

**Disciplinary Panel  
American Stock Exchange LLC**

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IN THE MATTER

OF

TD OPTIONS, LLC

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:  
: Case Nos. 03-66, 04-18, 04-29, 04-66,  
: 04-69, 04-70, 04-71, 04-72, 04-206,  
: 04-224, 04-269, 05-25, 05-26, 05-27,  
: 05-28, 05-41, 05-54, 05-59, 05-70,  
: 05-72, 05-103, 05-140, 05-141,  
: 05-163, 05-180, 05-190, 05-191, 05-  
: 216, 05-217, 05-231, 05-327, 05-330,  
: 05-332, 05-339, 05-341, 05-343,  
: 05-432, 05-480, 05-481

:  
: Hearing Officer – RSH

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: **DECISION**

:  
: September 14, 2006  
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**In accordance with a Stipulation of Facts and Consent to Penalty, the Disciplinary Panel Chair determined that Respondent violated SEC Rule 11Ac1-1, Exchange Rules 156(b), 958A, 941(e), 943(a), 109, 320, and Article V, Section 4(h) of the Exchange Constitution, as stipulated, and as a penalty imposed a censure and a \$275,000 fine.**

**I. Introduction**

The American Stock Exchange, LLC (“Exchange”) instituted a formal disciplinary proceeding against TD Options, LLC (“TD Options” or the “Firm”), a former 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 10, 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 TD Options

entered into the Stipulation for the purposes of settling this proceeding and concluding all disciplinary actions by the Exchange against TD Options based upon or arising out of the facts set forth in the Stipulation.

## **II. Facts**

TD Options, 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 TD Options and/or individual TD Options specialists:

(1) violated Exchange Rule 156(b) and Article V, Section 4(h) of the Exchange Constitution on numerous occasions between June 2002 and December 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 multiple occasions between January 2003 and December 2004 by either failing to execute orders upon presentment or by executing orders at prices inferior to the published quoted market;

(3) violated SEC Rule 11Ac1-1, Exchange Rules 941(e) and 958A, and Article V, Section 4(h) of the Exchange Constitution in 50 cases between November 2004 and December 2004 by failing to execute orders entitled to an execution at the Firm's quoted markets in Linkage;

(4) violated Exchange Rule 943(a) and Article V, Section 4(h) of the Exchange Constitution on multiple occasions between July 2003 and 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 the Linkage system to trade against the bid or offer that it locked or crossed;

(5) violated Exchange Rule 109 on 61 occasions between November 2003 and July 2004 by failing to comply with Exchange requirements regarding stopping options in accordance with Exchange Rule 109; and

(6) violated Exchange Rule 320 between June 2002 and December 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.

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

The Stipulation proposes that the Chair impose a censure and a \$275,000 fine. 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

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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.

hereby imposes upon TD Options, LLC, a censure and a \$275,000 fine.

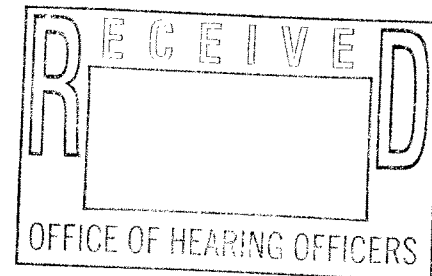
**FOR THE DISCIPLINARY PANEL**

  
Rochelle S. Hall, Chair

Copies to: TD Options, LLC (*via overnight and first class mail*)  
Howard Kramer, Esq. (*via facsimile and first class mail*)  
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# **EXHIBIT A**

**Disciplinary Panel  
American Stock Exchange LLC**



IN THE MATTER  
  
OF  
  
TD OPTIONS LLC

**STIPULATION OF FACTS AND  
CONSENT TO PENALTY**

Case Nos. 03-66, 04-18, 04-29, 04-66, 04-69,  
04-70, 04-71, 04-72, 04-206, 04-224, 04-269,  
05-25, 05-26, 05-27, 05-28, 05-41, 05-54, 05-  
59, 05-70, 05-72, 05-103, 05-140, 05-141, 05-  
163, 05-180, 05-190, 05-191, 05-216, 05-217,  
05-231, 05-327, 05-330, 05-332, 05-339, 05-  
341, 05-343, 05-432, 05-480 and 05-481

