

**Disciplinary Panel  
American Stock Exchange LLC**

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IN THE MATTER  
OF  
LABRANCHE & CO., LLC AND  
LABRANCHE STRUCTURED  
PRODUCTS, LLC

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:  
: Case Nos. 03-80, 04-33, 04-46, 04-62,  
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: 04-91, 04-147, 04-148, 04-153, 04-  
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: 193, 04-233, 04-250a-m, 04-258, 04-  
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: 268, 05-12, 05-43, 05-64, 05-68, 05-  
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: 69, 05-74, 05-109, 05-109a, 05-118,  
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: 05-118a, 05-169, 05-177, 05-179, 05-219,  
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: 05-249, 05-250, 05-315, 05-323, 05-334,  
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: 05-352, 05-358, 05-403, 05-405, 05-  
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: 414, 05-415, 05-415a, 05-415b, 05-  
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: 434, 05-434a, 05-479, 05-498, 05-  
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: 523, 05-531, 05-532, 06-28, 06-39,  
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: 06-40, 06-41, 06-45, 06-52 and 06-55  
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: Hearing Officer – RSH  
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: **DECISION**  
:  
: August 29, 2006

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**In accordance with a Stipulation of Facts and Consent to Penalty, the Disciplinary Panel Chair determined that Respondent LaBranche & Co., LLC violated Article V, Section 4(h) of the Exchange Constitution, SEC Rule 11Ac1-4, Exchange Rule 131A, Exchange Rule 1, SEC Rule 11Ac1-1, Exchange Rule 154 Commentary .08, Exchange Rule 100, Exchange Rule 236(b), and Exchange Rule 320, as stipulated; LaBranche Structured Products, LLC violated Exchange Rule 109, Exchange Rule 156(b), Exchange Rule 958A(e), Article V, Section 4(h) of the Exchange Constitution, SEC Rule 11Ac1-1, Exchange Rule 958A, Exchange Rule 231(e), Exchange Rule 941(e), Exchange Rule 943(a), Exchange Rule 232, Exchange Rule 30 and Exchange Rule 320, as stipulated; and as a penalty imposed a censure, a joint and several \$275,000 fine and an undertaking for each Respondent to revise the Firm’s written supervisory procedures.**

**I. Introduction**

The American Stock Exchange, LLC (“Exchange”) instituted a formal disciplinary proceeding against LaBranche & Co., LLC (“LaBranche”), and LaBranche

Structured Products, LLC (“LSP”), Regular Member Organizations 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 May 5, 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, LSP, and LaBranche entered into the Stipulation for the purposes of settling this proceeding and concluding all disciplinary actions by the Exchange against LaBranche and LSP, based upon or arising out of the facts set forth in the Stipulation.

## **II. Facts**

Both LaBranche and LSP, 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**

A. Based upon the stipulated facts, the Chair concludes that **LaBranche** and/or **LaBranche** specialists:

(1) violated SEC Rule 11Ac1-4 (currently known as Rule 604 of Regulation NMS) and Article V, Section 4(h) of the Exchange Constitution between January 2003 and June 2005 by failing to handle customer limit orders in accordance with SEC Rule 11Ac1-4;

(2) violated SEC Rule 11Ac1-1 and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between July 2003 and May 2005 by either failing to execute orders upon presentment or executing orders at prices inferior to the Firm’s published quoted market;

(3) violated Exchange Rule 1 and Article V, Section 4(h) of the Exchange Constitution on 20 occasions between January 2003 and May 2005 by failing to timely open equities;

(4) violated Exchange Rule 131A and Article V, Section 4(h) of the Exchange Constitution on 27 occasions between March 2004 and December 2004 by failing to publish MOC (“Market-On-Close”) order imbalances in accordance with Exchange Rule 131A;

(5) violated Exchange Rule 154, Commentary .08 and Article V, Section 4(h) of the Exchange Constitution on 19 occasions between January 2004 and September 2004 by failing to receive Floor Official approval prior to transactions;

(6) violated Exchange Rule 100 and Article V, Section 4(h) of the Exchange Constitution by transmitting ITS commitments to a Participant Exchange after the close of Exchange trading;

(7) violated Exchange Rule 236(b) and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between September 2003 and January 2004 by failing to avoid trading through the posted bid or offer of a Participant Exchange; and

(8) violated Exchange Rule 320 during the period between June 2002 and June 2005, by failing to have written supervisory procedures providing for: a) identification of the person(s) responsible for supervision with respect to the applicable rules; b) a statement of the supervisory step(s) to be taken by the identified person(s); c) a statement as to how often such person(s) should take such step(s); and d) a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented.

