

**Disciplinary Panel
American Stock Exchange LLC**

IN THE MATTER	:	Case Nos. 03-10, 03-36 and 03-37
OF	:	
HELFANT GROUP, INC.	:	Hearing Officer – RSH
now known as	:	DECISION
JEFFERIES EXECUTION	:	June 5, 2006
SERVICES, INC.	:	
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	:	
	:	
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In accordance with a Stipulation of Facts and Consent to Penalty, the Disciplinary Panel Chair determined that Respondent violated Exchange Rule 208, Exchange Rule 153A, and Exchange Rule 320(b) and (c), as stipulated, and as a penalty imposed a censure and a \$125,000 fine.

I. Introduction

The American Stock Exchange, LLC (“Exchange”) instituted a formal disciplinary proceeding against Helfant Group Inc. (“Helfant ” or the “Firm”), a Regular Member Organization of the Exchange now known as Jefferies Execution Services, Inc. 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 May 3, 2006, 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 Helfant entered into the Stipulation for the purposes of settling

this proceeding and concluding all disciplinary actions by the Exchange against Helfant based upon or arising out of the facts set forth in the Stipulation.

II. Facts

Helfant, without admitting or denying liability, stipulated to the facts set forth in the attached 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 Helfant:

(1) violated Exchange Rule 208 by accepting two customers' multiple odd-lot orders into the Firm's electronic order entry system rather than entering one round-lot order;

(2) violated Exchange Rule 153A by submitting incomplete electronic bluesheet trade information to the Exchange; and

(3) violated Exchange Rule 320(b) and (c) by failing to establish and maintain appropriate policies, systems and procedures of supervision and control, including written supervisory procedures, and failed to establish a separate system of follow-up and review to ensure compliance with both Exchange Rule 208 and Exchange Rule 153A.

IV. Penalties and Publicity

The Stipulation proposes that the Chair impose a censure and a \$125,000 fine on Helfant. 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 Helfant Group, Inc. a censure and a fine of \$125,000.

FOR THE DISCIPLINARY PANEL

Rochelle S. Hall, Chair

Copies to: Jefferies Execution Services, Inc. (*via overnight and first class mail*)
 Robert M. Romano, Esq. (*via facsimile and via first class mail*)
 Charles Falgie, 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

IN THE MATTER OF HELFANT GROUP INC., now known as JEFFERIES EXECUTION SERVICES, INC.	STIPULATION OF FACTS AND CONSENT TO PENALTY Case Nos. 03-10, 03-36 and 03-37
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This proceeding was instituted by the American Stock Exchange LLC (the “Exchange” or “AMEX”) against HELFANT GROUP INC. (“Helfant” or the “Firm”) (CRD#867), (now known as Jefferies Execution Services, Inc., hereinafter referred to as “Helfant” or the “Firm.”)¹ a Regular Member organization of the Exchange. This Stipulation of Facts and Consent to Penalty is entered into with Helfant pursuant to Article V, Section 2 of the Exchange Constitution in order to settle and conclude all disciplinary actions by the Exchange against Helfant based upon or arising out of the facts hereinafter stipulated. Helfant, without admitting or denying the facts, allegations and conclusions contained in this Stipulation of Facts and Consent to Penalty, hereby consents to the finding of violations of the Exchange Rules and to the imposition of the penalties hereinafter provided. Helfant understands that this settlement is subject to approval by an Exchange Disciplinary Panel and the Amex Adjudicatory Council and that, if so approved, shall constitute a final decision which may not be appealed by the parties. Helfant understands and acknowledges that the Disciplinary Panel’s decision in

¹ Helfant, now known as Jefferies Execution Services, Inc., has been a member of the Exchange through its predecessor entities since 1988. Helfant was created on January 11, 2002, when Jefferies Group, Inc. (“Jefferies”) merged Lawrence Helfant, Inc., a former member organization acquired by Jefferies in September 2001, with W&D Securities, Inc. (“W&D”), a former member organization and Jefferies subsidiary.

this matter will become part of Helfant's disciplinary record, and may be considered in any future proceeding brought by the Exchange.

