

**Disciplinary Panel
American Stock Exchange LLC**

IN THE MATTER	:	Case No. 03-33
	:	[AMXC08010]
of	:	Hearing Officer – DMF
	:	
ALAN TOM, THEODORE JUNG, PATRICK CHUN AND DENNIS DUNN	:	DECISION
	:	May 21, 2008
	:	
	:	

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 Respondents based upon or arising out of the facts set forth in the Stipulation. Respondents, 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:

1. Respondent Chun (a) violated Exchange Rule 345(a)(4) by intentionally misrepresenting a customer’s annual income and total net

worth on her Options New Account Form (ONAF) to ensure that she qualified for options trading in accordance with the Firm's trading policies.

2. Respondents Chun and Tom violated Exchange Rules 991(b) and (c) in that they failed to submit to the Exchange, and have the Firm and the Exchange approve, their written description of their options strategy prior to its dissemination to their customers.
3. Respondents Chun and Tom violated Exchange Rules 421(a) and 924(a) in that they exercised discretionary power in customer accounts participating in their options strategy without prior written authorization.
4. Respondents Dunn and Jung violated Exchange Rules 320(b) and 411 in that they failed to appropriately supervise Chun and Tom's activity in the Firm's Honolulu, Hawaii branch office.

In accordance with the Stipulation, the Hearing Officer imposes the following penalties:

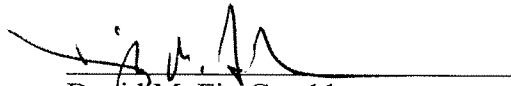
(1) Respondent Chun is censured and suspended for three years from employment or association in any capacity with an Exchange member or member organization;

(2) Respondent Tom is censured, fined \$50,000, and restricted for two years from opening any new customer options accounts or effecting options transactions in current customer accounts, calculated from June 14, 2006 (the date when Respondent's employer began imposing these restrictions);

(3) Respondent Dunn is censured and suspended for 60 business days from employment or association in any supervisory capacity with an Exchange member or member organization; and

(4) Respondent Jung is censured, fined \$10,000, and suspended for 10 business days from employment or association in any supervisory capacity with an Exchange member or member organization.¹

SO ORDERED.



David M. FitzGerald
Hearing Officer

Copies to: Theodore G. M. Jung (*via overnight and first-class mail*)
Alan D. Tom (*via overnight and first-class mail*)
Patrick H. Chun (*via overnight and first-class mail*)
Dennis H. K. Dunn (*via overnight and first-class mail*)
Terry Ross, Esq. (*via facsimile and first-class mail*)
Charles Falgie, Esq. (*via electronic and first-class mail*)
Joycelyn Thrower (*via electronic and first-class mail*)

¹ The Hearing Officer notes that the misconduct occurred in 1999 and 2000, and that according to the Exchange's supplemental memorandum in support of the proposed settlement, there do not appear to be unreimbursed customer losses attributable to Respondents' misconduct.

EXHIBIT A

Disciplinary Panel
American Stock Exchange LLC

.....	X	
	X	
IN THE MATTER	X	
OF	X	STIPULATION OF FACTS
ALAN TOM, THEODORE JUNG	X	AND
PATRICK CHUN AND DENNIS DUNN	X	CONSENT TO PENALTY
	X	Case No. 03-33
.....	X	

This proceeding was instituted by the American Stock Exchange LLC (“the Exchange” or “Amex”) against Alan Tom (“Tom”) (CRD #2589962), and Theodore Jung (“Jung”) (CRD #262703), registered employees of CITIGROUP GLOBAL MARKETS, INC. (“Citigroup” or the “Firm”) (CRD # 7059), a Regular Member organization of the Exchange, as well as former Citigroup registered employees Patrick Chun (“Chun”) (CRD #46660) and Dennis Dunn (“Dunn”) (CRD #811712) (collectively, “the Respondents”). This Stipulation of Facts and Consent to Penalty is entered into with Tom, Jung, Chun and Dunn pursuant to Exchange Rule 345(k), in order to settle and conclude all disciplinary actions brought by the Exchange against Tom, Jung, Chun and Dunn based upon or arising out of the facts hereinafter stipulated. The Respondents, 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 Rules and to the imposition of the penalties hereinafter provided. The Respondents understand that a hearing officer, without conducting a formal hearing, will determine whether the Respondents have 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.