B. Based upon the stipulated facts, the Chair concludes that **LSP** and/or **LSP** specialists:

(1) violated Exchange Rule 156(b), Exchange Rule 958A(e) and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between June 2002 and February 2005 by failing to use due diligence in handling customer limit orders;

(2) violated SEC Rule 11Ac1-1, Exchange Rule 958A and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between June 2002 and April 2005 by failing to execute orders upon presentment or executing orders at prices inferior to the Firm's published quoted market;

(3) violated SEC Rule 11Ac1-1, Exchange Rule 231(e) and Article V, Section 4(h) of the Exchange Constitution on numerous occasions between December 2004 and May 2005 by failing to execute orders upon presentment or failing to accept ITS commitments to trade at the Firm's quoted markets prior to the expiration or cancellation of such commitments or executed orders at prices inferior to the Firm's published quoted market;

(4) violated SEC Rule 11Ac1-1, Exchange Rule 941(e), Exchange Rule 958A and Article V, Section 4(h) of the Exchange Constitution on 30 occasions between November 2004 and April 2005 by failing to execute orders entitled to an execution at the Firm's quoted markets in Linkage;

(5) violated Exchange Rule 943(a) and Article V, Section 4(h) of the Exchange Constitution on 90 occasions during the period of July 2003 through October 2004 by creating a Locked or Crossed Market and failing to unlock or uncross that market or

failing to direct a Principal Order through Linkage to trade against the bid or offer that the Firm locked or crossed;

(6) violated Exchange Rule 109 and Article V, Section 4(h) of the Exchange Constitution on multiple occasions during the period between November 2003 and October 2004 by failing to comply with Exchange requirements regarding stopping options;

(7) violated Exchange Rule 232 and Article V, Section 4(h) of the Exchange Constitution on 25 occasions between December 2004 and March 2005 by failing to issue required ITS Pre-Opening notifications in eligible listed securities to other Participant Markets;

(8) violated Exchange Rule 30 by filing Insider Trading and Securities Enforcement Act (“ITSFEA”) Reports 1 and 2 to the Exchange 315 days late; and

(9) violated Exchange Rule 320 by failing to have written supervisory procedures providing for: a) identification of the person(s) responsible for supervision with respect to the applicable rules; b) a statement of the supervisory step(s) to be taken by the identified person(s); c) a statement as to how often such person(s) should take such step(s); and d) a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented.

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


The Stipulation proposes that the Chair impose a censure, a joint and several \$275,000 fine, and an undertaking for LaBranche and LSP to revise the Firms’ written supervisory procedures as described in the attached Stipulation. 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>

**V. Conclusion**

The Chair accepts the Stipulation of Facts and Consent to Penalty and hereby imposes upon LaBranche & Co., LLC and LaBranche Structured Products, LLC a censure, a joint and several fine of \$275,000, and an undertaking for LaBranche Structured Products, LLC and LaBranche & Co., LLC to revise their Firms' written supervisory procedures, as described in the Disciplinary Action section of the Stipulation.

**FOR THE DISCIPLINARY PANEL**



Rochelle S. Hall, Chair

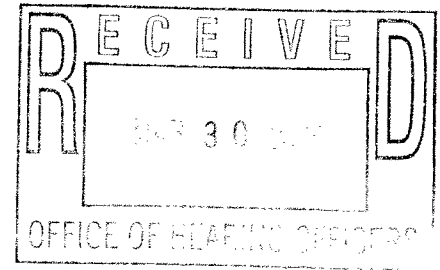
Copies to: LaBranche & Co., LLC (*via overnight and first class mail*)  
LaBranche Structured Products, LLC (*via overnight and first class mail*)  
Stephen Gray, Esq. (*via facsimile and first class mail*)  
E. Michael Bradley, Esq. (*via facsimile and first class mail*)  
David E. Rosenstein, Esq. (*electronically and via first class mail*)  
Eric S. Brown, Esq. (*electronically and via first class mail*)  
Arlene Collins-Day (*electronically and via first class mail*)

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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.