STIPULATED FACTS:

1.0 During all relevant periods herein, Exchange Rule 208 provided in relevant part that:

A member or member organization may not combine the orders given by several customers to buy or sell odd-lots of the same stock into a round lot order without the prior approval of all of the customers interested. When a person gives, either for his own account, for various accounts in which he has an actual monetary interest, or for accounts over which such person is exercising investment discretion, buy or sell odd-lot orders which aggregate one or more round lots, a member or member organization shall not accept such orders for execution unless they are, as far as possible, consolidated into round lots, except that selling orders marked "long" or "short exempt" need not be so consolidated with selling orders marked "short."

1.1 During all relevant periods herein, Exchange Rule 153A, stated, in pertinent part:

A member or member organization shall submit...trade data elements...in such automated format as may be prescribed by the Exchange from time to time, in regard to such transaction or transactions as may be subject of a particular request for information made by the Exchange." Subsection (b) enumerates the information that must be contained in the trade data submitted "...if the transaction was effected or caused to be effected by the member or member organization for any customer account..."

1.2 During all relevant periods herein, Exchange Rules 320(b) and (c) provided in relevant part that:

(b) Each office, department or business activity of a member or member organization (including foreign incorporated branch offices) shall be under the supervision and control of the member or member organization establishing it and of the personnel delegated such authority and responsibility. The person in charge of a group of employees shall reasonably discharge his duties and obligations in connection with supervision and control of the activities of those employees related to the business of their employer including compliance with securities laws and regulations.

(c) The general partners, directors, trustees of each member organization shall provide for appropriate supervisory control and shall designate a general partner, principal executive officer, trustee to assume overall authority and responsibility for internal supervision and control of the organization and compliance with securities laws and regulations. This person shall: (1) delegate to qualified principals or employees responsibility and authority for supervision and control of each office, department or business activity, and provide for appropriate procedures of supervision and control; and (2) establish a separate system of follow-up and review to verify that the delegated authority and responsibility is being properly exercised.

BACKGROUND OF HELFANT'S ODD-LOT VIOLATIONS

Odd-Lot Violations in NCN – April 29, 2002:

- 2.0 During all times relevant herein, Helfant was a Regular Member organization of the Exchange.
- 2.1 On or about April 29, 2002, Customer A, a non-Exchange member firm, was an institutional customer of Helfant.
- 2.2 During all relevant periods herein, Customer A contracted with Helfant to use Helfant's electronic order entry system to enter trades on the Exchange.
- 2.3 During all relevant periods herein, NCE Petrofund ("NCN") was a trust listed for trading on the Exchange.
- 2.4 On April 29, 2002, at 9:36:18 a.m., Customer A, utilizing Helfant's electronic order entry system, entered an order to sell 2,200 shares of NCN. Customer A subsequently cancelled this order at 9:38:15 a.m.
- 2.5 On April 29, 2002, at 9:38:11 a.m., Customer A, utilizing Helfant's electronic order entry system, entered another order to sell 2,200 shares of NCN. Customer A subsequently cancelled this order at 9:38:33.

2.6 On April 29, 2002, between 9:38:42 a.m. and 9:38:48 a.m., 31 seconds after the cancellation of the order in paragraph 2.5 above, Customer A, utilizing Helfant's electronic order entry system, entered 44 orders, each to sell 50 shares of NCN, for a total of 2,200 shares.

Odd-Lot Violations in PVX – May 21, 2002 and June 25, 2002:

2.7 During all relevant periods herein, Provident Energy Trust ("PVX") was a trust listed for trading on the Exchange.

2.8 On May 21, 2002, at 9:33:38 a.m., Customer A, utilizing Helfant's electronic order entry system, entered an order to sell 500 shares of PVX. Firm A subsequently cancelled this order at 9:35:02 a.m.

2.8 On May 21, 2002, at 9:37:03 a.m., two minutes and one second after the cancellation of the order in paragraph 2.7 above, Customer A, utilizing Helfant's electronic order entry system, entered 10 orders, each to sell 50 shares of PVX for a total of 500 shares.

2.9 On June 25, 2002, between 11:05:19 a.m. and 11:07:13 a.m., Customer A, utilizing Helfant's electronic order entry system, entered 44 orders, each to sell 50 shares of PVX for a total of 2200 shares.

2.10 If the orders had been properly entered as round lots by Customer A, the orders would have been exposed to public customers with the opportunity for price improvement in the auction market for NCN and PVX and then reported to the tape. Instead, by utilizing Helfant's electronic order entry system to enter multiple odd-lot sell orders, the specialist executed the multiple odd-lot sell orders at the

prevailing bid in NCN and PVX and the orders were not reported to the tape, consistent with the odd-lot rules.

