

**Disciplinary Panel
American Stock Exchange LLC**

IN THE MATTER

of

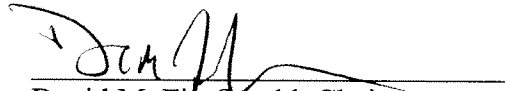
ROBERT FRANKL

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: Case No. 03-06
: [AMXC08017]
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: Hearing Officer – DMF
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NOTICE OF DECISION

Enclosed is a copy of the decision of the Disciplinary Panel in this disciplinary proceeding, dated May 21, 2008 (“Decision”). Under Article V, Section 2 of the Exchange Constitution, this Decision will become the final decision of the Exchange 10 days after service of the Decision upon you unless the Amex Adjudicatory Council calls the Decision for review. Pursuant to Exchange Disciplinary Rule 12, the Disciplinary Panel has decided that its Decision shall be publicized as provided therein. However, no publicity release shall be made until the Decision becomes final.



David M. FitzGerald, Chair

Dated: May 21, 2008

Copies to: Robert A. Frankl (*via overnight and first-class mail*)
Marc Dobin, Esq. (*via first-class mail*)
Shawn R. Mallon, Esq. (*via electronic and first-class mail*)
Jocelyn Thrower (*via electronic and first-class mail*)

**Disciplinary Panel
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ROBERT FRANKL

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: **DECISION**

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: May 21, 2008
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Pursuant to Article V, Section 2 of the Exchange Constitution and Rules 2(a) and (b) of the Rules of Procedure Applicable to Exchange Disciplinary Proceedings, this proceeding came before the Hearing Officer for review of the attached Stipulation and Consent to Penalty (Stipulation), which was entered into by the Parties for the purposes of settling this proceeding and concluding all disciplinary actions by the Exchange against Respondent based upon or arising out of the facts set forth in the Stipulation. Respondent, without admitting or denying the facts, allegations and conclusions contained in the Stipulation, consented to the entry of findings of violations of Exchange Rules and the imposition of penalties, as set forth in the Stipulation.

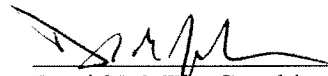
After considering the stipulated facts, as well as the analysis and authorities set forth in the Exchange’s Memorandum in Support of Proposed Settlement, the Hearing Officer hereby accepts the Stipulation, and accordingly finds that Respondent:

1. violated Exchange Rule 924(a) by exercising discretionary power in a customer account without first obtaining the customer’s written authorization;

2. violated Exchange Rule 345(a)(4) by exercising discretionary power in a customer account without first obtaining the customer's written authorization, violating just and equitable principles of trade;
3. violated Exchange Rule 341 Commentary .08 (2) by personally guaranteeing a customer account, by transferring \$6,000 from his trading account into the customer's trading account for the purpose of the customer meeting a margin call; and
4. violated Exchange Rule 345(a)(4) by personally guaranteeing a customer account, thereby violating just and equitable principles of trade.

In accordance with the Stipulation, for these violations Respondent is censured and suspended from (i) Exchange membership in any capacity; (ii) limited trading permit status; and/or (iii) employment or association in any capacity with an Exchange Member or Member Organization, or approved person status, for a period of one (1) year.¹

SO ORDERED.



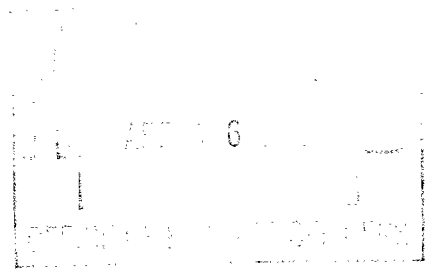
David M. FitzGerald
Hearing Officer

Copies to: Robert A. Frankl (*via overnight and first-class mail*)
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Jocelyn Thrower (*via electronic and first-class mail*)

¹ The Hearing Officer notes that the violations occurred in 2000 and that it appears Respondent has not been associated with an Exchange Member since November 2000.

