

**Disciplinary Panel
American Stock Exchange LLC**

IN THE MATTER
OF
ADAM C. LENNEBERG

:
:
: Case No. 05-149
: Hearing Officer – RSH
:
: **DECISION**
: September 22, 2005
:

In accordance with a Stipulation of Facts and Consent to Penalty, the Disciplinary Panel Chair determined that Respondent violated Article V, Section 4(b) of the Exchange Constitution, Article V, Section 4(c) of the Exchange Constitution, Exchange Rule 16, Exchange Rule 123, Exchange Rule 324 and SEC Rule 17(a)(3), as stipulated, and as a penalty imposed a censure and a permanent bar.

I. Introduction

The American Stock Exchange, LLC (“Exchange”) instituted a formal disciplinary proceeding against Adam C. Lenneberg, (“Lenneberg”), a former Regular Member of the Exchange. The Disciplinary Panel Chair, (“Chair”), presiding without convening a full Disciplinary Panel, pursuant to Article V, Section 1(b) of the Exchange Constitution, held a hearing on July 13, 2005, pursuant to Article V, Section 2 of the Exchange Constitution, to review a Stipulation of Facts and Consent to Penalty (“Stipulation”), which is attached as Exhibit A. The Exchange and Lenneberg entered into the Stipulation for the purposes of settling this proceeding and concluding all disciplinary actions by the Exchange against Lenneberg based upon or arising out of the facts set forth in the Stipulation.

II. Facts

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

III. Violations

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

- (1) violated Article V, Section 4(b) of the Exchange Constitution by creating fraudulent options transactions in order to enhance his market maker account equity;
- (2) violated Article V, Section 4(c) of the Exchange Constitution in that he engaged in a series of fictitious options transactions and submitted such transactions to clearing firms, First Options of Chicago (“FOC”) and Goldman Sachs Executing & Clearing, LLP (“Goldman”) for clearance;
- (3) violated Exchange Rule 16 by failing to adhere to the principles of good business practice in the conduct of his business affairs when he engaged in a series of fictitious options transactions;
- (4) violated Exchange Rule 123 in that, by entering fictitious options trades in ABC and XYZ, he did not consummate such trades in the ABC and XYZ trading crowds, and failed to make the existence of his bids and offers in such options generally known; and
- (5) violated Exchange Rule 324 and SEC Rule 17a-3 by entering fictitious trades, thereby causing FOC, Goldman, and his employers, member organizations SBA Trading and Toro Trading, LLC, to create inaccurate books and records.

IV. Penalties and Publicity

The Stipulation proposes that the Chair impose a censure and a permanent bar on Lenneberg from regular, options principal, associate, or allied membership, and from approved person or limited trading permit holder status, and from employment or association in any

capacity with an Exchange member or member organization. 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.¹

V. Conclusion

The Chair accepts the Stipulation of Facts and Consent to Penalty and hereby imposes upon Adam C. Lenneberg a censure and a permanent bar from regular, options principal, associate, or allied membership, and from approved person or limited trading permit holder status, and from employment or association in any capacity with an Exchange member or member organization.

FOR THE DISCIPLINARY PANEL

Rochelle S. Hall, Chair

Copies to: Adam C. Lenneberg (*via overnight and first class mail*)
David Rosenstein, Esq. (*electronically and via first class mail*)
Arlene Collins-Day (*electronically and via first class mail*)

¹ 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.

Disciplinary Panel
American Stock Exchange LLC

.....X
X
IN THE MATTER X STIPULATION OF FACTS
OF X AND
ADAM C. LENNEBERG X CONSENT TO PENALTY
X
X
.....X

This proceeding was instituted by the American Stock Exchange LLC (the “Exchange”) against ADAM C. LENNEBERG (“Lenneberg”) (CRD# 4637150), a former Regular Member of the Exchange. This Stipulation of Facts and Consent to Penalty is entered into pursuant to Article V, Section 2 of the Exchange Constitution in order to settle and conclude all disciplinary actions by the Exchange against Lenneberg based upon or arising out of the facts hereinafter stipulated. Lenneberg, without admitting or denying the facts, allegations and conclusions contained in this Stipulation of Facts and Consent to Penalty, hereby consents to the entry of findings of violations of the Exchange Constitution, Rules and Federal securities laws and the imposition of the penalties hereinafter provided. Lenneberg 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. Lenneberg 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, Lenneberg was a Regular Member of the Exchange, working as an options market maker on the Floor of the Exchange. During the period April 2002 through September 2002, Lenneberg was employed at SBA Trading (“SBA”), a Regular Member Organization of the Exchange. Lenneberg ceased employment with SBA in September 2002.

1.1 During the period September 2004 through February 2005, Lenneberg was employed at Toro Trading LLC (“Toro”), a Regular member organization of the Exchange. Lenneberg was terminated from Toro on February 15, 2005.

1.2 On or about February 15, 2005, Lenneberg ceased his membership with the Exchange. Jurisdiction was retained over Lenneberg by certified letter dated April 27, 2005; his receipt of this letter was acknowledged.

