoll, dated Sept. 13, 2005 (“Knoll”); John J. Miller, Law Offices of John J. Miller, P.C., dated Sept. 13, 2005 (“Miller”); and Seth E. Lipner, Professor of Law, Zicklin School of Business Baruch College and Member, Deutsch & Lipner, dated Sept. 8, 2005 (“Lipner”).