

Determination Against Jude Sullivan and Settlement of Charges Against Kevin Wicinski and Mark Porter

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DISCIPLINARY NOTICE

December 18, 2015
CASE NUMBER 2011-043

DETERMINATION AGAINST JUDE SULLIVAN AND SETTLEMENT OF CHARGES AGAINST KEVIN WICINSKI AND MARK PORTER

Exchange Rules:

Rule 4.02(c) - Trade Practice Violations

In connection with the placement of any order or execution of any Transaction, it shall be a violation of the Rules for any Person to... [e]xecute a wash sale, accommodation Trade, fictitious sale or prearranged Trade...

Rule 4.02(e) - Trade Practice Violations

In connection with the placement of any order or execution of any Transaction, it shall be a violation of the Rules for any Person to... [w]ithhold or withdraw from the market any order or any part of an order for the convenience of another Person...

Rule 4.04 – Conduct Detrimental to the Exchange

It shall be a violation of the Rules for any Person to fail to conform to, the Rules or the procedures of the Exchange or the Clearing Organization, or to engage in conduct or practices inconsistent with just and equitable principles of trade or conduct detrimental to the best interests of the Exchange.

Rule 6.08(a)(i) - Order Ticket Requirements

Each Member receiving on the Floor of the Exchange a Customer's or Option Customer's order or an order from another Floor Broker who is present on the Floor of the Exchange shall immediately upon receipt thereof prepare a written record of such order in non-erasable ink, including the account identification and order number, and shall record thereon, by time-stamp or other timing device, the date and time, to the nearest minute, the order is received on the Trading Floor, and in addition, the time, to

the nearest minute, the report of execution is made from the Trading Floor, except that such written record shall not be required if, and to the extent that, such order is in the form of a written record containing all information (except for the time of report of execution) specified herein. Corrections or additions to the information recorded on the written record of the order shall be made in a manner that does not obliterate or otherwise make illegible the originally recorded information.

Rule 6.41(a)(ii) - Broker Associations

The term "Associated Brokers" shall mean two (2) or more Members with floor trading privileges on the Exchange, at least one (1) of whom is handling Customer orders, who in the same market... have an employer and employee relationship which relates to floor brokerage activity.

Rule 21.04 - Power to Compel Testimony and Production of Documents

The President, the Board, the Vice President, the Compliance staff, any committee or subcommittee and any panel of any committee or subcommittee, engaged in any investigation of, examination into, or hearing or appeal involving any matter pursuant to the Rules shall have the power to summon any Member, any employee of any Member and any non-member market participant to appear before him or it, to give testimony under oath or in any other manner required by him or it and to produce any documents, books or records....

Former Rule 4.25(a) - Reporting of Trades

All selling Floor Brokers shall immediately report to designated Exchange employees all Transactions executed or registered on the Trading Floor. Such reports shall indicate the price at which each Transaction was made. Selling Floor Brokers are responsible for assuring that each Trade which they report is properly disseminated by the Exchange.

Summary:

A Hearing Panel of the Exchange's Business Conduct Committee entered a default finding that between March and July of 2011, former floor broker Jude Sullivan ("Sullivan") violated the Exchange Rules listed below and found that former floor brokers Kevin Wicinski ("Wicinski") and Mark Porter ("Porter") each may have violated the Exchange Rules listed below as well, when Sullivan withheld customer orders and engaged in several non-competitive transactions in Coffee "C" Options opposite former floor traders Wicinski and Porter at prices that were favorable to the Wicinski and Porter. Many of the transactions were not reported correctly to Exchange staff, resulting in incorrect trade quantities being disseminated. The BCC also concluded that Wicinski and Porter may have violated Exchange Rule 6.41(a)(i) by failing to report their broker association, and that Porter may have violated Exchange Rule 21.04 by failing to appear for a scheduled interview.

Jude Sullivan - Rules 4.02(c), 4.02(e), 4.04, 4.25(a) and 6.08(a)(i)

Kevin Wicinski - Rules 4.02(c), 4.04, 6.41(a)(ii) and 6.08(a)(i)

Mark Porter - Rules 4.02(c), 4.04, 4.25(a), 6.41(a)(ii) and 21.04

Penalties:

The Hearing Panel ordered that Sullivan be denied access to all of the Exchange's markets for a period of 2 years, that he pay restitution in the amount of \$45,581.25 to the harmed customers; and that he cease and desist from future violations of Exchange Rule 4.02(c) and 4.02(e).

In accordance with the terms of settlement, in which Wicinski neither admitted nor denied the violations, Wicinski agreed to a denial of access to all Exchange markets for a period of 8 months and to cease and desist from future violations of Exchange Rule 4.02(c).

In accordance with the terms of settlement, in which Porter neither admitted nor denied the violations, Porter agreed to a denial of access to all Exchange markets for a period of 1 year and to cease and desist from future violations of Exchange Rule 4.02(c) and 21.04.

Effective Date: December 16, 2015 (Porter and Wicinski)
December 17, 2015 (Sullivan)

FOR MORE INFORMATION

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