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Justice Probe Says NASD Aware of Trading Prices Controversy
By ROB WELLS, AP Business Writer

WASHINGTON - Nasdaq's parent company knew of problems with traders' price quotations of stocks - and even assigned a committee of large firms to study the issue – three years before the controversy became public, the Justice Department said in court records.

The National Association of Securities Dealers Inc. assigned a committee overseeing Nasdaq trading issues to examine the "problem with spreads" as early as 1990, the Justice Department said. The NASD owns the Nasdaq Stock Market, the nation's second largest stock market.

The development is contained in a 60-page filing in U.S. District Court made late Wednesday to support its proposed settlement with 24 large Nasdaq dealers in a price fixing investigation.

The dealers denied wrongdoing in the proposed settlement, which requires them to install expensive monitoring systems to ensure traders aren't attempting to thwart competition in price quotes.

The Justice investigation explored the unusually wide gap between buying and selling prices for Nasdaq-listed stocks, known as the "spread," which represents a big part of the traders' profit.

A Forbes magazine article in August, 1993, first pointed out the spreads issue to a broad audience, and academic studies the following year observed that spreads on Nasdaq were wider than those in comparable stocks on other markets.

Government investigations and lawsuits followed.

Attorney General Janet Reno said Wednesday the practice has enriched Wall Street traders in the millions of dollars at the expense of unsuspecting customers.

Nasdaq spokesman Marc Beauchamp said the discussions in the NASD's trading committee about wide spreads were part of an ongoing review of the quality of Nasdaq's trading system. Indeed, NASD president Joseph Hardiman said in a 1993 interview with The Associated Press that he was concerned about wide spreads on Nasdaq.

"There's no question that we're concerned about narrowing spreads for investors," Hardiman said then.

That led the NASD to propose a new trading system, now called N-Prove, that would reduce spreads by allowing certain orders from small investors to mingle with professional orders. That proposal is pending before the Securities and Exchange Commission.

But what NASD officials didn't discuss back then was evidence that dealers were using peer pressure to keep spreads wide and dampen competition.

The Justice case cited a 1992 NASD memo which said, "I understand that when attempts are made by individual dealers to (cut spreads), peer pressure is brought to bear to reverse any narrowing of spreads."