

**Disciplinary Panel
American Stock Exchange LLC**

IN THE MATTER :
OF :
SLK-HULL DERIVATIVES, LLC and :
GOLDMAN SACHS EXECUTION :
AND CLEARING, L.P., :
formerly known as :
SPEAR, LEEDS AND KELLOGG, L.P. :

: Case Nos. 04-30, 04-35, 04-55, 04-64,
: 04-65, 04-74, 04-75, 04-76, 04-77,
: 04-83, 04-93, 04-179, 04-256, 05-21,
: 05-22, 05-23, 05-24, 05-47, 05-61,
: 05-67, 05-76, 05-92, 05-166, 05-168,
: 05-184, 05-215, 05-230, 05-324,
: 05-371, 05-435, 05-462 and 05-469
: Hearing Officer – RSH

: **DECISION**
: June 21, 2006

In accordance with a Stipulation of Facts and Consent to Penalty, the Disciplinary Panel Chair determined that Respondent SLK-Hull violated Exchange Rule 156(b), Article V, Section 4(h) of the Exchange Constitution, Exchange Rule 958A, SEC Rule 11Ac1-1, Exchange Rule 943(a), Exchange Rule 109 and Exchange Rule 320, and Respondent GSEC violated Exchange Rule 156(b), Article V, Section 4(h) of the Exchange Constitution, SEC Rule 11Ac1-4, and Exchange Rule 320, as stipulated, and as a penalty imposed on Respondents a censure, a joint and several \$225,000 fine, and an undertaking for Respondent GSEC to revise the Firm’s written supervisory procedures.

I. Introduction

The American Stock Exchange, LLC (“Exchange”) instituted a formal disciplinary proceeding against SLK-Hull Derivatives, LLC (“SLK-Hull” or “Firm 1”), a former Regular Member Organization of the Exchange and Goldman Sachs Execution & Clearing, L.P. (“GSEC” or “Firm 2”), a Regular Member Organization 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 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, SLK-Hull and GSEC entered into the Stipulation for the purposes of settling this proceeding and concluding all disciplinary actions by the Exchange against SLK-Hull and GSEC based upon or arising out of the facts set forth in the Stipulation.

II. Facts

SLK-Hull, without admitting or denying liability, stipulated to the facts set forth in the attached Stipulation. GSEC, 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 SLK-Hull:

(1) violated Exchange Rule 156(b) and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between June 2002 and November 2004 by failing to use due diligence in handling customer limit orders;

(2) violated Exchange Rule 958A, SEC Rule 11Ac1-1, and Article V, Section 4(h) of the Exchange Constitution on numerous occasions between January 2003 and September 2004 by failing to execute orders upon presentment or failing to honor the published quotation when an order was presented at the published bid or offer in an amount up to the published quotation size;

(3) violated Exchange Rule 943 (a) and Article V, Section 4(h) of the Exchange Constitution by failing, on 90 occasions during the period of July 2003 through October

2004, to unlock or uncross a market or failing to direct a principal order through Linkage to trade against the bid or offer that the Firm locked or crossed;

(4) violated Exchange Rule 109 and Article V, Section 4(h) of the Exchange Constitution by failing to comply with Exchange requirements regarding stopping options; and

(5) violated Exchange Rule 320 between June 2002 and November 2004 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.

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

(1) violated Exchange Rule 156(b) and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between June 2002 and February 2004 by failing to use due diligence in handling customer limit orders;

(2) violated SEC Rule 11Ac1-4 (currently known as Rule 604 of Regulation NMS) and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between November 2004 and June 2005 by failing to handle customer limit orders in accordance with Rule 604; and

(3) violated Exchange Rule 320 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.

IV. Penalties and Publicity

The Stipulation proposes that the Chair impose a censure, a joint and several fine of \$225,000, and an undertaking for GSEC to revise the Firm's 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.¹

V. Conclusion

The Chair accepts the Stipulation of Facts and Consent to Penalty and hereby imposes upon SLK-Hull Derivatives, LLC and Goldman Sachs Execution & Clearing, L.P., a censure, a joint and several fine of \$225,000, and an undertaking for GSEC to revise the Firm's written supervisory procedures.

FOR THE DISCIPLINARY PANEL

Rochelle S. Hall, Chair

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.

Copies to: SLK-Hull Derivatives, LLC (*via overnight and first class mail*)
Goldman Sachs Execution and Clearing LP (*via overnight and first class mail*)
Charles Falgie, Esq. (*electronically and via 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*)

**Disciplinary Panel
American Stock Exchange LLC**

IN THE MATTER
OF

SLK-HULL DERIVATIVES, LLC,¹ AND
GOLDMAN SACHS EXECUTION AND
CLEARING, L.P., formerly known as
SPEAR, LEEDS AND KELLOGG, L.P.²

**STIPULATION OF FACTS AND
CONSENT TO PENALTY**

Case Nos. 04-30, 04-35, 04-55, 04-64, 04-65,
04-74, 04-75, 04-76, 04-77, 04-83, 04-93, 04-
179, 04-256, 05-21, 05-22, 05-23, 05-24, 05-
47, 05-61, 05-67, 05-76, 05-92, 05-166, 05-
168, 05-184, 05-215, 05-230, 05-324, 05-371,
05-435, 05-462 and 05-469.

