

**Disciplinary Panel  
American Stock Exchange LLC**

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IN THE MATTER  
OF  
JON SCHMIDHAMMER

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: Case No. 03-21  
: Hearing Officer – JN

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: **DISCIPLINARY PANEL DECISION**  
: September 7, 2004  
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*Digest*

**In accordance with a Stipulation of Facts and Consent to Penalty, the Disciplinary Panel determined that Respondent violated Exchange Rule 345(a)(4) and Section 220.13 of Regulation T of the Federal Reserve Board Rules and Regulations, as stipulated, and as a penalty, imposed a censure and a \$10,000 fine.**

**DECISION**

**I. Introduction**

The American Stock Exchange, LLC (the “Exchange”) instituted a formal disciplinary proceeding against Jon Schmidhammer, a former employee of Salomon Smith Barney, a Regular Member organization of the Exchange. A Disciplinary Panel held a hearing on August 26, 2004, pursuant to Exchange Rule 345(k), to review a Stipulation of Facts and Consent to Penalty (“Stipulation”) (attached as Exhibit A). The Exchange and Schmidhammer entered into that Stipulation for the purposes of settling this proceeding and concluding all disciplinary actions by the Exchange against Schmidhammer based upon or arising out of the facts set forth in the Stipulation.

**II. Facts**

Schmidhammer, without admitting or denying liability, stipulated to the facts set forth in the attached Stipulation. The Disciplinary Panel has determined to accept those facts for purposes of this Decision, and they are incorporated herein.

### **III. Violation**

Based upon the stipulated facts, the Disciplinary Panel concludes that:

- 1.) Schmidhammer violated Exchange Rule 345(a)(4) and Section 220.13 of Regulation T of the Federal Reserve Board Rules and Regulations in that Schmidhammer inappropriately extended credit to a customer to satisfy margin requirements in the customer account, as set forth in paragraphs 3.0 through 3.2 of the Stipulation; and
- 2.) Schmidhammer also violated Exchange Rule 3435(a)(4) in that he (i) failed to follow the Firm's internal procedures regarding the extension of credit to a customer, and (ii) misled the Firm in an attempt to avoid detection for his failure to follow such procedures, as stated in paragraph 3.2 of the Stipulation.

### **IV. Penalties and Publicity**

The Stipulation proposes that the Disciplinary Panel impose upon Schmidhammer a censure and a \$10,000 fine. At the hearing, the Parties urged the Disciplinary Panel to accept the proposed penalty as being appropriate to the facts and circumstances of this case.<sup>1</sup> After consideration of the Stipulation and the agreed-upon penalty, the Disciplinary Panel finds the proposed penalty is at the appropriate level to be imposed in this proceeding and therefore accepts the penalty proposed in the Stipulation.

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<sup>1</sup> Enforcement stated that Respondent, who had no prior disciplinary history, acknowledged his wrongdoing and showed remorse; in addition, his firm already disciplined him (imposing a \$2,000 fine) for the misconduct.

The Disciplinary Panel further finds that the results of this disciplinary proceeding should be publicly disclosed, as provided in Rule 12 of the Exchange Rules on Disciplinary Proceedings.<sup>2</sup>

**V. Conclusion**

Based on the foregoing, the Disciplinary Panel, by unanimous vote, accepts the Stipulation of Facts and Consent to Penalty and hereby imposes upon Schmidhammer a censure and a \$10,000 fine.

**FOR THE DISCIPLINARY PANEL**

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Jerome Nelson, Chair

Dated: September 7, 2004

Copies to: Jon Schmidhammer (*via overnight delivery and first class mail*)  
Eric S. Brown, Esq. (*via facsimile and first class mail*)  
Arlene Collins-Day (*via first class mail*)

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<sup>2</sup> Rule 12 exempts from publicity those cases where the Panel finds that the offense "related solely to minor administrative requirements of the Exchange and does not materially affect the public interest or the interest of investors." Those exemptions do not apply to the facts of this case.

