



Notice of Disciplinary Action Against VTrader PRO, LLC, a Member Organization, and Mark Kenesky, Associated Person of VTrader PRO, LLC

To: Members, Member Organizations, Participants and Participant Organizations

From: John C. Pickford, Enforcement Counsel, NASDAQ OMX PHLXSM

DATE: June 21, 2012

FINRA Matter No. 20100242457
FINRA Matter No. 20120323717
Enforcement No. 2012-07

On June 18, 2012, the Business Conduct Committee (the "Committee") issued a disciplinary decision against VTrader PRO, LLC ("VTrader"), a member organization of the Exchange, and Mark Kenesky ("Kenesky"), an associated person of VTrader. In response to a Statement of Charges issued in this action, VTrader and Kenesky submitted an Offer of Settlement, Stipulation of Facts and Consent to Sanctions ("Offer"). Solely to settle this proceeding, and without admitting or denying the charges, VTrader and Kenesky consented to findings that during the periods between April 2010 and June 2010 ("Review Period I"), and January 2012 and March 2012 ("Review Period II"), they had committed violations of Exchange Rule 1014, Commentaries .01 and .03, and Options Floor Procedures Advices ("OFPA's") B-3 and B-4. Specifically, VTrader and Kenesky consented to findings that during Review Period I, Kenesky, on behalf of VTrader, had effected 0.00% of his total options contracts in assigned options classes and had thereby failed to satisfy the minimum number of options contracts he was required to trade in assigned options classes. Similarly, during Review Period I, Kenesky, on behalf of VTrader, and while off-floor, had executed 2,644 options contracts in his market maker account that were not for the purpose of hedging, reducing pre-existing risk, or rebalancing positions in his market maker account.

Additionally, VTrader and Kenesky consented, without admitting or denying the charges, to findings that during Review Period II, Kenesky, on behalf of VTrader, and while off-floor, had executed 48.05% of his total options contracts in person and had thereby failed to satisfy the minimum number of options contracts he was required to trade in person. VTrader and Kenesky also consented to findings that during Review Period II, Kenesky, on behalf of VTrader, and while off-floor, had executed 1,265 options contracts in his market maker account that were not for the purpose of hedging, reducing pre-existing risk, or rebalancing positions in his market maker account.

The Offer submitted by VTrader and Kenesky was accepted by the Committee and was the basis of its Decision. The Committee found that VTrader and Kenesky had violated Exchange Rule 1014, Commentaries .01 and .03, and OFPA's B-3 and B-4, concurred in the sanctions consented to by VTrader and Kenesky, and ordered the imposition of the following sanctions against them: (i) a censure; and (ii) a joint and several fine in the amount of \$15,000.

For more information, contact:

- John C. Pickford, Enforcement Counsel, NASDAQ OMX PHLX, at +1 215 496 5273

© Copyright 2009 The NASDAQ OMX Group, Inc. All Rights Reserved.