

**RB-05-10
May 18, 2005**

**TO: ALL OTP HOLDERS, OTP FIRMS AND ALLIED PERSONS
ALL ETP HOLDERS AND ETP SPONSORED PARTICIPANTS**

FROM: ENFORCEMENT DEPARTMENT

SUBJECT: DISCIPLINARY SANCTIONS IMPOSED AND ARBITRATION AWARDS RENDERED

This Regulatory Information Bulletin advises OTP Holders, OTP Firms and Allied Persons, ETP Holders and ETP Sponsored Participants of certain final disciplinary actions that resulted in the imposition of sanctions for violations of the federal securities laws and the Bylaws and Rules of the Exchange. This Bulletin also reports on the results of arbitration proceedings that were resolved at the Exchange.

A. Disciplinary Sanctions Imposed From January 1, 2005 Through March 31, 2005

OPTIONS:

The Exchange Regulatory Staff resolved the following matters pursuant to the Minor Rule Plan:

- OS0361116 An OTP Holder was fined \$500 for violating the obligation as a Lead Market Maker to disseminate accurate quotes by not abiding by the maximum bid/ask differentials. (PCX Rule 6.37(b).)
- OS0361116 An OTP Firm was fined \$1,000 for a violation by its employees of the obligation as a Lead Market Maker to disseminate accurate quotes by not abiding by the maximum bid/ask differentials (2nd violation). (PCX Rule 6.37(b).)
- OS0306193 An OTP Holder was fined \$1,000 for violating the obligation as a Lead Market Maker to disseminate accurate quotes by not abiding by the maximum bid/ask differentials (2nd violation). (PCX Rule 6.37(b).)
- OS0306193 An OTP Firm was fined \$1,000 for an employee's violation of the obligation as a Lead Market Maker to disseminate accurate quotes by not abiding by the maximum bid/ask differentials (2nd violation). (PCX Rule 6.37(b).)
- OS0009201 An OTP Firm was fined \$2,500 for a violation by its employees of the obligation not to divide a single investment decision into multiple smaller lots for the purpose of meeting the order size requirements for Auto-Ex eligibility. (PCX Rule 6.87(d).)
- OS0306193 An OTP Holder was fined \$500 for violating the obligation as a Lead Market Maker to disseminate accurate quotes by not abiding by the maximum bid/ask differentials. (PCX Rule 6.37(b).)
- OS0401212 An OTP Holder was fined \$1,000 for failing to verbally identify an order as being for a Market Maker (2nd violation). (PCX Rule 6.66(b).)
- OS0304042 and OS0306113 An OTP Holder was fined \$1,000 for failing to give priority to customer orders in the Limit Order Book (2nd violation). (PCX Rule 6.75(e).)

EQUITIES:

The Exchange Regulatory Staff resolved the following matters pursuant to the Minor Rule Plan:

- 04-09 An ETP firm was fined \$100 for failing to maintain a continuous, two-sided Q-Order in which it is registered to trade. (PCXE Rule 7.23(a)(1).)
- 04-10 An ETP firm was fined \$100 for failing to maintain a continuous, two-sided Q-Order in which it is registered to trade. (PCXE Rule 7.23(a)(1).)
- 04-11 An ETP firm was fined \$100 for failing to maintain a continuous, two-sided Q-Order in which it is registered to trade. (PCXE Rule 7.23(a)(1).)
- 05-01 An ETP firm was fined \$500 and \$2,000, for a total fine of \$2,500, for failing to submit an "Annual Compliance Acknowledgement Form" to the PCX in a timely manner, and for failing to notify the SEC and PCX of two changes in capitalization. (PCXE Rule 6.3 and PCX Rule 11.3, PCXE Rule 4.3(d), PCX Rule 4.2(d), PCXE Rule 4.11(a), PCXE Rule 10.12(h)(5), PCX Rule 10.12(k)(iii)(5), Exchange Act Rule 15c3-1(e)(1).)
- 05-02 An ETP firm was fined \$500 and \$500, for a total fine of \$1,000, for failing to file a Compliance Acknowledgement Form in a timely manner, and for failing to notify PCXE of a financial arrangement. (PCXE Rules 6.3, 6.11, and 4.11(a).)