The Respondents understand and acknowledge that the hearing officer's acceptance of this Stipulation may not be appealed by the parties, will become part of their respective disciplinary records and may be considered in any future proceeding brought by the Exchange.

STIPULATED FACTS:

- 1.1 At all times relevant herein, Citigroup¹ was a Regular Member Organization of the Exchange.
- 1.2 During all relevant periods herein, Citigroup maintained a retail branch office in Honolulu, Hawaii to service public customer accounts.
- 1.3 During all relevant periods herein, Tom and Chun were registered representatives at Citigroup, employed in the Firm's Honolulu, Hawaii branch office and were authorized to service public customer accounts. Chun and Tom became partners at the end of 1999. At that time, Chun and Tom began to share a joint production number, with Chun garnering 60% of the commission and Tom receiving 40%. Almost all of the clients under the joint production were Chun's at all relevant points herein.
- 1.4 During all relevant periods herein, Dunn served as the Assistant Branch Office Manager ("ABOM") at the Firm's Honolulu, Hawaii branch office. Dunn's responsibilities included directly supervising the trading by accounts serviced by Tom and Chun.

¹ During the relevant periods herein, all the respondents worked for Salomon Smith Barney, which eventually merged with Citigroup and was re-named Citigroup Global Markets, Inc.

- 1.5 During all relevant periods herein, Jung served as the Branch Office Manager (“BOM”) at the Firm’s Honolulu, Hawaii branch office. Jung’s responsibilities included directly supervising Dunn’s supervisory activities, as well as the overall supervision of the trading by accounts serviced by the Firm’s registered representatives, including Tom and Chun.
- 2.0 During all relevant periods herein, Tom and Chun were subject to Exchange Rule 345(a)(4), which prohibited an employee from engaging in any conduct inconsistent with just and equitable principles of trade.
- 2.1 During all relevant periods herein, Exchange Rule 421(a) prohibited any member, partner, officer or employee of a member organization from exercising any discretionary power in any customer’s account, or from accepting orders for an account from a person other than the customer, without first obtaining the written authorization of the customer.
- 2.2 During all relevant periods herein, Tom and Chun were subject to Exchange Rule 924(a), which 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).
- 2.3 During all relevant periods herein, Tom and Chun were subject to Exchange Rule 991(b), which required that all advertisements, educational material and sales literature (except completed worksheets) issued by a member or member

organization pertaining to options shall be approved in advance by the appropriate Compliance Registered Options Principal (Debt or Equity), or designee. Copies thereof, together with the names of persons who prepared the material, the names of the persons who approved the material and, in the case of sales literature, the source of any recommendations contained therein, shall be retained by the member or member organization and be kept at an easily accessible place for examination by the Exchange for a period of three years.

- 2.4 During all relevant periods herein, Tom and Chun were subject to Exchange Rule 991(c), which required that:

In addition to the approval required by paragraph (b) of this Rule, every advertisement and all educational material of a member or member organization pertaining to options shall be submitted to the Exchange at least ten days prior to use (or such shorter period as the Exchange may allow in particular instances) for approval and, if changed or expressly disapproved by the Exchange, shall be withheld from circulation until any changes specified by the Exchange have been made or, in the event of disapproval, until the advertisement or educational material has been resubmitted for, and has received Exchange approval. The requirements of this paragraph shall not be applicable to:

(i) advertisements or educational material submitted to another self-regulatory organization having comparable standards pertaining to advertisements and educational material and

(ii) advertisements or educational material in which the only reference to

options is contained in a listing of the services of a member organization.²

2.5 During all relevant periods herein, Dunn and Jung were subject to Exchange Rule 320(b), which provided that:

Each office, department or business activity of a member or member organization (including foreign incorporated branch offices) shall be under the supervision and control of the member or member organization establishing it and of the personnel delegated such authority and responsibility. The person in charge of a group of employees shall reasonably discharge his duties and obligations in connection with supervision and control of the activities of those employees related to the business of their employer including compliance with securities laws and regulations.

