

**Disciplinary Panel  
American Stock Exchange LLC**

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IN THE MATTER  
OF  
WOLVERINE TRADING LLC

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:  
: Case Nos. 04-17, 04-73, 04-108,  
: 04-140, 04-175, 04-192, 05-07,  
: 05-07a, 05-07b, 05-14, 05-15,  
: 05-16, 05-81, 05-81a, 05-96,  
: 05-192, 05-344, 05-418, 05-429,  
: 05-502, 05-504, 06-93  
:  
: Hearing Officer – RSH  
:  
: **DECISION**  
: June 5, 2006  
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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 156(b), Article V, Section 4(h) of the Exchange Constitution, Exchange Rule 958A, SEC Rule 11Ac1-1, Exchange Rule 170, Commentary .01 and .02, SEC Rule 10a-1(i), Exchange Rule 7, Exchange Rule 1, Exchange Rule 958A(d), Exchange Rule 940, Exchange Rule 941 and Exchange Rule 320, as stipulated, and as a penalty imposed a censure, a \$120,000 fine, and an undertaking for Wolverine to revise the Firm’s written supervisory procedures.**

**I. Introduction**

The American Stock Exchange, LLC (“Exchange”) instituted a formal disciplinary proceeding against Wolverine Trading LLC (“Wolverine” or the “Firm”), a Regular Member Organization of the Exchange.<sup>1</sup> The Disciplinary Panel Chair (“Chair”), presiding without convening a full Disciplinary Panel, pursuant to Article V,

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<sup>1</sup> During the hearing, the Department of Enforcement confirmed that Wolverine is a Regular Member of the Exchange, and not a *Former* Regular Member, as the first paragraph of the Stipulation asserts. “Former” is a typographical error.

Section 1(b) of the Exchange Constitution, held a hearing on April 27, 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 Wolverine entered into the Stipulation for the purposes of settling this proceeding and concluding all disciplinary actions by the Exchange against Wolverine based upon or arising out of the facts set forth in the Stipulation.

## **II. Facts**

Wolverine, 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 Wolverine:

(1) violated Exchange Rule 156(b) and Article V, Section 4(h) of the Exchange Constitution in eight cases between June 3, 2002 and November 30, 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 in seven cases between August 1, 2003 and April 29, 2005 by failing to execute orders upon presentment and 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 170, Commentary .01 and .02 and Article V, Section 4(h) of the Exchange Constitution in one case between January 1, 2003 and December 31, 2004, by failing to obtain necessary floor approval as required;

(4) violated SEC Rule 10a-1(i), Exchange Rule 7, and Article V, Section 4(h) of the Exchange Constitution in one case and one sub-case between January 1, 2003 and October 31, 2005, by effecting short sales on a straight minus or a zero minus tick;

(5) violated Exchange Rule 1 in one case and two sub-cases between January 1, 2003 and August 31, 2004 by failing to timely open certain non-option derivatives;

(6) violated Exchange Rule 958A, Exchange Rule 958A(d), Article V, Section 4(h) of the Exchange Constitution, Exchange Rule 940 and Exchange Rule 941 in three cases between August 2003 and June 2004, by failing to switch to the Exchange's X-Tops options quotation system; failing to disseminate a "fast market" condition when the firm encountered failures in its proprietary options quotation system; failing to obtain Floor Official approval before disseminating fast market indicators; failing to execute trades at the disseminated quote for incoming linkage orders; and

(7) violated Exchange Rule 320 between June 3, 2002 and April 29, 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 fine of \$120,000, and an undertaking for Wolverine to revise the Firm's written supervisory procedures and within 90 business days of acceptance of this Stipulation by the Disciplinary Panel, document the revisions to NASD Amex Regulation division as described in the Disciplinary Action section of the 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>2</sup>

#### **V. Conclusion**

The Chair accepts the Stipulation of Facts and Consent to Penalty and hereby imposes upon Wolverine Trading LLC a censure, a fine of \$120,000, and an undertaking for Wolverine to revise the Firm's written supervisory procedures.

**FOR THE DISCIPLINARY PANEL**

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Rochelle S. Hall, Chair

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<sup>2</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.