# **EXHIBIT A**

**Disciplinary Panel  
American Stock Exchange LLC**



IN THE MATTER  
OF  
LABRANCHE & CO., LLC. AND  
LABRANCHE STRUCTURED  
PRODUCTS, LLC

**STIPULATION OF FACTS AND  
CONSENT TO PENALTY**

Case Nos. 03-80, 04-33, 04-46, 04-62, 04-91,  
04-147, 04-148, 04-153, 04-193, 04-233, 04-  
250a-m, 04-258, 04-268, 05-12, 05-43, 05-64,  
05-68, 05-69, 05-74, 05-109, 05-109a, 05-  
118, 05-118a, 05-169, 05-177, 05-179, 05-  
219, 05-249, 05-250, 05-315, 05-323, 05-334,  
05-352, 05-358, 05-403, 05-405, 05-414, 05-  
415, 05-415a, 05-415b, 05-434, 05-434a, 05-  
479, 05-498, 05-523, 05-531, 05-532, 06-28,  
06-39, 06-40, 06-41, 06-45, 06-52 and 06-55

This proceeding was instituted by the American Stock Exchange LLC (the "Exchange") against LaBranche & Co., LLC ("LabCo") (CRD No. 32661), and LaBranche Structured Products, LLC ("LSP") (CRD No. 12529), both Regular Member Organizations of the Exchange. This Stipulation of Facts and Consent to Penalty ("Stipulation") is entered into with LabCo and LSP pursuant to Article V, Section 2 of the Exchange Constitution in order to settle and conclude all disciplinary actions by the Exchange against LabCo and LSP based upon or arising out of the facts hereinafter stipulated. LabCo and LSP, without admitting or denying the facts, allegations and conclusions contained in this Stipulation of Facts and Consent to Penalty, hereby consent to the entry of findings of violations of the Exchange Constitution and Rules, and the Federal securities laws, and the imposition of the penalties hereinafter provided. LabCo and LSP understand that this settlement is subject to approval by an Exchange Disciplinary Panel and can be the

subject of review by the Amex Adjudicatory Council (“AAC”) and that, if so approved, shall constitute a final decision, which may not be appealed by the parties. LabCo and LSP understand and acknowledge that the Disciplinary Panel’s decision in this matter will become part of their respective disciplinary records and may be considered in any future proceeding brought by the Exchange.

**1.0 STIPULATED FACTS:**

- 1.1 During all relevant periods herein, LabCo was a Regular Member Organization and a registered equities and Exchange Traded Funds (“ETFs”) specialist organization of the Exchange.
- 1.2 During all relevant periods herein, LSP was a Regular Member Organization and a registered options and ETF specialist organization of the Exchange.
- 1.3 During all relevant periods herein, LabCo served as a specialist for various equities and ETFs that traded on the Floor of the Exchange.
- 1.4 During all relevant periods herein, LSP served as a specialist for various ETFs and options that traded on the Floor of the Exchange.

**2.0 Equity Limit Order Display Violations**

- 2.1 Subject to certain exceptions, SEC Rule 11Ac1-4 (currently known as Rule 604 of Regulation NMS) requires an exchange specialist to immediately display customer limited orders in its public quotation, when each such order is at a price that would improve the specialist’s bid or offer in each such security; or when the order is priced equal to the specialist’s bid or offer and the national best bid or offer for each such

security, and the size of the order represents more than a de minimis change in relation to the size associated with the specialist's bid or offer in each such security.

- 2.2 On 50 occasions during the period of November 1, 2004 through December 31, 2004, LabCo failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 05-405).
- 2.3 On 68 occasions during the period of August 1, 2004 through March 31, 2005, LabCo failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 05-434 and 05-434a).
- 2.4 On 34 occasions during the period of April 1, 2005 through June 30, 2005, LabCo failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 06-41).
- 2.5 On 29 occasions during the period of April 1, 2005 through June 30, 2005, LabCo Specialist O failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 06-40).
- 2.6 On 25 occasions during the period of April 1, 2005 through June 30, 2005, LabCo Specialist J failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 06-39).
- 2.7 On 25 occasions during the period of April 1, 2005 through June 30, 2005, LabCo Specialist M failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 06-45).
- 2.8 On 60 occasions during the periods of January 1, 2003 through May 31, 2003, and January 1, 2004 through July 31, 2004, LabCo failed to handle

customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 06-55).

- 2.9 The conduct described in paragraphs 2.1 through 2.8 constitutes separate and distinct violations of SEC Rule 11Ac1-4 (currently known as Rule 604 of Regulation NMS) and Article V, Section 4(h) of the Exchange Constitution.