EXHIBIT A

**Disciplinary Panel
American Stock Exchange LLC**



IN THE MATTER
OF
ROBERT FRANKL

**STIPULATION OF FACTS AND
CONSENT TO PENALTY**
Case Nos. 03-06.

This proceeding was instituted by the American Stock Exchange LLC (the "Exchange") against Robert Frankl ("Frankl") (CRD# 2896086), a former employee of Muriel Siebert & Co. ("Siebert" or the "Firm") (CRD# 5376) a Regular Member Organization of the Exchange. This Stipulation of Facts and Consent to Penalty ("Stipulation") is entered into with Frankl pursuant to Exchange Rule 345(k) in order to settle and conclude all disciplinary actions brought by the Exchange against Frankl based upon or arising out of the facts hereinafter stipulated. Frankl, 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 Rules, and the imposition of the penalties hereinafter provided. Frankl understands that a hearing officer, without conducting a formal hearing, will determine whether Frankl has committed the violations set forth herein and may fix and impose the agreed upon penalty or reject the Stipulation. This Stipulation can also be the subject of review by the Amex Adjudicatory Council ("AAC"). Frankl further understands and acknowledges that the hearing officer's acceptance of this Stipulation may not be appealed by the parties, will become part of his disciplinary record and may be considered in any future proceeding brought by the Exchange.

STATEMENT OF FACTS

- 1.0 During all relevant periods herein, Siebert was a Regular Member Organization and a registered broker-dealer organization of the Exchange.
- 1.1 During all relevant periods herein, Siebert operated several retail branches including a branch located in Boca Raton, Florida.
- 1.2 During the period of May 20, 1996 through November 16, 2000, Frankl was employed by Siebert as a Registered Representative, in the Boca Raton office. As a Registered Representative, Frankl placed orders for retail customers in non-discretionary trading accounts.
- 1.3 During the period of December 1997 through October 2000, Frankl was one of the Registered Representatives in the Boca Raton branch of Siebert that handled Customer A's account at Siebert.
- 1.4 During the period of May 20, 1996 through November 16, 2000, Frankl also maintained a personal trading account at Siebert.
- 1.5 On or about October 9, 2000, Customer A filed a customer complaint against Frankl and Siebert. The complaint made a number of allegations including that Frankl executed eleven unauthorized transactions in Customer A's account during February and March of 2000.
- 1.6 On or about November 20, 2000, Siebert filed a Form U-5 Termination Notice indicating Frankl was terminated from employment with the Firm.
- 1.7 On or about March 5, 2001, the Exchange retained jurisdiction over Frankl in a letter.

- 2.0 During all relevant periods herein, the FINRA's (f/k/a NASD) AMEX Regulation Division was an authorized representative of the Exchange.

Regulatory Framework

- 3.0 During all relevant time periods herein Exchange Rule 924(a) required that "no member and no partner or employee of a member organization shall exercise any discretionary power with respect to trading in options 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).
- 3.1 During all relevant time periods herein Exchange Rule 341 Commentary .08 (2), stated in relevant part, "[I]n consideration of the American Exchange, Inc.'s approving my application, I agree and state... [that] I will not represent to any customer that I will personally guarantee the account of such customer."
- 3.2 During all relevant time periods herein Exchange Rule 345(a)(4) provided that:
- (a) If the Exchange determines that any employee of a member or member organization has been guilty of:
- (4) Any conduct or proceeding inconsistent with just and equitable principles of trade;
- the Exchange may disapprove or suspend or withdraw its approval of his employment by a member or member organization and the Exchange may, in addition to or in lieu of any such action, (a) censure him; (b) declare him ineligible for employment in specified capacities; and/or (c) assess a fine against them.

