

NEW YORK STOCK EXCHANGE, INC.

**EXCHANGE HEARING PANEL DECISION 05-17**

January 26, 2005

P. CAMPBELL HILLSTROM  
REGISTERED REPRESENTATIVE

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**Caused a violation of Exchange Rule 472 by disseminating an electronic communication which caused misleading information to reach the marketplace; disseminated an electronic communication without verifying the information and which had a negative market impact – Consent to censure, nine week suspension, and \$40,000 fine.**

**Appearances:**

For the Division of Enforcement  
Myles L. Orosco, Esq.

For the Respondent  
Carl H. Loewenson, Jr., Esq.  
Sarah Rosell, Esq.

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An Exchange Hearing Panel met to consider a Stipulation of Facts and Consent to Penalty entered into between the Exchange's Division of Enforcement and P. Campbell Hillstrom, a registered representative with Citigroup Global Markets Inc. (the "Firm"). Without admitting or denying guilt, Mr. Hillstrom consents to findings by the Hearing Panel that:

- I. He caused a violation of Exchange Rule 472, in that he disseminated an electronic communication concerning securities which caused misleading information to reach the marketplace.
- II. He violated Exchange Rule 476(a)(6), in that he engaged in conduct inconsistent with just and equitable principles of trade by disseminating an electronic communication without verifying the information contained in the e-mail, and which had a negative market impact.

For the sole purpose of settling this disciplinary proceeding, and without Mr. Hillstrom admitting or denying guilt, the Division of Enforcement and Mr. Hillstrom stipulate to certain facts, the substance of which follows:

**Background and Jurisdiction**

1. P. Campbell Hillstrom ("Hillstrom") was born on April 1, 1970. In September 1993, Hillstrom entered the securities industry as a floor trader on an overseas futures exchange. Hillstrom remained in that position for two years until he entered Columbia University Business School, and earned an M.B.A. in finance in 1998. In

August 1998, Hillstrom began a training program with the Firm, (prior to April 2003, the Firm's business entity name was Salomon Smith Barney, Inc.), where he is currently employed as an Institutional Equity Salesman in the Firm's Chicago, Illinois branch office. Hillstrom has been employed in the securities industry for seven years and has not been the subject of disciplinary action.

2. In June 2000, Hillstrom authored and circulated an e-mail to two customers and certain employees of the Firm relating to a particular listed company (the "Company"). Another institutional salesman employed by the Firm received Hillstrom's e-mail and, without Hillstrom's knowledge or approval, forwarded it to customers of the Firm.
3. In the e-mail, Hillstrom stated that a research analyst of the Firm did not cover three of the four companies mentioned, including the Company. At least one recipient of the e-mail misread it to state that a Firm analyst covered Company stock and had downgraded it. This misperception, in addition to certain information contained in the e-mail, caused an increase in the Company's trading volume and a decline in its stock price, both of which differed significantly from the stock's activity in the prior two-week period.
4. The Division of Market Surveillance ("MKS"), opened an investigation to review the trading activity of the Company, and later investigated the circumstances surrounding the publication of an e-mail from Hillstrom relating to the Company. MKS subsequently referred the matter to Enforcement, and by letter dated January 14, 2002, Hillstrom was notified of the Exchange's investigation.

### **Overview**

5. As set forth below, in June 2000, Hillstrom violated Exchange Rules in that he drafted and sent an electronic communication, which contained misleading information about Company stock that he attributed to a Firm analyst. In addition, in the e-mail, although Hillstrom stated that the Firm did not cover the stock, the electronic communication resulted in a misperception in the market that a Firm analyst had downgraded the stock. This misperception, in addition to certain information contained in the e-mail, caused a sharp decline in the stock's price.

### **Hillstrom's E-mail, its Preparation and Dissemination**

6. On June 20, 2000, Hillstrom and an equity analyst ("analyst") for the Firm specializing in the apparel, footwear and textile industries, met at a client meeting in Chicago. After the meeting, Hillstrom and the analyst discussed three or four apparel companies, including the Company.
7. In response to a request by Hillstrom for ideas of issuers to short, the analyst told Hillstrom that there was concern in the industry relating to the inventory levels and

backlog numbers of the Company; however, she told Hillstrom that she did not cover or prepare market analyses relating to the Company.

8. Upon returning to his office at the Firm's Chicago, Illinois branch, Hillstrom researched the companies discussed with the analyst, including the Company. He then wrote an e-mail about short ideas related to these companies. Some of the information contained in the e-mail came from his discussions with the analyst; however, Hillstrom did not verify or confirm the information in the e-mail with the analyst. Hillstrom sent the e-mail in the early afternoon of June 20, 2000.
9. In addition to the Company, Hillstrom's e-mail referenced three other companies. The subject line of the e-mail was "Short ideas in Apparel Names." In his opening comments, Hillstrom wrote, "Just spent some time with [the analyst], our Apparel & Footwear analyst, and she had several ideas for shorts, listed below in order of urgency. [Another specified company] is the only name we have under coverage."
10. Referring to the Company, Hillstrom wrote the following in his e-mail:
 

