



### **III. Violations**

Based upon the stipulated facts, the Chair concludes that BOA:

(1) violated Exchange Rule 904 by allowing Firm A to (i) exceed the prescribed position limit in UDU options by 1,500 contracts for the period from December 2, 2003 until January 12, 2004, or 28 trading days; and (ii) exceeded the prescribed position limit in SMH options in the Firm's proprietary trading account by 5,231 contracts on November 18, 2004; and

(2) violated Exchange Rule 16 by failing to adhere to the principles of good business practice in the conduct of its business affairs, by not modifying its internal systems to account for a significant regulatory change implemented by the Options Clearing Corporation ("OCC") with respect to the calculation of position limits.

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

The Stipulation proposes that the Chair impose a censure and a fine of \$40,000 on BOA. During the hearing, the parties represented that BOA has corrected its internal systems so that it now calculates options position limits in accordance with OCC's calculations. After considering the stipulated facts and the statements of the parties, as well as the decisions cited in the Exchange's precedent memorandum, the Chair finds that the proposed penalty is appropriate under the facts and circumstances of this case, and therefore it will be imposed. The Chair 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>1</sup>

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<sup>1</sup> Rule 12 exempts from publicity those cases in which 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." That exemption does not apply to the facts of this case.

V. **Conclusion**

The Chair accepts the Stipulation of Facts and Consent to Penalty and hereby imposes upon Banc of America Securities, LLC a censure and a \$40,000 fine.

**FOR THE DISCIPLINARY PANEL**

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Rochelle S. Hall, Chair

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