

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

In the Matter of:)

Barton P. Smith)
1540 Market Street)
Tacoma, WA 98402)

Respondent)
_____)

File No. 97-0006

NOTICE OF SUMMARY PROCEEDINGS

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. The respondent ("Respondent"), Barton P. Smith ("Smith"), has failed to Answer or Deny the allegations set forth in the Statement of Charges. Accordingly, the Respondent is deemed to have admitted the charges contained therein, and the Committee has determined to impose disciplinary action through summary proceedings under the provisions of Exchange Rule 17.7.

FINDINGS

1. During all relevant periods herein, Smith was registered with the Exchange to transact business on the Exchange in accordance with Exchange Rules as a Registered Representative of Dean Witter Reynolds, Inc. ("DWR"), an Exchange member organization, at its Tacoma, Washington branch office.
2. During all relevant periods in which the activity noted below occurred, Smith was acting in his capacity as a Registered Representative for DWR, and was engaged in the handling of public customer accounts.
3. During all relevant periods herein, Exchange Rules 4.1 - Just and Equitable Principles of Trade, 9.10(a) - Discretionary Accounts, Authorization and Approval Required, and 17.2(b) - Complaint and Investigation, Requirement to Furnish Information were in full force and effect.
4. On or about August 17, 1993, Smith effected an unauthorized options transaction involving the purchase of 10 OEX August 420 put option contracts in a public customer (the "Customer") account at DWR.

5. On or about August 19, 1993, Smith effected an unauthorized options transaction involving the sale of 10 OEX August 420 put option contracts in the Customer's account at DWR.
6. On or about August 20, 1993, Smith effected an unauthorized options transaction involving the purchase of 10 OEX September 420 put option contracts in the Customer's account at DWR.
7. Since April 29, 1996, Smith has impeded and delayed an Exchange investigation by failing to respond to Staff's numerous requests for a signed, detailed statement regarding the circumstances surrounding his termination from DWR and his handling of the Customer's account.
8. The acts, practices and conduct described in Paragraph 4 above constitute a violation of Exchange Rules 4.1 and 9.10(a) by Smith in that Smith effected an unauthorized options transaction in the Customer's account, which conduct was inconsistent with just and equitable principles of trade.
9. The acts, practices and conduct described in Paragraph 5 above constitute a violation of Exchange Rules 4.1 and 9.10(a) by Smith in that Smith effected an unauthorized options transaction in the Customer's account, which conduct was inconsistent with just and equitable principles of trade.
10. The acts, practices and conduct described in Paragraph 6 above constitute a violation of Exchange Rules 4.1 and 9.10(a) by Smith in that Smith effected an unauthorized options transaction in the Customer's account, which conduct was inconsistent with just and equitable principles of trade.
11. The acts, practices and conduct described in Paragraph 7 above constitute violations of Exchange Rule 17.2(b) by Smith in that Smith impeded and delayed an Exchange investigation by failing to respond to Staff's numerous requests for a signed, detailed statement regarding the circumstances surrounding his termination from DWR and his handling of the Customer's account.

SANCTION

In that the Respondent, Smith, has violated Exchange Rules 4.1, 9.10(a) and 17.2(b) for the conduct described in Paragraphs 4 through 7 above, the sanction to be imposed shall consist of:

- (a) a censure and;
- (b) a two consecutive year bar from Exchange membership and from association with any Exchange member or member organization.

ORDER

ACCORDINGLY IT IS ORDERED, that the Respondent, Barton P. Smith, shall be and hereby is barred for two consecutive years from Exchange membership and from association with any Exchange member or member organization and censured.

* * *

The Respondent shall have ten (10) days from the date of service of this notice to notify the Business Conduct Committee that he desires a hearing upon all or a portion of any charges not previously admitted or upon the penalty. Failure to so notify the Business Conduct Committee shall constitute admission of the violations and acceptance of the penalty as determined by the Business Conduct Committee and a waiver of all rights of review. If the Respondent request a hearing, the matters which are the subject of the hearing shall be handled as if this summary determination had not been made.

SO ORDERED
FOR THE COMMITTEE,

Date

6-4-97

Bruce I. Andrews
Chairman
Business Conduct Committee