Copies to: Wolverine Trading, LLC (*via overnight and first class mail*)  
Howard Schiffman, Esq. (*via facsimile and via first class mail*)  
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**Disciplinary Panel  
American Stock Exchange LLC**

IN THE MATTER  
OF  
WOLVERINE TRADING LLC

**STIPULATION OF FACTS  
AND CONSENT TO PENALTY**

Case Nos. 04-17, 04-73, 04-108, 04-140,  
04-175, 04-192, 05-07, 05-07a, 05-07b,  
05-14, 05-15, 05-16, 05-81, 05-81a, 05-  
96, 05-192, 05-344, 05-418, 05-429, 05-  
502, 05-504

This proceeding was instituted by the American Stock Exchange LLC (the “Exchange”) against Wolverine Trading, LLC (“Wolverine”), a former Regular Member Organization of the Exchange. This Stipulation of Facts and Consent to Penalty (“Stipulation”) is entered into with Wolverine pursuant to Article V, Section 2 of the Exchange Constitution in order to settle and conclude all disciplinary actions by the Exchange against Wolverine based upon or arising out of the facts hereinafter stipulated. Wolverine, without admitting or denying the facts, allegations and conclusions contained in this Stipulation of Facts and Consent to Penalty, hereby consents to the entry of findings of violations of the Exchange Constitution, Rules and Federal securities laws, and the imposition of the penalties hereinafter provided. Wolverine 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. Wolverine understands and acknowledges that the Disciplinary Panel’s decision in this matter will become part of its respective disciplinary record and may be considered in any future proceeding brought by the Exchange.

## **STIPULATED FACTS:**

1.0 During all relevant periods herein, Wolverine was a Regular Member Organization of the Exchange and registered options and ETF specialist organization of the Exchange as well as specialists for non-option derivatives traded on the Exchange.

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

### **2.0 Options 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 25 occasions during the period June 3, 2002 through May 31, 2003, 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 No. 04-73).

2.3 On 44 occasions during the period January 2, 2004 through February 28, 2004, Wolverine failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case Nos. 04-140 and 04-175).

2.4 On 63 occasions during the period March 2004, Wolverine failed to use due diligence in handling customer limit orders by failing to execute or display customer option limit orders immediately (Amex Case No. 04-192).

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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.

- 2.5 On 25 occasions during the period April 1, 2004 through August 31, 2004, 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. 05-14).
- 2.6 On 25 occasions during the period April 1, 2004 through August 31, 2004, 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 No. 05-15).
- 2.7 On 25 occasions during the period April 1, 2004 through August 31, 2004, 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 No. 05-16).
- 2.8 On 25 occasions during the period September 1, 2004 through November 30, 2004, 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. 05-96).
- 2.9 The conduct described in above paragraphs 2.2 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 Options 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 41 occasions during the period of August 1, 2003 through October 31, 2003, when an order was presented to Specialist A, Specialist B and Specialist C at the published bid or offer in an amount up to its published quotation size, Specialist A, Specialist B and Specialist C 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 No. 04-17).
- 3.3 On 75 occasions during the period of January 2, 2003 through May 30, 2003, when an order was presented to Wolverine at the published bid or offer in an amount up to the published quotation size, Wolverine failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 04-108).
- 3.4 On 25 occasions during the period of March 1, 2004 through September 30, 2004 and October 1, 2004 through January 31, 2005, when an order was presented to 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 Nos. 05-192 and 05-344).
- 3.5 On 25 occasions during the period of October 1, 2004 through January 31, 2005, when an order was presented to 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 or executed these orders at prices inferior to the published quoted market (Amex Case No. 05-418).

3.6 On 25 occasions during the period of February 1, 2005 through April 29, 2005, when an order was presented to 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 No. 05-502).

3.7 On 25 occasions during the period of October 1, 2004 through January 31, 2005, when an order was presented to Specialist A at the published bid or offer in an amount up to the published quotation size, Specialist A failed to execute these orders upon presentment and thereby failed to honor the published quotation (Amex Case No. 05-504).

3.8 The conduct described in paragraphs 3.2 through 3.7 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 Destabilizing Transaction Violations**

4.1 During all relevant periods herein, Exchange Rule 170, Commentary .01 and .02, requires the Exchange specialist to obtain Floor Official approval: 1) prior to purchasing stock, while long or short in the firm's proprietary account on a straight plus tick; 2) when buying greater than 50% of the shares in the market on the offer while long in the firm's proprietary account; 3) when selling greater than 50% of the share in the market on

the bid while short in the firm's proprietary account; and 4) prior to selling stock on a straight minus tick while long in the firm's proprietary account.

4.2 On 40 occasions during the period January 1, 2003 through December 31, 2004, Wolverine failed to obtain the necessary Floor approval as set forth in Exchange Rule 170, Commentary .01 and .02 (Amex Case No. 05-81).

4.3 The conduct described in paragraphs 4.2 constitutes separate and distinct violations of Rule 170, Commentary .01 and .02 and Article V, Section 4(h) of the Exchange Constitution.

## **5.0 Short Sale Violations**

5.1 Subject to certain exceptions, SEC Rule 10a-1(i) and Exchange Rule 7 prohibit Exchange specialists from effecting short sales on a straight minus or a zero minus tick.