² Commentary .03 to this Rule reads as follows:

.03 Educational material, including advertisements, pertaining to options may be used if the material meets

the requirements of Rule 134a under the Securities Act of 1933 (the "Act"). Those requirements are as follows:

(i) The potential risks related to options trading generally and to each strategy addressed are explained;

(ii) No past or projected performance figures, including annualized rates of return are used;

(iii) No recommendation to purchase or sell any option contract is made;

(iv) No specific security is identified other than

(a) a security which is exempt from registration under the Act or an option on such exempt security, or

(b) an index option, including the component securities of the index; and

(v) The material contains the name and address of a person or persons from whom the appropriate current Options Disclosure Documents(s), as defined in Rule 9b-1 of the Securities Exchange Act of 1934, may be obtained.

- 2.6 During all relevant periods herein, Dunn and Jung were subject to Exchange Rule 411, which provided that:

Supervision of Accounts- Every member is required personally or through a general partner, an officer or trustee of his organization to supervise diligently all accounts handled by an employee.

Chun and Tom's Conduct

A. Misrepresentation of Customer Financial Information

- 3.0 In or around February 2000, Chun and Tom opened an options account at Citigroup for Customer A.
- 3.1 At the time Customer A opened her options account, Chun intentionally inflated Customer A's annual income on her Options New Account Form ("ONAF") from \$24,000 to \$50,000 and her total net worth almost \$600,000, which ultimately enabled her to satisfy the Firm's criteria for the approval of options trading.³

B. Unauthorized Trading & Distribution of Sales Literature

- 4.0 In or around December 1999, Chun and Tom employed an options strategy with approximately 100 clients to sell out of the money (about 25%) uncovered put options and then sell covered call options if the client was "put" the stock. The strategy, outlined in detail, was reduced to writing and distributed to their clients until August 2000 without the approval of the Firm or any of their individual supervisors, and without prior submission or approval of the Exchange.
- 5.0 During the period between December 1999 and August 2000, while Chun and Tom employed their aforementioned options strategy, they effected numerous options transactions in the accounts of their customers using trading discretion.

³ Tom had no knowledge of Chun's actions in misrepresenting the ONAF.

- 5.1 At no time prior to, or during the time period referred to in paragraph 5.0 above, had Chun or Tom obtained written discretionary trading authorization from the customers participating in the aforementioned options strategy in connection with trading in the customers' options accounts.

Dunn and Jung's Supervision

- 6.0 During the period from February 2000 through August 2000, Dunn and Jung did not take reasonable steps to ascertain whether Chun had accurately and appropriately stated Customer A's financial information on her ONAF.
- 6.1 During the period from December 1999 through August 2000, Dunn and Jung did not take reasonable steps to timely learn of Chun and Tom's written options strategy that was being offered to select clients without approval from the Firm.
- 6.2 During the period from December 1999 through August 2000, Dunn and Jung did not take reasonable steps to timely learn of Chun and Tom's effecting options transactions in the accounts of these clients without written trading authorization.

CONCLUSION:

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

- 7.0 Chun violated Exchange Rule 345(a)(4) in that he intentionally misrepresented Customer A's annual income and total net worth on her ONAF to ensure that she qualified for options trading in accordance with the Firm's trading policies.

- 7.1 Chun and Tom violated Exchange Rule 991(b) and (c) in that they failed to submit to the Exchange, and failed to have the Firm and the Exchange approve, their written description of their options strategy prior to its dissemination to their customers.
- 7.2 Chun and Tom violated Exchange Rules 421(a) and 924(a) in that they exercised discretionary power in customer accounts participating in their options strategy without prior written authorization.
- 7.3 Dunn and Jung violated Exchange Rules 320(b) and 411 in that they failed to appropriately supervise Chun and Tom's activity in the Firm's Honolulu, Hawaii branch office as described in paragraphs 3.0 through 6.2.

