

**Disciplinary Panel
American Stock Exchange LLC**

IN THE MATTER
OF
DAVE ERIK KRUECKEL

:
:
: Case Nos. 05-113
:
: Hearing Officer – RSH
:
: **DECISION**
:
: February 28, 2007

In accordance with a Stipulation of Facts and Consent to Penalty, the Disciplinary Panel Chair determined that Respondent violated Exchange Rules 421(a) and 924(a), as stipulated, and as a penalty imposed a censure, a \$7,500 fine (waived) and an undertaking for Krueckel to re-take the Regulatory Element of the Continuing Education Program.

I. Introduction

The American Stock Exchange, LLC (“Exchange”) instituted a formal disciplinary proceeding against Dave Erik Krueckel (“Krueckel”), a former employee of Citigroup Global Markets (f/k/a Solomon Smith Barney, Inc.), 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 January 8, 2007, 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 Krueckel entered into the Stipulation for the purposes of settling this proceeding and concluding all disciplinary actions by the Exchange against Krueckel based upon or arising out of the facts set forth in the Stipulation.

II. Facts

Krueckel, 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 Krueckel violated Exchange Rules 421(a) and 924(a) by accepting equity and option orders for an account from a person other than the customer without first obtaining the written authorization of the customer.

IV. Penalties and Publicity

The Stipulation proposes that the Chair impose on Krueckel a censure, a \$7,500 fine, and an undertaking to re-take the Regulatory Element of the Continuing Education Program within 120 days from when this disciplinary action becomes final. The Exchange agreed to waive the fine due to Krueckel's demonstrated inability to pay.

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

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.

hereby imposes upon Dave Erik Krueckel a censure, a \$7,500 fine (waived) and an undertaking for Krueckel to re-take the Regulatory Element of the Continuing Education Program following the guidelines described in the Stipulation.

FOR THE DISCIPLINARY PANEL

A handwritten signature in cursive script, appearing to read "Rochelle S. Hall", written over a horizontal line.

Rochelle S. Hall, Chair

Copies to: Dave Erik Krueckel (*via overnight and first class mail*)
 Jacqueline Gorham, Esq. (*via electronic and first class mail*)
 Arlene Collins-Day (*via electronic and first class mail*)

EXHIBIT A

.....	X	
	X	
IN THE MATTER	X	
OF	X	STIPULATION OF FACTS
DAVE ERIK KRUECKEL	X	AND
	X	CONSENT TO PENALTY
	X	Case No. 05-113
.....	X	

This proceeding was instituted by the American Stock Exchange LLC (“the Exchange”) against DAVE ERIK KRUECKEL (“KRUECKEL”) (CRD # 2293940), a former employee of Citigroup Global Markets (f/k/a Solomon Smith Barney, Inc.) (“Citigroup” or the “Firm”), a Regular Member organization of the Exchange. This Stipulation of Facts and Consent to Penalty is entered into with Krueckel pursuant to Exchange Rule 345(k) in order to settle and conclude all disciplinary actions by the Exchange against Krueckel based upon or arising out of the facts hereinafter stipulated. Krueckel, without admitting or denying the facts, allegations and conclusions contained in this Stipulation of Facts and Consent to Penalty, hereby consents to the findings of violations of the Exchange Rules and to the imposition of the penalties hereinafter provided. Krueckel 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 and that, if so approved, shall constitute a final decision, which may not be appealed by the parties. Krueckel understands and acknowledges that the Disciplinary Panel’s decision in this matter will become part of his disciplinary record and may be considered in any future proceeding brought by the Exchange.