The Business Conduct Committee resolved the following matters through the rendering of Decisions accepting Offers of Settlement and Consent:

- 04-01 SANDLER O'NEILL AND PARTNERS was fined \$900 for failing to maintain continuous, two-sided Q-Orders for issues in which it is registered to trade. (PCXE Rule 7.23(a)(1).)
- 04-02 REVERE STREET SECURITIES, LLC was fined \$15,000 and disgorged of \$167,702 in additional profit, for a total of \$182,702, for failing to ensure that its computerized trading system (a) was marking short sales as such, and (b) was not causing such short sales to be effected on downticks in the applicable securities. (PCXE Rule 7.16 and SEC Rule 10a-1.)
- 04-04 BANC OF AMERICA SECURITIES, LLC was fined \$350 for failing to maintain continuous, two-sided Q-Orders for issues in which it is registered to trade. (PCXE Rule 7.23(a)(1).)
- 04-06 BLACKBEARD SECURITIES, LLC was fined \$2,400 for failing to maintain continuous, two-sided Q-Orders for issues in which it is registered to trade. (PCXE Rule 7.23(a)(1).)
- 04-07 CREDIT SUISSE FIRST BOSTON LLC was fined \$10,400 for failing to maintain continuous, two-sided Q-Orders for issues in which it is registered to trade. (PCXE Rule 7.23(a)(1).)
- 04-08 EQUITEC SPECIALISTS, LLC was fined \$1,200 for failing to maintain continuous, two-sided Q-Orders for issues in which it is registered to trade. (PCXE Rule 7.23(a)(1).)

B. Arbitration Awards During the Period January 1, 2005 through March 31, 2005

Pursuant to PCX Rule 12.29(f), arbitration awards shall be made publicly available provided that the name of the customer party will not be disclosed if he/she so requests in writing. Upon written request, copies of the awards will be available from the Department of Arbitration of the Pacific Exchange. The following awards were made during the above-referenced period:

Case Name: Kiani v. H&R Block
Case No: 03-S008
Date Received: 10/31/03
Summary of Issues: Unsuitability; Failure to Supervise; Breach of Fiduciary Duty
Amount of Dispute: \$306,977.03
Amount Awarded: \$33,000
Decision Date: 01/25/05

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Case Name: Lazar/Fisher v. Merrill Lynch
Case No: 02-L056
Date Received: 11/18/02
Summary of Issues: Unsuitability; Unauthorized Trading; Failure to Supervise
Amount of Dispute: \$42,239
Amount Awarded: \$51,411.58
Decision Date: 02/11/05

Case Name: Schneider v. Cole Roesler
Case No: 02-S042
Date Received: 09/30/02
Summary of Issues: Breach of Contract; Fraud; Misrepresentation
Amount of Dispute: \$1,500,000
Amount Awarded: \$0
Decision Date: 02/16/05

Case Name: Allen v. A.G. Edwards
Case No: 03-S002
Date Received: 11/13/03
Summary of Issues: Breach of Fiduciary Duty; Negligence; Breach of Contract
Amount of Dispute: \$210,000
Amount Awarded: \$33,812
Decision Date: 02/25/05

Case Name: Claimant (Pursuant to PCX Rule 12.29(f), name not disclosed) v. Wachovia
Case No: 02-S060
Date Received: 12/11/02
Summary of Issues: Misrepresentation; Failure to Mitigate
Amount of Dispute: \$29,150
Amount Awarded: \$0
Decision Date: 03/16/05

Case Name: DeMunck v. A.G. Edwards
Case No: 04-L007
Date Received: 04/14/04
Summary of Issues: Misrepresentation
Amount of Dispute: \$20,000
Amount Awarded: \$0
Decision Date: 03/28/05

Questions regarding disciplinary sanctions for options may be directed to Larry Hing, Director of Options Enforcement, at (415) 393-4151. Questions regarding disciplinary sanctions for equities may be directed to Chris Hill, Director of Equities Enforcement, at (312) 442-7944. Questions regarding arbitration awards may be directed to Matt Mennes, Director of Arbitration, at (415) 393-4240.