This proceeding was instituted by the American Stock Exchange LLC (the “Exchange”) against SLK-Hull Derivatives, LLC (“SLK-Hull” or “Firm 1”) (CRD No. 46735), a former Regular Member Organization of the Exchange, Goldman Sachs Clearing and Execution, L.P. (“GSEC” or “Firm 2”) (CRD No. 3466), a Regular Member Organization of the Exchange and formerly known as Spear, Leeds and Kellogg, L.P. (“SLK” or “Firm 3”) (CRD No. 3466). This Stipulation of Facts and Consent to Penalty (“Stipulation”) is entered into with SLK-Hull and GSEC pursuant to Article V, Section 2 of the Exchange Constitution in order to settle and conclude all disciplinary actions by the Exchange against SLK-Hull and GSEC based upon or arising out of the facts hereinafter stipulated. SLK-Hull and GSEC, 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. SLK-Hull and GSEC understand that this settlement is subject to approval by

¹ Effective October 28, 2004, SLK-Hull ceased its business operations, and the products for which it served as specialist were transferred to another Exchange specialist unit.

² Spear, Leeds & Kellogg, LP was acquired by the Goldman Sachs Group Inc., in September 2000 and was renamed Goldman Sachs Execution & Clearing, L.P., in January 2005.

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. SLK-Hull and GSEC 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.

STIPULATED FACTS:

1.0 During all relevant periods herein, SLK-Hull and SLK/GSEC were Regular Member Organizations and registered equities, options and Exchange Traded Funds (“ETFs”) specialist organizations of the Exchange.

1.1 During all relevant periods herein, SLK-Hull and SLK/GSEC served as specialists for various equities, options and ETFs that traded on the Floor of the Exchange.

2.0 Options Limit Order Display Violations – SLK-Hull

2.1 Exchange Rule 156(b) requires Exchange specialists to use due diligence in handling limited price orders.³

2.2 On 175 occasions during the period of June 3, 2002 through May 30, 2003, SLK-Hull failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case Nos. 04-74, 04-75, 04-76, 04-77 and 04-83).

2.3 On 30 occasions during the period of April 1, 2004 through August 31, 2004, SLK-Hull Specialist B failed to use due diligence in handling

³ As of August 20, 2003, the Exchange notified options specialists that, subject to certain exceptions, failures to execute or display customer options limit 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

customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-21).

- 2.4 On 40 occasions during the period of April 1, 2004 through August 31, 2004, SLK-Hull Specialist D failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-22).
- 2.5 On 25 occasions during the period of April 1, 2004 through August 31, 2004, SLK-Hull Specialist E failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-23).
- 2.6 On 25 occasions during the period of April 1, 2004 through August 31, 2004, SLK-Hull Specialist A and Specialist H failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-24).
- 2.7 On 25 occasions during the period of April 1, 2004 through May 28, 2004, SLK-Hull Specialist A and Specialist F failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-92).
- 2.8 On 46 occasions during the period of September 1, 2004 through November 30, 2004, SLK-Hull failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 05-469).

2.9 The conduct described in paragraphs 2.1 through 2.8 constitutes separate and distinct violations of Exchange Rule 156(b) and Article V, Section 4(h) of the Exchange Constitution.

3.0 Option Firm Quote Violations – SLK-Hull

3.1 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.

3.2 On 123 occasions during the period of January 2, 2003 through May 30, 2003, an order was presented to SLK-Hull at Firm 1's published bid or offer in an amount up to its published quotation size. Firm 1 failed to execute these orders upon presentment and thereby failed to honor its published quotation (Amex Case Nos. 04-30, 04-55, 04-64 and 04-65).

3.3 On 13 occasions during the period of January 2, 2003 through May 30, 2003, an order was presented to SLK-Hull at Firm 1's published bid or offer in an amount up to its published quotation size. Firm 1 executed these orders at prices inferior to Firm 1's published quoted market (Amex Case No. 04-35).

3.4 On 23 occasions during the period of March 1, 2004 through September 30, 2004, an order was presented to SLK-Hull Specialist E at the published bid or offer in an amount up to the published quotation size. SLK-Hull Specialist E failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 05-166).

