

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

In the Matter of:)	
)	
)	
Ted R. Breiter)	
1820 Lawrence Lane)	File No. 97-0055
Highland Park, IL 60035)	
)	
Respondent)	
)	

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"), Ted R. Breiter ("Breiter"), 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, Breiter, was a member of the Exchange.
2. During all relevant periods herein, Breiter was registered with the Exchange to transact business on the Exchange in accordance with Exchange Rules as a market-maker.
3. During all relevant periods herein, Lane Samuels ("Samuels") was a clerk on the floor of the Exchange for Breiter, and not approved as an Exchange market-maker.
4. During all relevant periods herein, Charles A. Maylee ("Maylee") was a member of the Exchange, and was registered with the Exchange to transact business on the Exchange in

accordance with Exchange Rules as a market-maker and nominee of ING TT&S (U.S.) Securities, Inc., an Exchange member organization.

5. During all relevant periods herein, Exchange Rules 4.1 - Just and Equitable Principles of Trade, 4.2 - Adherence to Law, 8.1 - Market-Maker Defined, and 8.9(c) - Securities Accounts and Orders of Market-Makers, and Regulation X of the Board of Governors of the Federal Reserve System ("FRB") - Borrowers of Securities Credit were in full force and effect.
6. In or about September 1995, Breiter and Maylee submitted a Joint Account Application and Agreement ("Application") to the Exchange to establish a joint account ("QLT") pursuant to Exchange Rule 8.9(c). The Application identified Breiter and Maylee as the only participants in the joint account. Joint account QLT became effective on or about October 2, 1995.
7. 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.
8. During the approximate period from on or about October 5, 1994 through in or about August 1995, Breiter permitted Samuels to initiate and enter numerous option orders that increased or established positions in his market-maker account with Exchange floor brokers in the OEX class of option contracts while Breiter was present in OEX trading crowd. As a result of these transactions clearing into Breiter's market-maker account, these transactions received preferential market-maker haircut and capital exempt treatment. In addition, at least 23 transactions effected by Samuels liquidated RAES positions in Breiter's market-maker account from October 5, 1994 through December 19, 1994.
9. During the approximate period from on or about October 5, 1994 through on or about December 19, 1994, Breiter caused to be submitted to the Exchange and the Options Clearing Corporation ("OCC") records of the transactions effected by Samuels as described in Paragraph 8 above.
10. During the approximate period from on or about October 2, 1995 through on or about February 7, 1996, Breiter permitted Samuels to initiate and enter numerous option orders with Exchange floor broker members that increased or established positions in joint account QLT. The execution of these orders resulted in transactions which Breiter allowed to be cleared into joint account QLT when neither Breiter nor Maylee initiated or approved these orders. As a result of these transactions clearing into joint account QLT, these transactions received preferential market-maker haircut and capital exempt treatment.
11. During the approximate period from on or about October 2, 1995 through on or about February 7, 1996, Breiter caused to be submitted to the Exchange and the Options Clearing Corporation ("OCC") records of the transactions effected by Samuels described in Paragraph 10 above.

FINDINGS

12. The acts, practices, and conduct described in Paragraph 6 above constitute violations of Exchange Rule 4.1 by Breiter, in that Breiter made a misrepresentation to the Exchange when he submitted the Application for joint account QLT which stated that he and Maylee were the only participants in joint account QLT.

13. The acts, practices, and conduct described in Paragraph 8 above constitute violations of Exchange Rules 4.1, 4.2, and 8.1 and FRB Regulation X by Breiter, in that Breiter allowed Samuels to initiate and enter numerous option orders that increased or established positions in his market-maker account with Exchange floor brokers in the OEX class of option contracts while Breiter was present in OEX trading crowd. As a result of these transactions clearing into Breiter's market-maker account, these transactions received preferential market-maker haircut and capital exempt treatment. In addition, at least 23 transactions effected by Samuels liquidated RAES positions in Breiter's market-maker account from October 5, 1994 through December 19, 1994.
14. The acts, practices, and conduct described in Paragraph 9 above constitute violations of Exchange Rule 4.1 by Breiter, in that Breiter made a misrepresentation to the Exchange and OCC when he caused to be submitted to the Exchange and OCC records of the transactions effected by Samuels described in Paragraph 8 above.
15. The acts, practices, and conduct described in Paragraph 10 above constitute violations of Exchange Rules 4.1, 4.2, 8.1, and 8.9(c), and FRB Regulation X by Breiter, in that Breiter allowed Samuels to initiate and enter numerous option orders with Exchange floor brokers that increased or established positions in joint account QLT. The execution of these orders resulted in transactions which Breiter allowed to be cleared into joint account QLT when neither Breiter nor Maylee initiated or approved these orders. As a result of these transactions clearing into joint account QLT, these transactions received preferential market-maker haircut and capital exempt treatment.
16. The acts, practices, and conduct described in Paragraph 11 above constitute violations of Exchange Rule 4.1 by Breiter, in that Breiter made a misrepresentation to the Exchange and OCC when he caused to be submitted to the Exchange and OCC records of the transactions effected by Samuels described in Paragraph 10 above.

SANCTION

The sanction to be imposed shall consist of a seven thousand five hundred dollar (\$7,500) fine and a censure.

ORDER

ACCORDINGLY IT IS ORDERED THAT, the Respondent, Ted R. Breiter, shall be and hereby is fined in the amount of seven thousand five hundred dollars (\$7,500) and censured.

**SO ORDERED
FOR THE COMMITTEE**

Dated: December 18, 1997

**By: /s/ Bruce I. Andrews
Bruce I. Andrews
Chairman
Business Conduct Committee**