The Associated Press
July 21, 1996, Sunday, PM cycle

Justice Department Document Describes Cases of Nasdaq Market Manipulation

By ROB WELLS, AP Business Writer

WASHINGTON - The Justice Department's wide-ranging investigation of the Nasdaq Stock Market uncovered numerous examples of a market manipulation scheme by some traders, court documents show.

The manipulation charges are buried deep in the court papers the government filed Wednesday in its proposed settlement with 24 major securities firms in a price-fixing investigation.

While that case focused on a scheme that increased Nasdaq trading costs, officials also described four types of other "unlawful conduct involving market makers" that wasn't alleged in its complaint.

The Justice Department didn't file the additional charges because the settlement was sufficient to resolve that conduct as well.

The most serious transgression was a trading arrangement Justice officials called "moves on request," which securities lawyers said described a classic type of market manipulation.

"A 'move on request' occurs when trader A calls trader B and asks him to change the price he is quoting for the purpose of affecting the market in that stock," a Justice Department document said. "When B complies, his move will generate a misimpression that there is an additional buying or selling interest in the stock, from which A will possibly profit. Trader B benefits because A will return the favor when B wants to influence the market in a stock."

The government said its investigation uncovered "numerous examples of what are often referred to as 'moves on request.'"

One senior congressional aide said of this activity: "Our traditional understanding of such practices is they constitute market manipulation. These activities may constitute a violation of federal securities laws." A Securities and Exchange Commission spokeswoman didn't return a telephone seeking comment.

Justice officials cautioned that not all of the 24 firms named in the case engaged in such conduct. It said that "while unlawful and harmful to consumers," the total impact of the manipulation represented just a fraction of the problems created by the price-fixing scheme.

Joseph Hardiman, president of the National Association of Securities Dealers Inc., has said any evidence of illegal activity Justice found involving individuals on Nasdaq will be actively pursued by the market's regulatory arm. NASD spokesman Marc Beauchamp added that Nasdaq officials haven't been given access to information Justice uncovered by the probe.

One major Nasdaq dealer, Charles Schwab's Mayer & Schweitzer Inc., denied it was involved in the manipulation.

"No, I don't believe any such instances of this sort were found with respect to Mayer & Schweitzer," said Catherine Ludden, the firm's attorney. "We are interested in an honest, fair and efficient marketplace."

The Justice Department's proposed settlement with the major brokerage firms calls for new monitoring programs to ensure traders don't deter competition on the Nasdaq, the nation's second-biggest stock market.

The settlement, subject to the approval of a judge, will require brokerages to tape record about 3.5 percent of the telephone calls between brokers, which will result overall in 35,000 to 40,000 hours of tape a year. The Justice Department retains the right to listen to these conversations secretly.

The brokerage houses admitted no wrongdoing.

The investigation examined Nasdaq dealers and whether they had a broad agreement to keep the gap between buying and selling price quotes artificially wide - and punish firms that sought to offer competitive prices. The investigation involved no criminal charges, which could have led to fines or other penalties.