- 3.5 On 25 occasions during the period of March 1, 2004 through September 30, 2004, an order was presented to SLK-Hull Specialist A at the published bid or offer in an amount up to the published quotation size. SLK-Hull Specialist A failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 05-168).
- 3.6 On 25 occasions during the period of March 1, 2004 through September 30, 2004, an order was presented to SLK-Hull Specialist C at the published bid or offer in an amount up to the published quotation size. SLK-Hull Specialist C failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 05-184).
- 3.7 On 29 occasions during the period of March 1, 2004 through September 30, 2004, an order was presented to SLK-Hull Specialist B at the published bid or offer in an amount up to the published quotation size. SLK-Hull Specialist B failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 05-215).
- 3.8 On 40 occasions during the period of March 1, 2004 through September 30, 2004, an order was presented to SLK-Hull Specialist D at the published bid or offer in an amount up to the published quotation size. SLK-Hull Specialist D failed to execute these orders upon presentment

and thereby failed to honor the published quotation (Amex Case No. 05-230).

- 3.9 The conduct described in paragraphs 3.1 through 3.8 constitutes separate and distinct violations of SEC Rule 11Ac1-1, Exchange Rule 958A and Article V, Section 4(h) of the Exchange Constitution.

4.0 Linkage Locked/Crossed Markets Violations – SLK-Hull

- 4.1 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.

- 4.2 On 90 occasions during the period of July 1, 2003 through October 31, 2004, SLK-Hull 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 Nos. 04-256, 05-47 and 05-324).

- 4.3 The conduct described in paragraphs 4.1 and 4.2 constitutes separate and distinct violations of Exchange Rule 943(a) and Article V, Section 4(h) of the Exchange Constitution.

5.0 Stopped Order Violations - SLK-Hull

- 5.1 Subject to certain exceptions, Exchange Rule 109⁴ requires an Exchange specialist to take certain steps when stopping stock and prohibits a

⁴ Exchange Rule 109 provisions regarding stopped stock are applicable to options through Exchange Rule 950(o).

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.

5.2 On 76 occasions during the period of November 3, 2003 through July 31, 2004, SLK-Hull failed to comply with Exchange requirements regarding stopping options in accordance with Exchange Rule 109 (Amex Case No. 05-61, 05-67 and 05-76).

5.3 The conduct described in paragraphs 5.1 and 5.2 constitutes separate and distinct violations of Exchange Rule 109 and Article V, Section 4(h) of the Exchange Constitution.

6.0 Option Limit Order Display Violations – SLK/GSEC

6.1 Exchange Rule 156(b) requires Exchange specialists to use due diligence in handling limited price orders.⁵

6.2 On 100 occasions during the period of June 3, 2002 through May 30, 2003, SLK failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 04-93).

6.3 On 22 occasions during the period of February 2, 2004 through February 27, 2004, SLK failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 04-179).

6.4 The conduct described in paragraphs 6.1 through 6.3 constitutes separate and distinct violations of Exchange Rule 156(b) and Article V, Section 4(h) of the Exchange Constitution.

⁵ See Footnote No. 3, supra.

7.0 Equity Limit Order Display Violations – SLK/GSEC

- 7.1 Subject to certain exceptions, SEC Rule 11Ac1-4 (currently known as Rule 604 of Regulation NMS) requires an Exchange specialist to immediately display customer limit 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.
- 7.2 On 50 occasions during the period of November 1, 2004 through March 31, 2005, SLK/GSEC failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case Nos. 05-371 and 05-435).
- 7.3 On 25 occasions during the period of April 1, 2005 through June 30, 2005, GSEC Specialist G failed to handle customer limit orders in accordance with SEC Rule 11Ac1-4 (Amex Case No. 05-462).
- 7.4 The conduct described in paragraphs 7.1 through 7.3 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.

8.0 Supervision

- 8.1 During the period June 2002 through November 2004, SLK-Hull's supervisory system 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, linkage locked and crossed and stopped orders on the Exchange. Specifically, the firm's supervisory system 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.

8.2 During the period June 2002 through June 2005, SLK's and GSEC's 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 on the Exchange. Specifically, the firm's supervisory system 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.

8.3 The conduct described in paragraphs 8.1 and 8.2 constitutes a violation of Amex Rule 320.

DISCIPLINARY ACTION:

By reason of the foregoing Stipulated Facts and Violations, a Disciplinary Panel may impose the following penalties upon SLK-Hull and SLK/GSEC:

- (a) a censure to be imposed against SLK-Hull and SLK/GSEC;
- (b) a joint and several fine of \$225,000 to be imposed against SLK-Hull and SLK/GSEC; and
- (c) an undertaking for SLK/GSEC to revise the Firm's written supervisory procedures with respect to the areas described in paragraphs 8.1 and 8.2. Within 90 business days of acceptance of this Stipulation by an Exchange Hearing Panel, a registered principal of SLK/GSEC 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 paragraphs 8.1 and 8.2; and, (3) the date the revised procedures were implemented.

SLK-Hull and SLK/GSEC 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 SLK-Hull and SLK/GSEC by the Exchange, its staff or representatives to induce SLK-Hull and SLK/GSEC 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 _____ day of _____, 2006.

on behalf of SLK-Hull Derivatives, LLC

Agreed to this _____ day of _____, 2006.

on behalf of Goldman Sachs Execution and Clearing, L.P.