The high-end jeans maker is rapidly trying to grow – adding 30 retail stores by year-end after not adding any for several years. Its jeans are not nearly as hot as they once were, yet they are expanding more rapidly than years past. [She] is confident the two brothers who run the company cannot manage their way during down times. Its sales backlog is grossly inflated because it sends products to its retail stores and books it as backlog. [She] tells me this is unheard of in the industry, and that by definition backlog must come from outside vendors. She thinks it is not unlikely that they miss numbers in the months ahead, and that they will have big problems down the road. She passed on the banking business, as did other major houses, when they were looking to do a secondary this spring, that they later pulled because of market conditions. Stock has fallen a lot, but she thinks it can go a lot lower, as earnings quality further deteriorates.
11. Without discussing or confirming the content of the e-mail with the analyst, Hillstrom sent the e-mail to two of his clients who had previously expressed interest in short ideas, particularly relating to the apparel industry. He also sent the e-mail to several other salesmen in the Firm and to his direct supervisor, the Firm's Illinois branch office manager, who was on vacation. One of the salesman to whom Hillstrom sent the e-mail thereafter forwarded Hillstrom's e-mail to approximately 13 clients at seven financial services companies interested in retail stocks.

### **The E-mail and its Market Effect**

12. Hillstrom's e-mail contained certain inaccurate and misleading information related to the Company. For example, Hillstrom asserted in his e-mail that the Company was "adding more than 30 retail stores...after not adding any for several years." The company, however, had opened many stores over the past few years. Further, Hillstrom's assertion that the Company's "jeans are not nearly as hot as they once

were,” was misleading in that, according to the analyst, during 2000 the jeans were selling very well in status denim.

13. Moreover, in the e-mail, Hillstrom stated that the Company’s sales backlog was “grossly inflated,” whereas the analyst had stated that there was some confusion as to what the company included in its backlog numbers.
14. On June 20, 2000, the Company opened at a price of  $15^{15/16}$ . After Hillstrom sent the e-mail, the price of the Company began to decline and closed at  $15^{14/16}$ , or .625 cents lower than its opening price. On the morning of June 21, 2000, the price of the Company opened at  $15^{10/16}$ , or .25 cents lower than its closing price on June 20, 2000. Thereafter, during the day on June 21, the Company’s stock fell \$5.625 before beginning a recovery. The stock traded at a low of  $11^{2/16}$  and closed at a price of  $13^{8/16}$ , or \$2.375 lower than its opening price. The volume of the stock on the Exchange was approximately ten times its average volume for the two-week period immediately preceding June 21, 2000.
15. Hillstrom’s e-mail resulted in a misperception in the market that the analyst had downgraded the stock. On June 21, 2000, Dow Jones news service issued a news report quoting analysts and a Company spokesperson, each of whom had received Hillstrom’s e-mail. Each attributed the activity in the Company’s stock to Hillstrom’s e-mail.

### Violations

16. Under “General Standards for All Communications,” as specified in Exchange Rule 472.30(i), which was in force and effect in June 2000, “[n]o member or member organization shall utilize any communication which contains any untrue statement or omission of a material fact or is otherwise false or misleading.” (In the Exchange’s Constitution and Rules, as revised in August 2003, Exchange Rule 472.30(i) was redesignated as Exchange Rule 472(i), under a section titled, “General Standards for All Communications.”).
17. Exchange Rule 472.10, defines “communication” to “include, but is not limited to advertisements, market letters, research reports, sales literature, electronic communications, communications in and with the press and wires and memoranda to branch offices or correspondent firms which are shown or distributed to customers or the public.”
18. Exchange Rule 476(a)(6) prohibits member organizations and employees of member organizations from engaging in practices that constitute conduct inconsistent with just and equitable principles of trade.
19. Based upon these governing rules, Hillstrom violated Exchange Rules 472.30(i) and 476(a)(6) in that, prior to sending the e-mail relating to the Company to customers, Hillstrom did not review the e-mail with the analyst. As a result, Hillstrom caused a

violation of Exchange Rule 472.30(i) by sending a communication concerning securities that caused misleading information to reach the marketplace.

20. In addition, Hillstrom violated Exchange Rule 476(a)(6), in that he engaged in conduct inconsistent with just and equitable principles of trade by disseminating an electronic communication without verifying the information contained in the e-mail, and which had a negative market impact.

### **DECISION**

The Hearing Panel, in accepting the Stipulation of Facts and Consent to Penalty, found Mr. Hillstrom guilty as set forth above by unanimous vote.

### **PENALTY**

In view of the above findings, the Hearing Panel, by unanimous vote, imposed the penalty consented to by Mr. Hillstrom of a censure; a nine week suspension from membership, allied membership, approved person status, and from employment or association in any capacity with any member or member organization; and a \$40,000 fine.

For the Hearing Panel

Milton M. Stein – Hearing Officer  
Panelists:  
Frank Carl Scheuer, Jr.  
Peter A. Wiener