### **3.0 Option Limit Order Display Violations**

- 3.1 Exchange Rule 156(b)<sup>1</sup> requires Exchange specialists to use due diligence in handling limited price orders.
- 3.2 Subject to certain exceptions, Exchange Rule 958A(e)<sup>2</sup> requires Exchange specialists to publish immediately, but in no event later than 30 seconds from the time of receipt, the price and size of each customer options limit order held by the specialist that is at a price or size that would improve the displayed bid or offer in the option that is the subject of the limit order.
- 3.3 On 25 occasions during the period of June 3, 2002 through May 30, 2003, LSP failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 04-46).
- 3.4 On 75 occasions during the period of June 3, 2002 through May 30, 2003, LSP Specialist A failed to use due diligence in handling customer limit

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<sup>1</sup> As of August 20, 2003, the Exchange notified options specialists that, subject to certain exceptions, failures to execute or display customer limit option orders immediately, but in no event later than 30 seconds from the time of receipt, would be enforced pursuant to Exchange Rule 156 and Article V, Section 4(h) of the Exchange Constitution.

<sup>2</sup> Effective January 21, 2005.

- orders by failing to execute or display customer option limit orders immediately (Amex Case No. 04-91).
- 3.5 On 25 occasions during the period of April 1, 2004 through August 30, 2004, LSP Specialist B failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-12).
- 3.6 On 25 occasions during the period of December 1, 2004 through February 28, 2005, LSP Specialist C failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately, and by failing to handle customer limit orders in accordance with Exchange Rule 958A(e) (Amex Case No. 05-249).
- 3.7 On 25 occasions during the period of December 1, 2004 through February 28, 2005, LSP Specialist D failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately, and by failing to handle customer limit orders in accordance with Exchange Rule 958A(e) (Amex Case No. 05-250).
- 3.8 The conduct described in paragraphs 3.1 through 3.7 constitutes separate and distinct violations of Exchange Rule 156(b), Exchange Rule 958A(e) and Article V, Section 4(h) of the Exchange Constitution.

#### **4.0 Equity Firm Quote Violations**

- 4.1 Subject to certain exceptions, SEC Rule 11Ac1-1 requires Exchange specialists to execute orders to buy or sell a subject security presented to them at a price at least as favorable to the published bid or published offer in an amount up to the specialist's published quotation size.
- 4.2 On 328 occasions during the period of July 1, 2003 through December 31, 2003, an order was presented to LabCo at the Firm's published bid or offer in an amount up to its published quotation size. The Firm executed these orders at prices inferior to the Firm's published quoted market (Amex Case 04-148).
- 4.3 On 20 occasions during the period of July 1, 2003 through December 31, 2003, an order was presented to LabCo Specialist H at the published bid or offer in an amount up to its published quotation size. Specialist H executed these orders at prices inferior to the Firm's published quoted market (Amex Case 05-498).
- 4.4 On 291 occasions during the period of April 1, 2004 through June 30, 2004, an order was presented to LabCo at the Firm's published bid or offer in an amount up to its published quotation size. The Firm failed to execute these orders upon presentment and thereby failed to honor its published quotation (Amex Case 05-177).
- 4.5 On 2,562 occasions during the period of July 1, 2004 through May 31, 2005, an order was presented to LabCo at the Firm's published bid or offer in an amount up to its published quotation size. The Firm failed to execute

these orders upon presentment and thereby failed to honor its published quotation (Amex Case 05-414, 05-415, 05-415(a) and 05-415(b)).

- 4.6 The conduct described in paragraphs 4.1 through 4.5 constitute separate and distinct violations of SEC Rule 11Ac1-1 and Article V, Section 4(h) of the Exchange Constitution.

## **5.0 Option Firm Quote Violations**

- 5.1 Subject to certain exceptions, Exchange specialists are required to execute orders to buy or sell options presented to them at a price at least as favorable to the published bid or offer, in accordance with SEC Rule 11Ac1-1 and Exchange Rule 958A.
- 5.2 On 75 occasions during the period of June 2, 2002 through May 30, 2003, an order was presented to LSP at the Firm's published bid or offer in an amount up to its published quotation size. The Firm failed to execute these orders upon presentment and thereby failed to honor its published quotation (Amex Case 04-33).
- 5.3 On 75 occasions during the period of June 2, 2002 through May 30, 2003, orders were presented to LSP Specialist A, Specialist E and Specialist F at the published bid or offer in an amount up to the published quotation size. LSP Specialist A, Specialist E and Specialist F failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case 04-62).