2.0 During all relevant periods herein, Lenneberg was subject to Exchange Constitution Article V, Section 4(b) and 4(c), which provided:

(b) A member, member organization or approved person adjudged guilty in a proceeding under this Article of fraud or of fraudulent acts shall be deemed to be guilty of conduct or proceeding inconsistent with just and equitable principles of trade, and such member or member organization may be suspended or expelled from membership and the approval of such approved person may be withdrawn.

(c) A member or member organization adjudged guilty in a proceeding under this Article of making a fictitious transaction, or of giving an order for the purchase or sale of securities, the execution of which would involve no change of ownership, or of executing such an order with knowledge of its character, shall be deemed to be guilty of conduct or proceeding inconsistent with just and equitable principles of trade, and may be suspended or expelled from membership.

2.1 During all relevant periods herein, Lenneberg was subject to Exchange Rule 16, which provided “[e]very member and member organization shall at all times adhere to the principles of good business practice in the conduct of his business affairs.”

2.2 During all relevant periods herein, Lenneberg was subject to Exchange Rule 123, which provided:

Bids and offers shall be made in such a manner and with such frequency as to make the existence thereof generally known and a bid or offer not so made shall not be recognized as the basis for a claim to priority by a member. Bids and offers in other market centers which may be displayed on the Floor shall have no standing in the trading crowds on the Floor.

2.3 During all relevant periods herein, Lenneberg was subject to Exchange Rule 324, which provided, “[m]embers and member organizations shall keep true and complete books of account and records adequately setting forth the transactions of such members and member organizations in accordance with the requirements of the Constitution and rules of the Exchange and the Securities Exchange Act of 1934 and the rules thereunder.”

2.4 During all relevant periods herein, Lenneberg was subject to SEC Rule 17a-3, which provided, in pertinent part:

Every member of a national securities exchange who transacts a business in securities directly with others than members of a national securities exchange, and every broker or dealer who transacts a business in securities through the medium of any such member, and every broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934, as amended, shall make and keep current the following books and records relating to his business.

Fictitious Trading: ABC

- 3.0 During all relevant periods herein, the equity options for ABC Corporation (“ABC”) were listed for trading on the Exchange.
- 3.1 From September 4, 2002 through September 12, 2002, Lenneberg, while employed with SBA, input to First Options of Chicago (“FOC”) for clearance, a series of sell trades purporting to represent the sale by Lenneberg of various ABC put options for his market maker account. In fact, these options trades in ABC were fabricated by Lenneberg, never occurred in the open market and were never reported for dissemination on the tape. When Lenneberg created and submitted these trades to FOC, he did not have an actual contra party to the trades and therefore did not indicate a contra party to most of the trades. On the next trade date following Lenneberg’s trades, the trades would be “DK’d.”¹
- 3.2 Lenneberg fabricated the following trades while a market maker for SBA:

¹ “DK” is an acronym for “Don’t Know” and it refers to transactions that cannot be compared because one party lacks knowledge of the transaction.

Trade Date	Symbol	Contracts	Strike	Price	Price of Stock According to Trade	Closing Price Of Stock	Inflated Profit
9/4/2002	ABC	250	Sep 45 Puts	15.80	29.20	30.76	39,000
9/5/2002	ABC	200	Sep 45 Puts	15.70	29.30	29.84	10,800
9/6/2002	ABC	200	Sep 45 Puts	15.60	29.40	32.63	64,600
9/9/2002	ABC	100	Sep 45 Puts	15.50	29.50	32.88	33,800
9/10/2002	ABC	60	Oct 50 Puts	26.80	23.20	33.52	61,920
9/11/2002	ABC	50	Oct 50 Puts	27.00	23.00	33.49	52,450
9/12/2002	ABC	70	Sep 45 Puts	15.00	30.00	33.42	23,940
9/12/2002	ABC	70	Oct 50 Puts	20.00	30.00	33.42	23,940
Total Inflated Profit:							310,450

3.3 Lenneberg fabricated the options trades identified in paragraph 3.2 above in order to hide trading losses in his market maker account from his employer, SBA. By entering the fabricated trades identified in paragraph 3.2 above, Lenneberg was able to inflate his profit by a total of \$310,450.

3.4 Lenneberg knew prior to the entry of the fabricated trades, identified in paragraph 3.2 above, that this conduct was improper.

Fictitious Trading: XYZ

4.0 During the relevant period herein, the equity options for XYZ Company (“XYZ”) were listed for trading on the Exchange.

4.1 Lenneberg, while employed with Toro, input to Goldman Sachs Executing & Clearing L.P. (“Goldman”) for clearance, a series of buy and sell trades purporting to represent the purchase and sale by Lenneberg of various XYZ put and call options for his market maker account. In fact, these trades in XYZ

options were fabricated by Lenneberg, never occurred in the open market and were never reported for dissemination on the tape. When Lenneberg created and submitted these trades to Goldman, he did not have an actual contra party to the trades but nevertheless indicated ABN Amro as the contra party to most of the trades. On the next trade date following Lenneberg’s trades, the trades would be “DK’d.”