DISCIPLINARY ACTION:

A Disciplinary Panel may impose the following penalty upon **Chun:**

- (a) a censure;
- (b) a suspension of three (3) years from employment or association in any capacity with an Exchange member or member organization.

A Disciplinary Panel may impose the following penalty upon **Tom:**

- (a) a censure;
- (b) a \$50,000 fine; and
- (c) a restriction for two (2) years from opening any new customer options accounts or effecting options transactions in current customer accounts, calculated from June 14, 2006⁴

⁴ As of June 14, 2006, Citigroup began the restriction referenced in subdivision (c), and Tom was also subject to a period of heightened supervision for one year.

A Disciplinary Panel may impose the following penalty upon **Dunn**:

- (a) a censure; and
- (b) a suspension of sixty (60) business days from employment or association in any supervisory capacity with an Exchange member or member organization.

A Disciplinary Panel may impose the following penalty upon **Jung**:

- (a) a censure;
- (b) a \$10,000 fine; and
- (c) a suspension of ten (10) business days from employment or association in any supervisory capacity with an Exchange member or member organization.

The Respondents 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 the Respondents by the Exchange, its staff or representatives to induce the Respondents 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, the Respondents agree that they may not take any action or may not 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 the Respondents testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which the Exchange is not a party.

Further, the Respondents understand and agree that the Exchange may make a public announcement concerning this Stipulation and the subject matter thereof in a manner consistent with those specified in Rule 12 of the Rules and Procedures Applicable to Exchange Disciplinary Proceedings.

Finally, it is also understood and agreed that in any written submission to or proceeding before any person reviewing and/or body convened to consider this Stipulation of Facts and Consent to Penalty (including any reviewing person or body authorized by the Amex

Constitution and/or Rules), neither Enforcement nor the Respondents shall offer any argument that is inconsistent with the stipulated facts or the agreed-upon penalties, nor shall either party ask for the imposition of any penalties other than those agreed upon in this Stipulation of Facts and Consent to Penalty.

ON BEHALF OF:
AMERICAN STOCK EXCHANGE LLC

By: Claudia Crowley

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

Agreed to this 5 day of JANUARY, 2008.

Alan Tom

Patrick Chun
Patrick Chun

Dennis Dunn

Theodore Jung

Constitution and/or Rules), neither Enforcement nor the Respondents shall offer any argument that is inconsistent with the stipulated facts or the agreed-upon penalties, nor shall either party ask for the imposition of any penalties other than those agreed upon in this Stipulation of Facts and Consent to Penalty.

ON BEHALF OF:
AMERICAN STOCK EXCHANGE LLC

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

Agreed to this 8 day of January, 2008.

Alan Tom

Dennis Dunn

Patrick Chun

Theodore Jung
Theodore Jung

Constitution and/or Rules), neither Enforcement nor the Respondents shall offer any argument that is inconsistent with the stipulated facts or the agreed-upon penalties, nor shall either party ask for the imposition of any penalties other than those agreed upon in this Stipulation of Facts and Consent to Penalty.

ON BEHALF OF:
AMERICAN STOCK EXCHANGE LLC

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

Agreed to this 5 day of JANUARY, 2008.

Alan Tom
Alan Tom

Patrick Chun
Patrick Chun

Dennis Dunn
Dennis Dunn

Theodore Jung
Theodore Jung

ORIGINAL


Constitution and/or Rules), neither Enforcement nor the Respondents shall offer any argument that is inconsistent with the stipulated facts or the agreed-upon penalties, nor shall either party ask for the imposition of any penalties other than those agreed upon in this Stipulation of Facts and Consent to Penalty.

ON BEHALF OF:
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 January, 2008.

Alan Tom


Dennis Dunn

Patrick Chun

Theodore Jung