- 5.4 On 34 occasions during the period of March 1, 2004 through September 30, 2004, an order was presented to LSP Specialist C at the published bid or offer in an amount up to the published quotation size. Specialist C failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case 05-169).
- 5.5 On 25 occasions during the period of March 1, 2004 through January 31, 2005, an order was presented to LSP Specialist F at the published bid or offer in an amount up to the published quotation size. Specialist F failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case 05-179 and 05-358).
- 5.6 On 25 occasions during the period of March 1, 2004 through January 31, 2005, an order was presented to LSP Specialist E at the published bid or offer in an amount up to the published quotation size. Specialist E failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case 05-219 and 05-334).
- 5.7 On 26 occasions during the period of October 1, 2004 through January 31, 2005, an order was presented to LSP Specialist B at the published bid or offer in an amount up to the published quotation size. Specialist B failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case 05-479).
- 5.8 On 25 occasions during the period of February 1, 2005 through April 30, 2005, an order was presented to LSP Specialist C at the published bid or offer in an amount up to the published quotation size. Specialist C failed to

execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case 06-28).

5.9 On 30 occasions during the period of February 1, 2005 through April 30, 2005, an order was presented to LSP Specialist O at the published bid or offer in an amount up to the published quotation size. Specialist O either failed to execute these orders upon presentment and thereby failed to honor the published quotation, or executed these orders at prices inferior to the published quoted market (Amex Case 06-52).

5.10 The conduct described in paragraphs 5.1 through 5.9 constitutes separate and distinct violations of SEC Rule 11Ac1-1, Exchange Rule 958A and Article V, Section 4(h) of the Exchange Constitution.

## **6.0 Equity Firm Quote and ITS Firm Quote Violations**

6.1 Subject to certain exceptions, SEC Rule 11Ac1-1 and Exchange Rule 231(e) require Exchange specialists to execute incoming ITS commitments to trade at the best available price reflected in the Firm's quoted market.

6.2 On 3 occasions during the period of December 1, 2004 through February 28, 2005, an order was presented to the Firm at the Firm's published bid or offer in an amount up to its published quotation size. The Firm failed to execute these orders upon presentment and thereby failed to honor its quotation (Amex Case 05-403).

- 6.3 On 17 occasions during the period of December 1, 2004 through February 28, 2005, an ITS commitment to trade was transmitted to LSP at the Firm's published quoted market. The Firm failed to accept these ITS commitments to trade at the Firm's quoted markets prior to the expiration or cancellation of such commitments (Amex Case 05-403).
- 6.4 On 16 occasions during the period of March 1, 2005 through May 31, 2005, an order was presented to the Firm at the Firm's published bid or offer in an amount up to its published quotation size. LSP Specialist P either failed to execute these orders upon presentment and thereby failed to honor its quotation, or executed these orders at prices inferior to the Firm's published quoted market (Amex Case 05-531).
- 6.5 On 7 occasions during the period of March 1, 2005 through May 31, 2005, an ITS commitment to trade was transmitted to LSP at the Firm's published quoted market. LSP Specialist P failed to accept these ITS commitments to trade at the Firm's quoted markets prior to the expiration or cancellation of such commitments (Amex Case 05-531).
- 6.6 On 15 occasions during the period of March 1, 2005 through May 31, 2005, an order was presented to the Firm at the Firm's published bid or offer in an amount up to its published quotation size. LSP Specialist E and Specialist N failed to execute these orders upon presentment and thereby failed to honor its quotation (Amex Case 05-532).
- 6.7 On 9 occasions during the period of March 1, 2005 through May 31, 2005, an ITS commitment to trade was transmitted to LSP at the Firm's

published quoted market. LSP Specialist E and Specialist N failed to accept these ITS commitments to trade at the Firm's quoted markets prior to the expiration or cancellation of such commitments (Amex Case 05-532).

- 6.8 The conduct described in paragraphs 6.2, 6.4 and 6.6 constitutes separate and distinct violations of SEC Rule 11Ac1-1 and Article V, Section 4(h) of the Exchange Constitution.
- 6.9 The conduct described in paragraphs 6.3, 6.5 and 6.7 constitutes separate and distinct violations of SEC Rule 11Ac1-1, Exchange Rule 231(e) and Article V, Section 4(h) of the Exchange Constitution.