STIPULATED FACTS:

- 1.0 During the relevant time period, the Firm was a Regular Member organization of the Exchange.
- 1.1 During the relevant time period, Krueckel was employed as a Registered Representative for the Firm in its Los Angeles, California branch office.
- 1.2 During all relevant periods herein, Exchange Rule 421(a) prohibited members, partners, officers or employees of a member organization from exercising any discretionary power in any customer's account, or accepting orders for an account from a person other than the customer, without first obtaining the written authorization of the customer.
- 1.3 During all relevant periods herein, Exchange Rule 924(a) prohibited an employee from exercising any discretionary trading with respect to the trading in option contracts in a customer's account unless such customer has given prior written authorization and the account has been accepted in writing by a Registered Options Principal who is qualified with respect to the category of options trading for which discretionary power is to be exercised (debt or equity).
- 1.4 During all relevant periods herein, Exchange Rule 345(a)(4) provided that the Exchange may disapprove or suspend or withdraw its approval of the employment of an employee of a member or member organization and the Exchange may, in addition to or in lieu of any other such action (a) censure him; (b) declare him ineligible for employment in specified capacities; and/or (c) assess a fine against him if the Exchange determines that such employee has been guilty of any conduct or proceeding inconsistent with just and equitable principles of trade.

Krueckel's Handling of a Public Customer's Account:

- 2.0 On or about November 29, 1999, Krueckel opened at Citigroup an individual account for Customer A (the "account").
- 2.1 During the life of the account, Krueckel accepted trading instructions from Customer B for Customer A's Individual Account.
- 2.2 In a written statement to the Exchange's Enforcement Department Staff dated August 3, 2002, Krueckel acknowledged that he had accepted trading instructions for Customer A's Individual Account from Customer B.
- 2.3 At no time during the life of the account did Krueckel obtain written approval from Customer A to accept instructions from Customer B for the purchase and/or sale of securities and/or options contracts in Customer A's Individual Account.

CONCLUSION:

By reason of the foregoing Stipulated Facts, a Disciplinary Panel may conclude:

- 3.0 Krueckel violated Exchange Rules 421(a) and 924(a) by accepting equity and option orders for an account from a person other than the customer without first obtaining the written authorization of the customer as set forth in paragraphs 2.0 through 2.4.

DISCIPLINARY ACTION:

- 6.0 A Disciplinary Panel may impose the following penalty upon Krueckel:
 - (a) a censure; and
 - (b) a fine of \$7,500.

WAIVER OF FINE

7.0 The Exchange agrees to waive the fine due to Krueckel's demonstrated inability to pay.

Dave Erik Krueckel hereby acknowledges that he has read carefully this Stipulation and has consulted with counsel or has had the opportunity to consult with counsel and understands all of the provisions contained herein; that he has agreed to its provisions voluntarily; and that no offer, promise, threat or inducement of any kind has been tendered to Dave Erik Krueckel by the Exchange, its staff or representatives to induce him 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.

Further, Dave Erik Krueckel hereby agrees that he may not take any action or make or permit to be made any public statements, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this Stipulation or create the impression that the Stipulation is without factual basis. Nothing in this provision affects Dave Erik Krueckel's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which the Exchange is not a party.

By signing this stipulation, Dave Erik Krueckel understands and acknowledges that Amex Rule 341A, which concerns the continuing education requirements for registered persons, requires him to re-take the Regulatory Element of the Continuing Education Program within 120 days from when this disciplinary action becomes final. If

Dave Erik Krueckel does not complete the Regulatory Element of the Continuing Education Program within the prescribed time frame, his registration will be deemed inactive until such time as the requirements of the program have been satisfied. Dave Erik Krueckel understands and acknowledges that if his registration is deemed inactive under Rule 341A, he must cease all activities as a registered person.

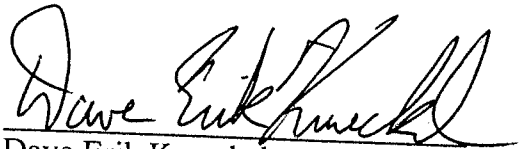
Finally, it is understood and agreed that in any written submission to or proceeding before any person or body convened to consider this Stipulation of Facts and Consent to Penalty (including to a Hearing Officer acting alone, a Hearing Panel or any reviewing body authorized by the Amex Constitution and/or Rules), neither Enforcement nor Dave Erik Krueckel shall offer any argument that is inconsistent with the stipulated facts or the agreed-upon penalty, nor shall either party ask for the imposition of any penalty other than that agreed upon in this Stipulation of Facts and Consent to Penalty.

ON BEHALF OF THE
AMERICAN STOCK EXCHANGE LLC:

By: 

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

Agreed to this 23 day of November, 2006.


Dave Erik Krueckel