Odd-Lot Violations in BBY – September 25, 2002:

- 3.0 During all relevant periods herein, Customer B, a non-Amex member firm, was an institutional customer of Helfant.
- 3.1 During all relevant periods herein, Customer B contracted with Helfant to use Helfant's electronic order entry system to enter trades on the Exchange.
- 3.2 During all relevant periods herein, Bed Bath and Beyond ("BBY") was an equity traded on the Exchange as an Unlisted Trading Privileges ("UTP") stock.
- 3.3 After receiving a complaint from the Exchange Specialist in BBY, MID began an investigation into odd-lot trading activity in BBY on September 25, 2002.
- 3.4 MID's investigation revealed that on September 25, 2002, Customer B entered multiple odd-lot buy orders utilizing Helfant's electronic order entry system. Customer B entered 16 orders ranging from 91 to 99 shares for a total 1,560 BBY shares. The orders were entered between 3:22:55 p.m. and 3:55:58 p.m.
- 3.5 If the orders had been properly entered as round lots by Customer B, the orders would have been exposed to public customers with the opportunity for price improvement in the auction market for BBY and then reported to the tape. Instead, by utilizing Helfant's electronic order entry system to enter multiple odd-lot sell orders, the specialist executed the multiple odd-lot sell orders at the prevailing bid in BBY and the orders were not reported to the tape, consistent with the odd-lot rules.

BACKGROUND OF HELFANT'S ELECTRONIC BLUE SHEET REPORTING VIOLATIONS

Trade Data Submission Violations:

- 4.0 During all relevant periods herein, pursuant to Exchange Rule 153A, Helfant was obligated to submit to the Exchange accurate trade information electronically (Electronic Blue Sheets²) in response to an Exchange request.
- 4.1 In connection with MID's investigation into potential violative trading, on July 12, 2002, MID requested EBS submissions from Helfant.
- 4.2 On July 19, 2002, Helfant, in response to MID's regulatory request, submitted EBS submissions to MID. The information contained on Helfant's blue sheet submission failed to conform with the requirements of Exchange Rule 153A in that, on successive pages, required information was either missing or appeared under a wrong heading.³
- 4.3 In approximately late July 2002, MID notified Helfant of the incomplete blue sheet information, resulting in Helfant re-submitting EBS information to the Exchange on or about August 16, 2002. Helfant's re-submission of EBS information, however, did not conform with the requirements of Exchange Rules 153A, in that it failed to identify clients by account number, name or address, and failed to indicate whether the orders were effected on a principal or agency basis.

² Blue sheets are generated by member organizations at the request of regulators in connection with investigations of questionable trading. The blue sheets provide, *inter alia*, information identifying the account holder for whom specific trades were executed, indicating whether the transaction was a buy or a sell and long or short. The receipt and review of blue sheets are an essential component of Exchange investigations into involving potential violations of the Exchange Rules and Federal Securities Laws.

³ For example, on the blue sheet information provided by Helfant to MID on July 19, 2002, there appears an account address, but no account name or account number.

- 4.4 On or about September 4, 2002, MID contacted a Helfant Vice President of Systems Support. At such time MID was advised that Helfant intended to contact the Securities Industry Automation Corporation (“SIAC”)⁴ in an effort to resolve its EBS submission deficiencies.
- 4.5 On two additional dates, September 6, 2002, and November 1, 2002, Helfant again attempted to re-submit the EBS information in response to MID’s July 12, 2002 request. On both occasions, Helfant’s EBS submissions failed to conform with the requirements of Exchange Rule 153A.
- 4.6 In conjunction with its investigation into the violative odd-lot trading in BBBY, as set forth in paragraphs 3.0 through 3.6 above, on October 12, 2002, MID requested EBS submissions from Helfant regarding the BBBY trading activity.
- 4.7 On or about November 25, 2002, Helfant, in response to MID’s request, submitted blue sheet information on the trading activity in BBBY to MID. Helfant’s blue sheet submission failed to conform with the requirements of Exchange Rule 153A in that it was missing account numbers, and a principal/agency indicator.
- 4.8 Given Helfant’s incomplete blue sheet information, on or about January 13, 2003, MID requested that Helfant provide a written explanation as to why the Firm had continually been unable to produce complete EBS submissions to the Exchange. On or about February 3, 2003, Helfant advised the Exchange that it had still not determined the reasons for the deficiencies.