#### **7.0 Linkage Executable Orders Unexecuted Violations**

- 7.1 Subject to certain exceptions, SEC Rule 11Ac1-1 and Exchange Rules 941(e) and 958A require Exchange specialists to execute Linkage Principal and Principal as Agent orders received from other Participant Exchanges and entrusted to the specialist as agent at the best available price reflected in the Firm's quoted market.
- 7.2 On 30 occasions during the period of November 1, 2004 through April 30, 2005, LSP failed to execute orders entitled to an execution at the Firm's quoted market in Linkage (Amex Case No. 05-523).
- 7.3 The conduct described in paragraphs 7.1 and 7.2 constitutes separate and distinct violations of SEC Rule 11Ac1-1, Exchange Rules 941(e) and 958A and Article V, Section 4(h) of the Exchange Constitution.

## **8.0 Linkage Locked/Crossed Markets Violations**

- 8.1 Subject to certain exceptions, Exchange Rule 943(a) requires that an Eligible Market Maker that creates a Locked Market or a Crossed Market unlock or uncross that market or direct a Principal Order through Linkage to trade against the bid or offer that the Eligible Market Maker locks or crosses.
- 8.2 On 90 occasions during the period of July 1, 2003 through October 31, 2004, LSP created a Locked or Crossed market, then failed to unlock or uncross that market or failed to direct a principal order through Linkage to trade against that bid or offer that the Firm locked or crossed (Amex Case No. 04-258, 05-43 and 05-323).
- 8.3 The conduct described in paragraphs 8.1 and 8.2 constitute separate and distinct violations of Exchange Rule 943(a) and Article V, Section 4(h) of the Exchange Constitution.

## **9.0 Stopped Order Violations**

- 9.1 Subject to certain exceptions, Exchange Rule 109<sup>3</sup> requires an Exchange specialist to take certain steps when stopping stock and prohibits a specialist from stopping stock against the book or for his own account at a price at which he holds an order capable of execution at that price.

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<sup>3</sup> Exchange Rule 109 provisions regarding stopped stock are applicable to options through Exchange Rule 950(o).

- 9.2 On 26 occasions during the period of November 3, 2003 through January 30, 2004, LSP failed to comply with Exchange requirements regarding stopping options in accordance with Rule 109 (Amex Case No. 05-64).
- 9.3 On 36 occasions during the period of May 3, 2004 through October 29, 2004, LSP failed to comply with Exchange requirements regarding stopping options in accordance with Rule 109 (Amex Case No. 05-68 and 05-69).
- 9.4 On 12 occasions during the period of February 2, 2004 through April 30, 2004, LSP failed to comply with Exchange requirements regarding stopping options in accordance with Rule 109 (Amex Case No. 05-74).
- 9.5 The conduct described in paragraphs 9.1 through 9.4 constitutes separate and distinct violations of Rule 109 and Article V, Section 4(h) of the Exchange Constitution.

#### **10.0 Amex Rule 154, Commentary .08 Violations**

- 10.1 During all relevant periods herein, Exchange Rule 154, Commentary .08 requires equity specialists to receive Floor Official approval prior to effecting one or more of the following transactions: a transaction in a stock at a price of \$20 or more a share, made the greater of 1% or two dollars away from the last previous sale; a transaction in a stock at a price of \$10 or more (but less than \$20) a share, made at one dollar or more away from the last previous sale; or a transaction in a stock at a price of

less than \$10 a share, made at 50 cents or more away from the last previous sale.

- 10.2 On 19 occasions during the period of January 1, 2004 through September 30, 2004, LabCo failed to receive Floor Official approval prior to transactions subject to Exchange Rule 154, Commentary .08 (Amex Case No. 04-268).
- 10.3 The conduct described in paragraphs 10.1 and 10.2 constitutes separate and distinct violations of Exchange Rule 154, Commentary .08 and Article V, Section 4(h) of the Exchange Constitution.

#### **11.0 Post 4 p.m. Trading**

- 11.1 On the relevant trade date herein, Exchange Rule 100, required equity specialists to limit their dealings upon the Floor of the Exchange, including dealings effected through the System defined in Exchange Rule 230 ("ITS"), to the hours when the Exchange is open for the transaction of business except that (i) a specialist may issue and receive pre-opening notifications and responses, as provided in Exchange Rule 232, before the official opening of the Exchange, and (ii) loans of money or securities may be made after the official closing of the Exchange.
- 11.2 On trade dates June 18, 2003, October 21, 2003 and November 7, 2003 LabCo Specialist G transmitted an ITS commitment to a Participant Exchange after the close of Exchange trading (Amex Case No. 03-80 and 04-153).

