

STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT

IN THE MATTER OF: IRA NITZKIN

FILE NO. 0900076

NOTICE OF HEARING

TO THE RESPONDENT:

Ira Nitzkin (CRD#: 1136040)  
1950 Cherry Lane Apt 215  
Northbrook, Illinois 60062

Ira Nitzkin (CRD#: 1136040)  
C/o Thinkorswin, Inc.  
600 West Chicago Avenue Suite 100  
Chicago, Illinois 60654-2597

You are hereby notified that pursuant to Section 11.F of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act") and 14 Ill. Adm. Code 130, Subpart K, a public hearing will be held at 69 West Washington Street, Suite 1220, Chicago, Illinois 60602, on the 19th day of May, 2010 at the hour of 10:00 a.m. or as soon as possible thereafter, before James L. Kopecky, Esq., or such other duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order shall be entered revoking Ira Nitzkin's (the "Respondent") registration as a salesperson in the State of Illinois and/or granting such other relief as may be authorized under the Act including but not limited to the imposition of a monetary fine in the maximum amount pursuant to Section 11.E (4) of the Act, payable within ten (10) business days of the entry of the Order.

The grounds for such proposed action are as follows:

1. That at all relevant times, the Respondent was registered with the Secretary of State as a salesperson in the State of Illinois pursuant to Section 8 of the Act.
2. That on December 18, 2008 THE BUSINESS CONDUCT COMMITTEE of THE CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED ("CBOE") entered DECISION ACCEPTING OFFER OF SETTLEMENT ("Decision") regarding File No. 02-0012 Which sanctioned the Respondent as follows:

## Notice of Hearing

2

- a. censured;
  - b. fined one hundred thousand dollars (\$100,000); and
  - c. suspended for (6) consecutive months from Exchange membership and from association with any exchange member or member organization.
3. That the Decision found:

### FACTS

- a. During all relevant periods herein, the Respondent was registered with the Exchange to transact business on the Exchange in accordance with Exchange Rules as a floor broker nominee of Israel A. Englander & Co., Inc. ("Englander").
- b. During all relevant periods herein, Market-Maker X was registered with the Exchange to transact business on the Exchange in accordance with Exchange Rules as a market-maker.
- c. During all relevant periods herein, Exchange Rules 4.1 - Just and Equitable Principles of Trade 6.24(a) - Orders Required to be in Written Form, 6.43 - Manner of Bidding and Offering, 6.51(a) - Reporting Duties, 6.73(a) - Responsibilities of Floor Brokers, 6.74(a) - "Crossing" Orders, 6.75 - Discretionary Transactions, 8.8 - Restriction on Acting as Market-Maker and Floor Broker, 15.1 - Maintenance, Retention and Furnishing of Books, Records, and Other Information, were each in full force and effect.
- d. During the approximate period between on or about January, 2000 and on or about December 22, 2000, the Respondent engaged in a course of conduct in which the Respondent, while ostensibly representing orders for Market-Maker X's market-maker account, in fact initiated and effected numerous transactions for Market-Maker X's market-maker account, and in numerous other cases exercised discretion over the choice of option class to be traded, the number of contracts to be traded, and/or whether the contracts should be purchased or sold.
- e. During the approximate period between on or about January 4, 2000 and on or about December 22, 2000, the Respondent on numerous days engaged in a course of conduct in which the Respondent represented himself to be acting solely in an agency capacity as a floor broker in S&P 100 ("OEX") option contracts, representing orders for public customers, market-makers and firms, when in fact he was also acting on those same days as a market maker in the OEX, by initiating and executing options transactions and causing the resulting options transactions to be submitted for clearance into Market-Maker X's market-maker account.

## Notice of Hearing

3

- f. During the approximate period between on or about January 4, 2000 and on or about December 14, 2000, the Respondent executed numerous in person option transactions with Market-Maker X in the trading crowd in a noncompetitive manner without open outcry.
- g. During the approximate period between on or about January 4, 2000 and on or about December 22, 2000, the Respondent executed numerous option transactions by crossing option orders the Respondent represented on behalf of public customers, market-makers, and firms with option orders for Market-Maker X's market-maker account in a noncompetitive manner without open outcry.
- h. During the approximate period between on or about January 4, 2000 and on or about December 22, 2000, on numerous occasions while handling orders he was executing for Market-Maker X as well as for public customers, other market-makers, and firms, the Respondent engaged in a course of conduct in which he allocated more favorable prices to Market-Maker X in a manner that may have disadvantaged the other public customers, market-makers, and firms the Respondent was representing as agent.
- i. During the approximate period between on or about January 4, 2000 and on or about December 22, 2000, the Respondent failed to promptly time-stamp numerous order tickets used to execute options transactions for Market-Maker X's market-maker account.
- j. During the approximate period between on or about January 4, 2000 and on or about December 22, 2000, the Respondent failed to record accurate execution times on numerous order tickets used to execute transactions for Market-Maker X's market-maker account.
- k. During the approximate period between on or about January 4, 2000 and on or about December 22, 2000, the Respondent failed to submit and/or promptly submit numerous options sales transactions to the Exchange for price reporting.
- l. During the approximate period between on or about July 3, 2000 and on or about September 25, 2000, the Respondent failed to ensure that numerous off-floor order tickets for options orders the Respondent executed on Market-Maker X's behalf were initialed by the receiving party and marked with a "P" to indicate that they were off-floor market-maker orders. The Respondent also failed to ensure that these order tickets were properly marked as opening or closing transactions.