This proceeding was instituted by the American Stock Exchange LLC (the "Exchange") against TD Options LLC ("TD Options" or the "Firm") (CRD No. 119855), a former Regular Member Organization of the Exchange. This Stipulation of Facts and Consent to Penalty ("Stipulation") is entered into with TD Options pursuant to Article V, Section 2 of the Exchange Constitution in order to settle and conclude all disciplinary actions by the Exchange against TD Options based upon or arising out of the facts hereinafter stipulated. TD Options, without admitting or denying the facts, allegations and conclusions contained in this Stipulation, hereby consents 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. TD Options understands 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. TD Options understands and acknowledges that

the Disciplinary Panel's decision in this matter will become part of its disciplinary record and may be considered in any future proceeding brought by the Exchange.

**STIPULATED FACTS:**

1.0 During all relevant periods herein, TD Options was a Regular Member Organization and a registered options specialist organization of the Exchange. TD Options subsequently terminated its Exchange membership effective February 22, 2005.

1.1 During all relevant periods herein, TD Options served as a specialist for various options that traded on the Floor of the Exchange.

**2.0 Option Limit Order Display Violations**

2.1 Exchange Rule 156(b)<sup>1</sup> requires Exchange specialists to use due diligence in handling limited price orders.

2.2 On 200 occasions during the period of June 3, 2002 through May 30, 2003, the Firm failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case Nos. 04-69, 04-70, 04-71 and 04-72).

2.3 On 152 occasions during the period of February 2, 2004 through March 31, 2004, the Firm failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case Nos. 04-206 and 04-269).

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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 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. See Amex Notice – Immediate Display of Customer Options Limit Orders (August 20, 2003).

- 2.4 On 51 occasions during the period of April 1, 2004 through November 30, 2004, TD Options Specialist A failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case Nos. 05-25 and 05-141).
- 2.5 On 25 occasions during the period of April 1, 2004 through August 31, 2004, TD Options 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. 05-26).
- 2.6 On 108 occasions during the period of April 1, 2004 through December 31, 2004, TD Options Specialist C failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case Nos. 05-27, 05-140 and 05-480).
- 2.7 On 40 occasions during the period of April 1, 2004 through August 31, 2004, TD Options 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. 05-28).
- 2.8 On 30 occasions during the period of April 1, 2004 through August 31, 2004, TD Options 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. 05-54).
- 2.9 On 25 occasions during the period of September 1, 2004 through November 30, 2004, TD Options 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. 05-103).

- 2.10 The conduct described in paragraphs 2.2 through 2.9 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**

- 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 209 occasions during the period of January 2, 2003 through October 31, 2003, 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 either failed to execute these orders upon presentment and thereby failed to honor its published quotation, or executed these orders at prices inferior to the published quoted market (Amex Case Nos. 04-29, 04-66, 03-66 and 04-18).
- 3.3 On 12 occasions during the period of January 2, 2004 through February 27, 2004, an order was presented to TD Options Specialist G at the specialist's published bid or offer in an amount up to the published quotation size. TD Options Specialist G failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 04-224).
- 3.4 On 28 occasions during the period of March 1, 2004 through December 31, 2004, an order was presented to TD Options Specialist A at the specialist's

published bid or offer in an amount up to the published quotation size. TD Options Specialist A failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case Nos. 05-163 and 05-343).

3.5 On 54 occasions during the period of March 1, 2004 through December 31, 2004, 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 either failed to execute these orders upon presentment and thereby failed to honor its published quotation, or executed these orders at prices inferior to the Firm's published quoted market (Amex Case Nos. 05-180, 05-191 and 05-330).

3.6 On 25 occasions during the period of March 1, 2004 through December 31, 2004, an order was presented to TD Options Specialist E at the specialist's published bid or offer in an amount up to the published quotation size. TD Options Specialist E failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case Nos. 05-190 and 05-332).