- 11.3 On trade date June 21, 2005, LabCo Specialist N transmitted an ITS commitment to a Participant Exchange after the close of Exchange trading (Amex Case No. 05-315).
- 11.4 The conduct described in paragraphs 11.1 through 11.3 constitutes separate and distinct violations of Exchange Rule 100 and Article V, Section 4(h) of the Exchange Constitution.

**12.0 ITS Trade Through**

- 12.1 On the relevant trade dates herein, Exchange Rule 236(b) required equity specialists to avoid trading through the posted bid or offer of a Participant Exchange when purchasing or selling any ITS security on the Exchange or issuing a commitment to trade through the System.
- 12.2 On 59 occasions during the period of September 1, 2003 through November 30, 2003, LabCo Specialist H failed to avoid trading through the posted bid or offer of a Participant Exchange (Amex Case No. 04-147).
- 12.3 On 16 occasions during the period of January 1, 2004 through January 31, 2004, LabCo Specialist H failed to avoid trading through the posted bid or offer of a Participant Exchange (Amex Case No. 04-193).
- 12.4 The conduct described in paragraphs 12.1 through 12.3 constitutes separate and distinct violations of Exchange Rule 236(b) and Article V, Section 4(h) of the Exchange Constitution.

### **13.0 ITS Pre-Opening Notification Violations**

- 13.1 During all relevant periods herein, Exchange Rule 232 required Exchange specialists to issue Pre-Opening notifications to other Participant Markets when the opening transaction on the Exchange in an Eligible Listed Security is more than the applicable price change as defined by Exchange Rule 232.
- 13.2 On 25 occasions during the period of December 1, 2004 through March 31, 2005, LSP Specialist F failed to issue required ITS Pre-Opening notifications in eligible listed securities to other Participant Markets (Amex Case No. 05-109 and 05-109a).
- 13.3 The conduct described in paragraphs 13.1 and 13.2 constitutes separate and distinct violations of Exchange Rule 232 and Article V, Section 4(h) of the Exchange Constitution.

### **14.0 Publication of Market-on Close Order Imbalance Information Violations**

- 14.1 During all relevant periods provided herein, Exchange Rule 131A and Amex Notice – Market-On-Close (“MOC”) Policy and Expiration Opening Procedures (March 17, 2004) required equity specialists to publish MOC order imbalances of 25,000 shares or more at or as close to 3:40 p.m. as possible, and further required equity specialists to publish a second imbalance at or near 3:50 p.m. if an imbalance of 25,000 shares or more existed at that time. Additionally, Exchange Rule 131A only permits

the publication of order imbalances of less than 25,000 shares at the aforementioned times with Floor Official approval.

- 14.2 On 27 occasions during the period of March 31, 2004 through December 31, 2004, LabCo Specialists G, I, J, K, L and M failed to publish MOC order imbalances in accordance with Exchange Rule 131A and the aforementioned Amex Notice (Amex Case No. 05-118 and 05-118a).
- 14.3 The conduct described in paragraphs 14.1 and 14.2 constitutes separate and distinct violations of Exchange Rule 131A and Article V, Section 4(h) of the Exchange Constitution.

#### **15.0 Untimely Openings**

- 15.1 During all relevant periods provided herein, Exchange Rule 1 required equity specialists to commence the opening of equities on the Exchange Floor at 9:30 a.m.
- 15.2 On 18 occasions during the period of January 1, 2003 through August 31, 2004, LabCo failed to timely open equities in accordance with Exchange Rule 1 (Amex Case No. 04-250 a through m).
- 15.3 On 2 occasions during the period of March 1, 2005 through May 31, 2005, LabCo Specialist L failed to timely open equities in accordance with Exchange Rule 1 (Amex Case No. 05-352).
- 15.4 The conduct described in paragraphs 15.1 through 15.3 constitutes separate and distinct violations of Exchange Rule 1 and Article V, Section 4(h) of the Exchange Constitution.

## 16.0 Failure To Timely File ITSFEA Forms

- 16.1 During all relevant periods herein, Exchange Rule 30 required that every member and member organization timely file with the Exchange such periodic or special reports at such time or times and in such form as the Exchange may prescribe.
- 16.2 On or about November 17, 2003, the Financial Regulation Department of the Exchange (“FRD”) issued a Notice to Members (AMEX FRD Notice 03-04)<sup>4</sup>, which stated that the “ITSFEA (Insider Trading and Securities Enforcement Act) Reports 1 and 2 are required to be filed annually by all members and member organizations designated to Amex for financial oversight. The reports are due at the same time as the year-end FOCUS Reports, January 27, 2004 for all filers.”<sup>5</sup>
- 16.3 Year-end 2003 ITSFEA Reports 1 and 2 for LSP were delivered to the Exchange on December 7, 2004, making the ITSFEA Reports 315 days late (Amex Case 04-233).
- 16.4 The conduct described in paragraphs 16.1 through 16.3 constitutes separate and distinct violations of Exchange Rule 30.

