

RB-06-03  
February 03, 2006

**TO: ALL OTP HOLDERS, OTP FIRMS AND ALLIED PERSONS  
ALL ETP HOLDERS AND ETP SPONSORED PARTICIPANTS**

**FROM: ENFORCEMENT DEPARTMENT**

**SUBJECT: DISCIPLINARY SANCTIONS IMPOSED AND ARBITRATION AWARDS RENDERED**

This Regulatory Information Bulletin advises OTP Holders, OTP Firms and Allied Persons, ETP Holders and ETP Sponsored Participants of certain final disciplinary actions that resulted in the imposition of sanctions for violations of the federal securities laws and the Bylaws and Rules of the Exchange. This Bulletin also reports on the results of arbitration proceedings that were resolved at the Exchange.

**A. Disciplinary Sanctions Imposed From October 1, 2005 Through December 31, 2005**

**OPTIONS:**

***The Exchange Regulatory Staff resolved the following matters pursuant to the Minor Rule Plan:***

- OS0401281 An OTP Firm was fined \$2,500 for entering multiple orders on the Pacific Exchange Auto-Ex system within 15 seconds of each other, on the same side of the market, and for the same beneficial owner. (PCX Rule 6.87(d).)
- OS0412024 GLOBAL EXECUTION BROKERS, L.P. was fined \$3,750 for entering multiple orders on the Pacific Exchange Auto-Ex system within 15 seconds of each other, on the same side of the market, and for the same beneficial owner (2<sup>nd</sup> violation). (PCX Rule 6.87(d).)
- OS0406161 An OTP Holder was fined \$500 for disseminating quotes exceeding the maximum allowable bid/ask differentials. (PCX Rule 6.37(b).)
- OS0504144 An OTP Holder was fined \$500 for failing to trade with customer orders that were placed in the Order Book prior to executing a cross trade. (PCX Rule 6.75(e).)
- OS0406043 An OTP Firm was fined \$500 for failing to have trade tickets written up when an order was communicated to its Floor Broker. (PCX Rule 6.2(h)(5)(c).)

***The Ethics and Business Conduct Committee resolved the following matters through the rendering of Decisions accepting Offers of Settlement and Consent:***

- OS0308271 TODD KRAMER-BERLLY was fined \$2,500 for making disruptive comments on the options trading floor that were violations of just and equitable principles of trade. (PCX Rule 6.2(c)(2)(A)(ii) and PCX Constitution Article XI, Section 2(b).)
- OS0308271 KNIGHT FINANCIAL PRODUCTS was fined \$2,500 because its employee made disruptive comments on the options trading floor that were violations of just and equitable principles of trade. (PCX Rule 6.2(c)(2)(A)(ii) and PCX Constitution Article XI, Section 2(b).)

**EQUITIES:**

***The Exchange Regulatory Staff resolved the following matters pursuant to the Minor Rule Plan:***

- 05-37 An ETP firm was fined \$500 for failing to disclose to PCXE that it had entered into a financial arrangement with another entity. (PCXE Rule 6.11.)
- 05-38 An ETP firm was fined \$500 for failing to disclose to PCXE that it had entered into a financial

- 05-40-A arrangement with another entity. (PCXE Rule 6.11.)  
An ETP firm was fined \$100 for failing to maintain a continuous, two-sided Q-Order for issues in which it is registered as a Market Maker. (PCXE Rule 7.23(a)(1).)
- 05-43 An ETP firm was fined \$100 for failing to maintain a continuous, two-sided Q-Order for issues in which it is registered as a Market Maker. (PCXE Rule 7.23(a)(1).)
- 05-44 An ETP firm was fined \$500 for failing to disclose to PCXE that it had entered into a financial arrangement with another entity. (PCXE Rule 11.11.)

***The PCXE Department of General Counsel resolved the following matter through the rendering of a Decision accepting an Offer of Settlement and Consent:***

- 05-45 OCTEG, LLC was censured, fined \$165,000, required to disgorge \$41,594 of profits, and agreed to an undertaking to amend its operational and supervisory procedures for the following conduct. OCTEG, LLC altered its computer trading system so that numerous short sell orders were not marked as "short", resulting in numerous short sales of listed stocks on downticks in contravention of PCXE rules and federal securities law. Also, employees of OCTEG, LLC failed to follow the written supervisory procedures of OCTEG, LLC such that they failed to detect and stop the improper order marking and short selling in a timely manner. (PCXE Rules 6.18(a), 6.18(b), 6.18(c), 7.16(a), 7.16(b), 7.16(c), Securities Exchange Act of 1934 Section 10(a)(1), Securities Exchange Act Rule 10a-1.)

**B. Arbitration Awards During the Period October 1, 2005 through December 31, 2005**

Pursuant to PCX Rule 12.29(f), arbitration awards shall be made publicly available provided that the name of the customer party will not be disclosed if he/she so requests in writing. Upon written request, copies of the awards will be available from the Department of Arbitration of the Pacific Exchange. The following awards were made during the above-referenced period:

- Case Name:** Rosenfield v. RBC Dain Rauscher, et al. (Stipulated Award)  
**Case No:** 02-S041  
**Date Received:** September 27, 2002  
**Summary of Issues:** Breach of fiduciary duty, Suitability, Breach of contract, Fraud, Negligence, Unauthorized trading  
**Amount of Dispute:** \$123,000  
**Amount Awarded:** N/A  
**Decision Date:** October 13, 2005
- Case Name:** Kellett v. Morgan Stanley DW Inc., et al.  
**Case No:** 04-S009  
**Date Received:** June 22, 2004  
**Summary of Issues:** Breach of fiduciary duty, Suitability, Churning, Fraud, Lack of supervision, Misrepresentation  
**Amount of Dispute:** \$350,981  
**Amount Awarded:** \$0  
**Decision Date:** November 21, 2005
- Case Name:** Cummins v. Southwest Securities, Inc.  
**Case No:** 04-S006  
**Date Received:** March 31, 2004  
**Summary of Issues:** Unauthorized trading, Lack of supervision, Fraud, Negligence, Breach of fiduciary duty, Suitability  
**Amount of Dispute:** \$1,500,000  
**Amount Awarded:** \$0  
**Decision Date:** November 23, 2005
- Case Name:** Zebley v. Morgan Stanley DW Inc.  
**Case No:** 04-S002  
**Date Received:** February 11, 2004  
**Summary of Issues:** Breach of fiduciary duty, Suitability, Fraud, Negligence, Breach of contract  
**Amount of Dispute:** \$317,018  
**Amount Awarded:** \$0  
**Decision Date:** December 13, 2005

Questions regarding disciplinary sanctions for options may be directed to Larry Hing, Director of Options Enforcement, at (415) 393-4151. Questions regarding disciplinary sanctions for equities may be directed to Chris Hill, Director of Equities Enforcement, at (312) 442-7944. Questions regarding arbitration awards may be directed to Matt Mennes, Director of Arbitration, at (415) 393-4240.