3.7 On 25 occasions during the period of March 1, 2004 through December 31, 2004, an order was presented to TD Options Specialist B at the specialist's published bid or offer in an amount up to the published quotation size. TD Options Specialist B failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case Nos. 05-216 and 05-339).

- 3.8 On 30 occasions during the period of March 1, 2004 through September 30, 2004, an order was presented to TD Options Specialist C at the specialist's published bid or offer in an amount up to the published quotation size. TD Options Specialist C failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 05-217).
- 3.9 On 25 occasions during the period of March 1, 2004 through December 31, 2004, an order was presented to TD Options Specialist H at the specialist's published bid or offer in an amount up to the published quotation size. TD Options Specialist H failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case Nos. 05-231 and 05-341).
- 3.10 On 40 occasions during the period of October 1, 2004 through December 31, 2004, an order was presented to TD Options Specialist G at the specialist's published bid or offer in an amount up to the published quotation size. TD Options Specialist G failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 05-432).
- 3.11 The conduct described in paragraphs 3.2 through 3.10 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 Firm Quote Violations**

- 4.1 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.

- 4.2 On 50 occasions during the period of November 1, 2004 through December 31, 2004, the Firm failed to execute orders entitled to an execution at the Firm's quoted markets in Linkage (Amex Case No. 05-481).
- 4.3 The conduct described in paragraph 4.2 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.

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

- 5.1 Subject to certain exceptions, Exchange Rule 943(a) requires that an Eligible Market Maker that creates a Locked or 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 Marker locks or crosses.
- 5.2 On 30 occasions during the period of July 1, 2003 through April 30, 2004, the Firm created a Locked or Crossed Market and failed to unlock or uncross that market or failed to direct a Principal Order through Linkage to trade against the bid or offer that the Firm locked or crossed (Amex Case No. 05-327).
- 5.3 On 25 occasions during the period of August 1, 2004 through October 31, 2004, the Firm created a Locked or Crossed Market and failed to unlock or uncross that market or failed to direct a Principal Order through Linkage to

trade against the bid or offer that the Firm locked or crossed (Amex Case No. 05-41).

- 5.4 The conduct described in paragraphs 5.2 through 5.3 constitutes separate and distinct violations of Exchange Rule 943(a) and Article V, Section 4(h) of the Exchange Constitution.

## **6.0 Stopped Order Violations**

- 6.1 Subject to certain exceptions, Exchange Rule 109<sup>2</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.
- 6.2 On 61 occasions during the period of November 3, 2003 through July 30, 2004, the Firm failed to comply with Exchange requirements regarding stopping options in accordance with Exchange Rule 109 (Amex Case Nos. 05-72, 05-59 and 05-70).
- 6.3 The conduct described in paragraph 6.2 constitutes separate and distinct violations of Exchange Rule 109.

## **7.0 Supervision**

- 7.1 Although the Firm had policies and procedures in place during the period June 2002 through December 2004, the Firm's supervisory system was not at all times sufficient 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 Markets, and

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<sup>2</sup> The provisions of Exchange Rule 109 and Commentary thereto regarding "stopping" stock apply to Exchange options transactions. See Exchange Rule 950(o).

stopped orders. Specifically, the Firm's supervisory system did not during the entire period include written supervisory procedures providing for either: (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/or (4) a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented.

- 7.2 The conduct described in paragraph 7.1 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 TD Options:

- (a) a censure; and
- (b) a fine of \$275,000.

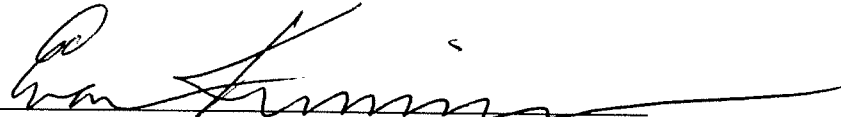
TD Options hereby acknowledges that the Firm has read carefully this Stipulation and understands all of the provisions contained herein; that the Firm has agreed to its provisions voluntarily; and that no offer, promise, threat or inducement of any kind has been tendered to TD Options by the Exchange, its staff or representatives to induce TD Options 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 6<sup>th</sup> day of March, 2006.

  
On behalf of TD Options LLC