## Notice of Hearing

4

- m. The Respondent failed to keep and preserve records, including floor broker "greens," i.e., copies of the order tickets he executed on Market-Maker X's behalf during the third quarter of 2000, such that the Respondent was unable to provide Exchange staff with the greens when they requested them.

### FINDINGS

The acts, practices, and conduct described in sub-Paragraph d above constitute violations of Exchange Rules 4.1 and 6.75 by the Respondent in that the Respondent engaged in a course of conduct in which the Respondent, while ostensibly acting as a floor broker for Market-Maker X, initiated numerous options transactions for Market-Maker X's market-maker account, and in numerous other instances exercised discretion over the choice of option class to be traded, the number of contracts to be traded, and whether the option contracts should be bought or sold.

The acts, practices, and conduct described in sub-Paragraph e above constitute violations of Exchange Rules 4.1, 6.73(a), and 8.8 by the Respondent, in that the Respondent engaged in a course of conduct in which the Respondent, on numerous days when he represented himself to be acting solely as a floor broker on behalf of numerous public customers, market-makers, and firms, in fact also acted on the same days in the same option classes as a market-maker acting on behalf of Market-Maker X's market-maker account.

The acts, practices, and conduct described in each of sub-Paragraphs f and g above constitute violations of Exchange Rule 6.43 by the Respondent in that the Respondent executed numerous option transactions in a non-competitive manner without open outcry.

The acts, practices, and conduct described in sub-Paragraph g above constitute violations of Exchange Rule 6.74(a) by the Respondent in that the Respondent executed crosses of numerous option transactions without open outcry in a non-competitive manner.

The acts, practices, and conduct described in sub-Paragraph h above constitute violations of Exchange Rules 4.1 and 6.73(a) by the Respondent, in that the Respondent engaged in a course of conduct in which the Respondent, while handling orders for Market-Maker X as well as other public customers, market-makers, and firms, allocated more favorable prices to Market-Maker X in a manner that may have disadvantaged the other public customers, market-makers, and firms.

The acts, practices, and conduct described in each of sub-Paragraphs i and l above constitute violations of Exchange Rule 6.24(a) by the Respondent in that the Respondent failed to properly time-stamp numerous order

Notice of Hearing

5

tickets for Market-Maker X's market-maker account to record the time of their receipt on the floor, and also failed to ensure that numerous off-floor order tickets for Market-Maker X's market-maker account were marked to indicate that they were off-floor market-maker orders, as well as were marked to indicate whether they were opening or closing transactions.

The acts, practices, and conduct described in each of sub-Paragraphs j and k above constitute violations of Exchange Rule 6.51(a) by the Respondent in that the Respondent in numerous cases failed to record accurate execution times and/or promptly submit options sales transactions to the Exchange for price reporting.

The acts, practices, and conduct described in sub-Paragraph m above constitute violations of Exchange Rule 15.1 by the Respondent in that the Respondent failed to keep and preserve "green" copies of the order tickets he executed on Market-Maker X's behalf during the third quarter of 2000, such that the Respondent was unable to provide Exchange staff with the greens when they requested them.

4. That Section 8.E(1)(j) of the Act provides, inter alia, that the registration of a salesperson may be revoked if the Secretary of State finds that such Salesperson has been suspended by any self-regulatory organization Registered under the Federal 1934 Act or the Federal 1974 Act arising from any fraudulent or deceptive act or a practice in violation of any rule, regulation or standard duly promulgated by the self-regulatory organization.
5. That the CBOE is a self-regulatory organization as specified in Section 8.E(1)(j) of the Act.
6. That by virtue of the foregoing, the Respondent's registration as a Salesperson in the State of Illinois is subject to revocation pursuant to Section 8.E(1)(j) of the Act.

You are further notified that you are required pursuant to Section 130.1104 of the Rules and Regulations (14 ILL. Adm. Code 130) (the "Rules"), to file an answer to the allegations outlined above within thirty (30) days of the receipt of this Notice. A failure to file an answer within the prescribed time shall be construed as an admission of the allegations contained in the Notice of Hearing.

Notice of Hearing

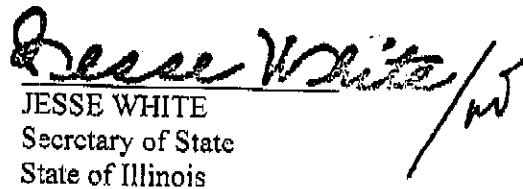
6

Furthermore, you may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate. A failure to so appear shall constitute default, unless any Respondent has upon due notice moved for and obtained a continuance.

A copy of the Rules, promulgated under the Act and pertaining to hearings held by the Office of the Secretary of State, Securities Department, is included with this Notice.

Delivery of Notice to the designated representative of any Respondent constitutes service upon such Respondent.

Dated: This 25<sup>th</sup> day of March 2010.

  
JESSE WHITE  
Secretary of State  
State of Illinois

Attorney for the Secretary of State:  
Daniel A. Tunick  
Office of the Secretary of State  
Illinois Securities Department  
69 West Washington Street, Suite 1220  
Chicago, Illinois 60602  
Telephone: (312) 793-3384

Hearing Officer:  
James L. Kopecky  
190 S. LaSalle  
Chicago, Illinois 60603