Disciplinary Panel  
American Stock Exchange LLC

.....	X	
	X	
IN THE MATTER	X	
OF	X	STIPULATION OF FACTS
JON SCHMIDHAMMER	X	AND
	X	CONSENT TO PENALTY
	X	Case No. 03-21
.....	X	

This proceeding was instituted by the American Stock Exchange LLC (the “Exchange”), against JON SCHMIDHAMMER (“Schmidhammer”) (CRD # 2734578), a former employee of Salomon Smith Barney, Inc. (“Salomon” or the “Firm”), a Regular Member organization of the Exchange. This Stipulation of Facts and Consent to Penalty is entered into with Schmidhammer pursuant to Exchange Rule 345(k) in order to settle and conclude all disciplinary actions by the Exchange against Schmidhammer based upon or arising out of the facts hereinafter stipulated. Schmidhammer, without admitting or denying the facts, allegations and conclusions contained in this Stipulation of Facts and Consent to Penalty, hereby consents to the findings of violations of the Exchange Constitution and Rules and Federal Securities Laws and to the imposition of the penalties hereinafter provided. Schmidhammer understands that this settlement is subject to approval by an Exchange Disciplinary Panel and by the Amex Adjudicatory Council and that, if so approved, shall constitute a final decision which may not be appealed by the parties. Schmidhammer understands and acknowledges that the Disciplinary Panel’s decision in this matter will become part of his disciplinary record and may be considered in any future proceeding brought by the Exchange.

**STIPULATED FACTS:**

- 1.0 During all relevant periods herein, Schmidhammer was employed as a registered representative for Salomon in its Columbus, Ohio branch office.
- 1.1 During all relevant periods herein, Salomon was a Regular Member organization of the Exchange.
- 2.0 During all relevant periods herein, Exchange Rule 345(a)(4) provided that the Exchange may disapprove or suspend or withdraw its approval of the employment of an employee of a member or member organization and the Exchange may, in addition to or in lieu of any such action, (a) censure him; (b) declare him ineligible for employment in specified capacities; and/or (c) assess a fine against him if the Exchange determines that such employee has been guilty of any conduct or proceeding inconsistent with just and equitable principles of trade.
- 2.1 During all relevant periods herein, Section 220.13 of Regulation T, promulgated pursuant to Section 7(a) of the Securities Exchange Act of 1934 by the Board of Governors of the Federal Reserve System, prohibited employees of broker-dealers from assisting or arranging for customers to obtain credit on terms different from that permitted by that Regulation.
- 3.0 In approximately February 2000, Customers AC and BC opened an account (the "Account") with Schmidhammer at Salomon after being referred to Schmidhammer by Customer D, a cousin who was already a customer of Schmidhammer. In March 2000, Salomon approved Customers AC and BC to trade options in the Account.

- 3.1 In July 2000, after closing a number of uncovered options positions in the Account, Schmidhammer was informed by his branch office operations manager that the Account received a margin call due to a decline in equity in the Account, requiring a deposit of funds into the Account. When Schmidhammer informed the customer of the margin call, Customer AC explained that his only means of infusing additional capital into the Account was by withdrawing money from an annuity fund that would not be available for several days.
- 3.2 On August 15, 2000, in an effort to satisfy margin requirements for the Account, Schmidhammer loaned \$2,000 to Customer AC. However, because Schmidhammer was aware that such a loan was contrary to the policies of Salomon, he wrote a \$2,000 check to Customer D, with a notation on the memo portion of the check that the check was written by Schmidhammer to reimburse Customer D for golf clubs he had purchased for Schmidhammer. Schmidhammer, however, instructed Customer D to turn over the proceeds of that check to Customer AC for deposit into the Account to satisfy the margin requirements.

**CONCLUSION:**

By reason of the foregoing Stipulated Facts, a Disciplinary Panel may conclude that:

- 4.0 Schmidhammer violated Exchange Rule 345(a)(4) and Section 220.13 of Regulation T of the Federal Reserve Board Rules and Regulations in that

Schmidhammer inappropriately extended credit to a customer to satisfy margin requirements in the customer account, as stated in above paragraphs 3.0 through 3.2.

- 4.1 Schmidhammer also violated Exchange Rule 345(a)(4) in that he (i) failed to follow the Firm's internal procedures regarding the extension of credit to a customer, and (ii) misled the Firm in an attempt to avoid detection for his failure to follow such procedures, as stated in above paragraph 3.2.

**DISCIPLINARY ACTION:**

A Disciplinary Panel may impose the following penalty upon Schmidhammer:

- (a) a censure; and
- (b) a \$10,000 fine.

AMERICAN STOCK EXCHANGE LLC

By: \_\_\_\_\_  
Glen Barrentine  
Chief Regulatory Officer

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Jon Schmidhammer