⁴ All EBS data is compiled by and transmitted through SIAC.

4.9 During the approximate ten month period from July 2002 to May 2003, Helfant was unable to provide blue sheets to the Exchange that conformed with the requirements of Exchange Rule 153A.

Supervisory Failures:

5.0 During the period from April 2002 through September 2002, Helfant failed to develop, maintain and enforce reasonable written supervisory procedures regarding surveillance for possible violations of Exchange Rule 208, in particular, abusive odd-lot trading practices, by Firms which contracted with Helfant to use the Firm's electronic order entry system to enter trades on the Exchange.

5.1 During the period from April 2002 through September 2002, Helfant failed to establish a separate system of follow-up and review sufficient to reasonably ensure that supervisory authority and responsibility in connection with Firms which used Helfant's electronic order entry system to enter trades on the Exchange was being properly exercised.

5.2 During the period from July 2002 through May 2003, Helfant failed to establish adequate policies or procedures, or a system to implement such policies and procedures which would reasonably be expected to detect violations of Exchange Rule 208, in particular, abusive odd-lot trading practices, by Firms which contracted with Helfant to use the Firm's electronic order entry system to enter trades on the Exchange.

5.3 During the period from July 2002 through May 2003, Helfant failed to develop, maintain and enforce reasonable written supervisory procedures with regards to

the accuracy of its EBS submissions to the Exchange so as to prevent violations of Exchange 153A.

- 5.4 During the period from July 2002 through May 2003, Helfant failed to establish a separate system of follow-up and review sufficient to reasonably ensure that supervisory authority and responsibility in connection with ensuring compliance with Exchange Rule 153A was being properly exercised.
- 5.5 During the period from July 2002 through May 2003, Helfant failed to establish adequate policies or procedures, or a system to implement such policies and procedures, which would reasonably be expected to detect violations of Exchange Rule 153A.
- 5.6 Subsequent to Helfant's violative activity regarding the Firm's inability to provide the Exchange accurate EBS submissions, Helfant did amend its supervisory practices in May 2003 to address the issue of submitting accurate EBS submissions to the Exchange.

CONCLUSION:

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

- 6.0 Helfant violated Exchange Rule 208:
- (a) by accepting from Customer A multiple odd-lot orders, rather than one round lot order, into the Firm's electronic order entry system on April 29, 2002, May 21, 2002 and June 25, 2002, as described in above paragraphs 2.0 through 2.10 and,

(b) by accepting from Customer B multiple odd-lot orders, rather than one round lot order, into the Firm's electronic order entry system on September 25, 2002, as described in above paragraphs 3.0 through 3.5

6.1 Helfant violated Exchange Rule 153A in that during the period from July 2002 through July 2003, and in response to requests made in the context of ongoing Exchange investigations, the Firm submitted incomplete electronic bluesheet trade information to the Exchange, as described in above paragraphs 4.0 through 4.9.

6.2 Helfant violated Exchange Rules 320(b) and (c) in that:

(a) during the period from April 2002 through September 2002, Helfant failed to establish and maintain appropriate policies, systems and procedures of supervision and control, including written supervisory procedures and failed to establish a separate system of follow-up and review to ensure compliance with Exchange Rule 208, abusive odd-lot trading practices, by Firms which contracted with Helfant to use the Firm's electronic order entry system to enter trades on the Exchange, as described in above paragraphs 5.0 through 5.2; and,

(b) during the period from July 2002 through May 2003, Helfant failed to establish and maintain appropriate policies, systems and procedures of supervision and control, including written supervisory procedures and failed to establish a separate system of follow-up and review to ensure compliance with Exchange Rule 153A pertaining to the automated submission of trade

information to the Exchange, as described in above paragraphs 5.3 through 5.5.

DISCIPLINARY ACTION:

A Disciplinary Panel may impose the following penalties upon Helfant:

- a) A censure; and,
- b) a fine of \$125,000.

ON BEHALF OF:
AMERICAN STOCK EXCHANGE LLC

By: _____

David Rosenstein
Vice-President and Chief Counsel
Enforcement Department
NASD Amex Regulation Division

Agreed to this _____ day of _____, 2006.
