

BEFORE THE BUSINESS CONDUCT COMMITTEE
OF THE
CHICAGO BOARD OPTIONS EXCHANGE INCORPORATED

In the Matter of:)
)
)
Kelly Luthringshausen)
440 South LaSalle St., Suite 3112)
Chicago, IL 60605)
)
Respondent)
_____)

File No. 96-0058

AMENDED
DECISION ACCEPTING OFFER OF SETTLEMENT

This proceeding was instituted by the Business Conduct Committee (the "Committee") of the Chicago Board Options Exchange, Incorporated (the "Exchange") as a result of an investigation by the staff of the Exchange, which indicated that there was probable cause for finding a violation within the disciplinary jurisdiction of the Exchange. In accordance with that determination, the Committee directed the issuance of a Statement of Charges ("Statement of Charges"). Pursuant to Exchange Rule 17.8, the respondent ("Respondent"), Kelly Luthringshausen ("Luthringshausen"), submitted an offer of settlement ("Offer of Settlement").

In submitting the Offer of Settlement, the Respondent neither admitted nor denied the violations alleged in the Statement of Charges.

The Respondent has agreed that the determination of the Committee to accept the Offer of Settlement shall constitute a final Decision, and, as provided in Exchange Rule 17.8, the Respondent may not seek review thereof.

The Respondent understands and acknowledges that the Committee's decision in this matter will become part of his disciplinary record and may be considered in any future Exchange proceeding.

With due regard to the particulars of this matter, the Committee believes it is appropriate to accept the Respondent's Offer of Settlement based on the following stipulated facts and findings and thereby to impose the sanction specified below.

FACTS

1. During all relevant periods herein, the Respondent, Luthringshausen, was a member of the Exchange.

2. During the approximate period from in or about October 1991 through in or about July 1993, Luthringshausen was an Exchange member registered to transact business on the Exchange in accordance with Exchange Rules as a market-maker and nominee of Rockrimmon Securities (“Rockrimmon”), currently known as Rockrimmon Securities L.L.C. In addition, in or about October 1991 through all relevant periods herein, Luthringshausen was registered to transact business on the Exchange as a Broker-Dealer and was registered as an individual Exchange member and as a market-maker.
3. During all relevant periods herein, Rockrimmon was a member organization registered with the Exchange to transact business on the Exchange in accordance with Exchange rules as an organization associated with a market-maker, floor broker, and lessee.
4. During all relevant periods herein, Jeffrey Wilson, Andrew Smuckler, Rick Englander, Steve Segal, Paul McCauly, Michael Frank, and Michael Anthony were associated persons¹ (“Associated Persons”) of Rockrimmon at its New York, NY offices and were not registered as Exchange market-makers.
5. During all relevant periods herein Exchange Rules 4.1 - Just and Equitable Principles of Trade, 4.6 - False Statements, (including reporting misrepresentation to the Clearing Corporation), 8.1 - Market-Maker Defined, and 8.9 and Interpretation and Policy .06 thereunder - Securities Accounts and Orders of Market-Makers were in full force and effect.
6. In or about November 1992, certain Rockrimmon nominees established a market-maker joint account (“QJR”) pursuant to Exchange Rule 8.9(c).
7. During the approximate period from in or about November 1992 through in or about July 1993, Rockrimmon market-maker nominee Luthringshausen was a member of QJR.
8. During the approximate period from in or about November 1992 through in or about July 1994, Rockrimmon market-maker nominee Richard Lindar was a member of QJR.
9. During the approximate period from in or about August 1993 through in or about July 1994, Rockrimmon market-maker nominees Christopher Gust and Jeffrey Felton were members of QJR.
10. During all relevant periods herein, pursuant to Exchange Rule 8.1, only transactions that were initiated by an Exchange market-maker on the floor of the Exchange qualified as market-maker transactions.

¹ Person associated with a broker or dealer as defined in the Securities Exchange Act of 1934, as amended, Section 3(a)(18).

11. In or about October 1991 through in or about February 1993, Rockrimmon Associated Persons, who were not registered as Exchange market-makers, initiated and entered numerous option orders from off of the Exchange trading floor on behalf of Rockrimmon market-maker accounts with Exchange floor broker members. The execution of these orders resulted in transactions representing an aggregate of at least 269,000 contracts which Luthringshausen knew or should have known cleared or adjusted into his Rockrimmon market-maker nominee account, when Luthringshausen did not initiate or approve those orders. As a result of the transactions clearing or adjusting into Luthringshausen's Rockrimmon market-maker nominee account, these transactions received preferential market-maker haircut and capital exempt treatment.
12. In or about October 1991 through in or about February 1993, on numerous occasions Luthringshausen effected transactions in person on behalf of his individual market-maker account at the same time that floor brokers represented orders for Luthringshausen's Rockrimmon market-maker nominee account in the same equity option class.
13. In or about February 1993 through in or about July 1993, Luthringshausen effected numerous transactions in person, on behalf of his individual market-maker account, with floor brokers who were representing orders, as described in paragraph 11 above, at the same time that Luthringshausen was a member of QJR.

FINDINGS

14. The acts, practices, and conduct described in Paragraph 11 above constitute violations of Exchange Rules 4.1, 4.6, and 8.1 by Luthringshausen in that Rockrimmon Associated Persons, who were not registered as Exchange market-makers, initiated and entered numerous option orders from off of the Exchange trading floor on behalf of Luthringshausen's Rockrimmon market-maker account with Exchange floor broker members. The execution of these orders resulted in transactions representing an aggregate of at least 269,000 contracts which Luthringshausen knew or should have known cleared or adjusted into his Rockrimmon market-maker nominee account, when Luthringshausen did not initiate or approve those orders. As a result of the transactions clearing or adjusting into Luthringshausen's Rockrimmon market-maker nominee account, these transactions received preferential market-maker haircut and capital exempt treatment.
15. The acts, practices, and conduct described in Paragraph 12 above constitute violations of Exchange Rule 4.1 by Luthringshausen, in that Luthringshausen effected numerous transactions in person on behalf of his individual market-maker account at the same time that floor brokers represented numerous orders for Luthringshausen's Rockrimmon market-maker nominee account in the same equity option class.
16. The acts, practices, and conduct described in Paragraph 13 above constitute violations of Exchange Rule 8.9 and Interpretation and Policy .06 thereunder by Luthringshausen, in that Luthringshausen effected numerous transactions in person, on behalf of his individual market-maker account, with floor brokers who were representing orders, as described in paragraph 11 above, for QJR at the same time that Luthringshausen was a member of QJR.

SANCTION

The sanction to be imposed shall consist of a censure and a thirty-seven thousand three hundred sixty-six dollar and thirty four cent (\$37,366.34) fine.

ORDER

ACCORDINGLY IT IS ORDERED THAT, the Respondent, Kelly Luthringshausen, shall be and hereby is censured and fined in the amount of thirty-seven thousand three hundred sixty-six dollars and thirty four cents (\$37,366.34). In imposing the fine, the Committee considered the undue economic gain associated with the Respondent's conduct.

SO ORDERED
FOR THE COMMITTEE

/s/ Bruce I. Andrews
Bruce I. Andrews
Chairman
Business Conduct Committee

June 4, 1997
Date