Unauthorized Trading

- 4.0 On or about February 11, 2000, Frankl entered an order to sell 10 contracts of the ABC March 85 puts in Customer A's account at Siebert.
- 4.1 On or about February 16, 2000, Frankl entered an order to sell 10 contracts of the ABC June 75 puts in Customer A's account at Siebert.
- 4.2 On or about February 16, 2000, Frankl entered an order to sell 5 contracts of the DEF March 85 puts in Customer A's account at Siebert.
- 4.3 On or about February 16, 2000, Frankl entered an order to sell 5 contracts of the GHI March 100 puts in Customer A's account at Siebert.
- 4.4 On or about February 20, 2000, Frankl entered an order to sell 10 contracts of the JKL April 40 puts in Customer A's account at Siebert.
- 4.5 On or about March 10, 2000, Frankl entered an order to sell 10 contracts of the ABC April 95 puts in Customer A's account at Siebert.
- 4.6 On or about March 21, 2000, Frankl entered an order to sell 10 contracts of the DEF April 85 puts in Customer A's account at Siebert.
- 4.7 On or about March 21, 2000, Frankl entered an order to sell 10 contracts of the DEF May 80 puts in Customer A's account at Siebert.
- 4.8 On or about March 21, 2000, Frankl entered an order to sell 10 contracts of the GHI April 100 puts in Customer A's account at Siebert.
- 4.9 On or about March 28, 2000, Frankl entered an order to sell 10 contracts of the ABC May 90 puts in Customer A's account at Siebert.
- 4.10 On or about March 28, 2000, Frankl entered an order to sell 10 contracts of the DEF July 80 puts in Customer A's account at Siebert.

4.11 The options orders specified in paragraphs 4.0 through 4.10 were entered by Frankl without the authorization of Customer A and without receiving prior written authority to exercise discretionary power in Customer A's account.

Violations

5.0 The conduct described in paragraphs 4.0 through 4.11 constitutes separate and distinct violations of Exchange Rule 924(a), in that Frankl exercised discretionary power in Customer A's account without first obtaining the written authorization of the customer.

5.1 The conduct described in paragraphs 4.0 through 4.11 constitutes separate and distinct violations of Exchange Rule 345(a)(4) in that Frankl violated the just and equitable principles of trade by exercising discretionary power in Customer A's account without first obtaining the customer's written authorization.

Guaranteeing a Customer Against Loss

6.0 On or about May 17, 2000, Customer A's account at Siebert was subject to a margin call of approximately \$6,000. Customer A telephoned Frankl and indicated that Customer A was unable to reach a Siebert branch in time to make a deposit in order to meet the margin call.

6.1 On or about May 17, 2000, Frankl transferred \$6,000 from his personal trading account at Siebert into Customer A's trading account at Siebert.

6.2 On or about May 19, 2000, Customer A issued a \$6,000 check to Frankl from Customer A's personal bank account.

6.3 On or about May 19, 2000, Frankl deposited Customer A's \$6,000 check into his own trading account at Siebert.

Violations

7.0 The conduct described in paragraphs 6.0 through 6.3 constitutes a violation of Exchange Rule 341 Commentary .08 (2) in that Frankl personally guaranteed the account of Customer A, by transferring \$6,000 from his trading account into Customer A's trading account for the purpose of the customer meeting a margin call.

7.1 The conduct described in paragraphs 6.0 through 6.3 constitutes a violation of Exchange Rule 345(a)(4) in that Frankl violated the just and equitable principles of trade by personally guaranteeing the account of a customer.

Disciplinary Action:

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

- (a) a censure; and
- (b) a suspension from (i) Exchange membership in any capacity; (ii) limited trading permit status; and/or (iii) employment or association in any capacity with an Exchange Member or Member Organization, or approved person status, for a period of one (1) year.

Frankl hereby acknowledges that he has read carefully this Stipulation 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 Frankl by

the Exchange, its staff or representatives to induce Frankl 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, Frankl hereby agrees that he may not take any action or make or permit to be made any public statement, 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 Frankl'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.

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 Frankl, 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.

AMERICAN STOCK EXCHANGE LLC

By: *Claudia Crowley*
Claudia Crowley
Senior Vice President
Chief Regulatory Officer
American Stock Exchange LLC

Agreed to this 4 day of April, 2008.

Robert O Frankl

Robert Frankl