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<sup>4</sup> Amex FRD Notice 03-04 – Timely Filing of Reports With the Financial Regulation Department Generally and Change in the Filing Frequency of FOCUS Report Part IIA Short Form – provides guidance on due dates of filings with the Exchange’s FRD, how to request an extension of time, and what happens when reports are not filed on a timely basis.

<sup>5</sup> On ITSFEA Form 1 (Identification of Securities Accounts for Broker-Dealer), the member is required to list each securities account in which each associated person of the Broker-Dealer (1) has a direct or indirect financial interest, or (2) makes investment decisions. ITSFEA Form 2 (Certification of Compliance for Broker-Dealer) requires the completion of the form by the senior officer, partner or sole proprietor responsible for ensuring that ITSFEA Compliance Procedures are followed.

## **17.0 Supervision**

- 17.1 Pertaining to LabCo, during portions of the period June 2002 through June 2005, and pertaining to LSP during this entire period, supervisory systems did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and the Exchange rules, concerning limit order display, firm quotes, Amex Rule 154, Commentary .08, the publication of Market-On-Close order imbalances, timely openings, stopped orders, linkage locked and crossed, failure to timely file ITSFEA reports, ITS pre-openings, ITS after the close of Exchange trading, and trading through the posted bids and offers of ITS Participant Exchanges. Specifically, the supervisory systems of LSP during this entire period and LabCo prior to March 2004, did not include written supervisory procedures providing for: (1) identification of the person(s) responsible for supervision with respect to the applicable rules; (2) a statement of the supervisory step(s) to be taken by the identified person(s); (3) a statement as to how often such person(s) should take such step(s); and (4) a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented.
- 17.2 The conduct described in paragraph 17.1 constitutes a violation of Exchange Rule 320.

**DISCIPLINARY ACTION:**

By reason of the foregoing Stipulated Facts and violations, a Disciplinary Panel may impose the following penalties:

- (a) a censure to be imposed against both LaBranche & Co., LLC and LaBranche Structured Products, LLC;
- (b) a joint and several fine of \$275,000 to be imposed against LaBranche & Co., LLC and LaBranche Structured Products, LLC;
- (c) a joint undertaking for LaBranche & Co., LLC and LaBranche Structured Products, LLC to revise each respective Firm's written supervisory procedures with respect to the areas described in paragraphs 17.1 and 17.2. Within 90 business days of acceptance of this Stipulation by an Exchange Hearing Panel, a registered principal of both LaBranche & Co., LLC and LaBranche Structured Products, LLC shall submit to the COMPLIANCE ASSISTANT, NASD AMEX REGULATION DIVISION, ENFORCEMENT DEPARTMENT, ONE LIBERTY PLAZA, NEW YORK, NY 10006, a signed, dated letter, providing the following information: (1) a reference to this matter; (2) a representation that the Firm has revised its written supervisory procedures to address the deficiencies described in paragraph 17.1 through 17.2; and, (3) the date the revised procedures were implemented.

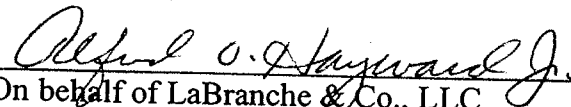
LabCo and LSP hereby acknowledge that they have read carefully this Stipulation and understand all of the provisions contained herein; that they have agreed to its provisions voluntarily; and that no offer, promise, threat or inducement of any kind has been tendered to LabCo and LSP by the Exchange, its staff or representatives to induce LabCo and LSP to enter into this Stipulation, aside from the prospect of settling this disciplinary proceeding based on the terms and conditions set forth in this Stipulation rather than adjudicating this matter by way of a hearing on a Charge Memorandum as provided by Exchange rules.


AMERICAN STOCK EXCHANGE LLC

By: 

David Rosenstein  
Vice President and Chief Counsel  
NASD Amex Regulation Division

Agreed to this 8<sup>th</sup> day of March, 2006.

  
On behalf of LaBranche & Co., LLC

  
On behalf of LaBranche Structured Products, LLC