5.2 On 4 occasions during the period of January 1, 2003 through December 31, 2004, Wolverine effected short sales on a straight minus or a zero minus tick (Amex Case No. 05-81(a)).

5.3 The conduct described in paragraph 5.2 constitutes separate and distinct violations of SEC Rule 10a-1(i), Exchange Rule 7 and Article V, Section 4(h) of the Exchange Constitution.

## **6.0 Untimely Openings Violations**

- 6.1 During all relevant periods provided herein, Exchange Rule 1 required Exchange specialists to commence the opening of non-option derivatives on the Exchange Floor at 9:30 a.m.
- 6.2 On 4 occasions during the period of January 1, 2003 through August 31, 2004, the Firm failed to timely open certain non-option derivatives in accordance with Exchange Rule 1 (Amex Case Nos. 05-07, 05-07(a) and 05-07(b)).
- 6.3 The conduct described in paragraph 6.2 constitutes separate and distinct violations of Exchange Rule 1 and Article V, Section 4(h) of the Exchange Constitution.

## **7.0 Various Order Handling Violations**

- 7.1 During the period August 2003 through June 2004, the TAD investigated customer complaints and performed routine surveillance for compliance with various option order handling rules.
- 7.2 Subject to certain exceptions, Exchange Rule 958A requires Exchange specialists to execute option customer orders entrusted to the Firm as agent at the best available price reflected in the quoted market.
- 7.3 Exchange Rule 958A(d) requires Exchange specialists to obtain Floor Official Approval if a specialist's quotations are unable to be updated on a timely basis because of a high level of trading activity or the existence of unusual market conditions.

- 7.4 Article V, Section 4(h) of the Exchange Constitution requires Exchange specialists at all times to conduct business consistent with just and equitable principles of trade.
- 7.5 Exchange Rules 940 and 941 requires Exchange specialists to execute at least ten (10) contracts at its disseminated quote for incoming Linkage Principal and Principal as Agent orders received from other Participant Exchanges.
- 7.6 During October 2003, Wolverine failed to switch to the Exchange's X-Tops options quotation system,<sup>2</sup> nor disseminated a "fast market" condition, when the Firm encountered failures in its proprietary options quotation system. Therefore, Wolverine was unable to properly disseminate option quotes and execute customer orders at the best available price reflected in the quoted market in accordance with Exchange Rule 958A (Amex Case No. 05-429).
- 7.7 For the period August 2003 through October 2003 and February 2004, Wolverine failed to obtain Floor Official approval before disseminating fast market indicators<sup>3</sup> in accordance with 958A(d) (Amex Case No. 05-429).
- 7.8 During various trade dates in June 2004, Wolverine failed to switch to the Exchange's X-Tops options quotation system, nor disseminated a "fast market" condition, when the Firm encountered failures in its proprietary options quotation system. In maintaining a firm quote condition at these

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<sup>2</sup> The Exchange's former options quotation system.

<sup>3</sup> Fast Market indicators appear as an "F" next to the quote on the Amex Options Daily Journal Report and indicate that a particular option is in a Fast Market.

times, Wolverine failed to execute trades at the disseminated quote for incoming linkage orders in accordance with Exchange Rules 940 and 941 (Amex Case No. 05-429).

7.9 The conduct described in paragraphs 7.6 through 7.8 constitutes separate and distinct violations of Exchange Rule 958A, Exchange Rule 958A(d), Exchange Rule 940, Exchange Rule 941 and Article V, Section 4(h) of the Exchange Constitution.

**SUPERVISORY DEFICIENCIES:**

8.0 For the period June 3, 2002 through April 29, 2005, Wolverine'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 the display of superior customer limit orders, firm quotes, timely openings, short sale provisions, destabilizing transactions and various order handling provisions. 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.

8.1 The conduct described in paragraph 8.0 constitutes a violation of Amex Rule 320.

**DISCIPLINARY ACTION:**

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

- (a) a censure to be imposed against Wolverine;
- (b) a fine of \$120,000 to be imposed against Wolverine; and
- (c) an undertaking for Wolverine to revise the Firm's written supervisory procedures with respect to the areas described in paragraph 8.0. Within 90 business days of acceptance of this Stipulation by an Exchange Hearing Panel, a registered principal of Wolverine 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 8.0; and, (3) the date the revised procedures were implemented.

Wolverine hereby acknowledges that it has read carefully this Stipulation and understand all of the provisions contained herein; that it has agreed to its provisions voluntarily; and that no offer, promise, threat or inducement of any kind has been tendered to Wolverine by the Exchange, its staff or representatives to induce Wolverine 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.

ON BEHALF OF AMERICAN STOCK EXCHANGE LLC

By: \_\_\_\_\_

David Rosenstein  
Vice President and Deputy Director  
NASD Amex Regulation Division

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

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Wolverine Trading, LLC