4.2 Lenneberg fabricated the following trades while a market maker for Toro:

Trade Date	Symbol	Contracts	Strike	Price	Delta of Trades ²	Lenneberg's Actual Delta Position ³	Net Delta Appearance	Inflated Profit
2/3/2005	XYZ	40	Feb 30 Calls	18.30	+ 4,000	- 3,900	+ 100	1,200
2/4/2005	XYZ	150	Feb 35 Calls	16.20	+ 15,000	- 15,300	- 300	40,350
2/7/2005	XYZ	40	Feb 75 Puts	25.00	+ 4,000	- 8,200	- 200	15,760
2/7/2005	XYZ	40	Feb 35 Calls	15.00	+ 4,000			4,240
2/8/2005	XYZ	70	Feb 35 Calls	14.80	+ 7,000	- 7,700	- 700	26,600
2/9/2005	XYZ	29	Feb 15 Calls	29.10	+ 2,900	- 1,200	+ 1,700	28,710
2/10/2005	XYZ	16	Feb 35 Calls	9.10	+ 1,600	- 2,000	- 400	13,584
2/11/2005	XYZ	20	Feb 40 Calls	10.00	+ 2,000	- 4,700	- 700	7,740
2/11/2005	XYZ	20	Feb 70 Puts	20.00	+ 2,000			7,740
2/14/2005	XYZ	120	Feb 35 Calls	18.00	+ 12,000	- 12,000	0	23,040
							Total Inflated Profit:	168,964

4.3 Lenneberg fabricated the options trades identified in paragraph 4.2 above in order to hide trading losses and delta positions⁴ in his market maker account from his

² As calculated utilizing a Binomial option pricing model.

³ Also, as calculated utilizing a Binomial option pricing model.

employer, Toro. By entering the fabricated trades identified in paragraph 4.2 above, Lenneberg was able to inflate his profit by a total of \$168,964.

4.4 Lenneberg knew prior to the entry of the fabricated trades, identified in paragraph 4.2 above, that this conduct was improper.

Bids and Offers

5.0 In entering fictitious options trades during September 2002 and February 2005, Lenneberg did not consummate such trades in the ABC and XYZ trading crowds and, therefore, failed to make existence of his bids and offers in such options generally known to these trading crowds on the Exchange floor.

Books and Records

6.0 Lenneberg's entry of fictitious options trades during September 2002 and February 2005 caused the creation of inaccurate books and records at FOC, Goldman, SBA, and Toro.

⁴ "Delta" is the measure of the relationship between the price of an option and the price of the underlying equity and is also used as an indication of the risk of holding a certain options position. The more deltas held, the riskier the position. In this case, Toro restricted its employees to holding less than a certain number of deltas.

CONCLUSION

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

- 7.0 Lenneberg violated Article V, Section 4(b) of the Exchange Constitution in that he created fraudulent options transactions for the benefit of his market maker accounts, which never occurred in the open market and were never reported for public dissemination on the tape, and he submitted such transactions to FOC and Goldman in order to enhance his market maker account equity, as set forth in paragraphs 3.0 through 4.4.
- 7.1 Lenneberg violated Article V, Section 4(c) of the Exchange Constitution in that he engaged in a series of fictitious options transactions which never occurred in the open market and were never reported for public dissemination on the tape, and he submitted such transactions to FOC and to Goldman for clearance, as set forth in paragraphs 3.0 through 4.4.
- 7.2 Lenneberg violated Exchange Rule 16, failing to adhere to the principles of good business practice in the conduct of his business affairs, in that he engaged in a series of fictitious options transactions which never occurred in the open market and were never reported for public dissemination on the tape, and he submitted such transactions to FOC and to Goldman for clearance, as set forth in paragraphs 3.0 through 6.0.
- 7.3 Lenneberg violated Exchange Rule 123, in that in entering fictitious options trades in ABC and XYZ during September 2002 and February 2005, he did not

consummate such trades in the ABC and XYZ trading crowds, failing to make the existence of his bids and offers in such options generally known, as set forth in paragraph 5.0.

- 7.4 Lenneberg violated Exchange Rule 324 and SEC Rule 17a-3, in that in entering fictitious trades, he caused FOC, Goldman, SBA and Toro to create inaccurate books and records, as set forth in paragraph 6.0.

DISCIPLINARY ACTION:

By reason of the foregoing stipulated facts, a Disciplinary Panel may impose the following penalty upon Lenneberg:

- (a) a censure; and,
- (b) a permanent bar from regular, options principal, associate, or allied membership, and from approved person or limited trading permit holder status, and from employment or association in any capacity with an Exchange member or member organization.

On Behalf of the: AMERICAN STOCK EXCHANGE LLC

David Rosenstein
Vice President and Chief Counsel
NASD Amex Regulation Division

Agreed to this _____ day of _____, 2005.

Adam C. Lenneberg