

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 02-26

January 30, 2002

TIMOTHY SCOTT HEETLAND

FORMER REGISTERED REPRESENTATIVE

* * *

Caused a violation of Rule 345(a) by performing the duties of a registered representative when he was not approved by the Exchange; violated Rule 345.12 by submitting a U-4 containing false information and violated Rule 476(a)(10) by making a misstatement on an Exchange application – Censure and 8 month bar.

Appearances:

For the Division of Enforcement
Martin S. Mazur, Esq.
Virginia J. Harnisch, Esq.
Michael C. Grey

For the Respondent
No Appearance

* * *

An Exchange Hearing Panel conducted a hearing on charges contained in a Charge Memorandum issued by the Exchange's Division of Enforcement against Timothy Scott Heetland, a former registered representative, employed by Charles Schwab & Co., Inc. (the "Firm"). Mr. Heetland was charged with having:

- I. Caused a violation of Exchange Rule 345(a) in that he performed regularly the duties customarily performed by a registered representative when he was not approved as a registered representative by the Exchange.
- II. Violated Exchange Rule 345.12 by preparing and submitting a Form U-4 containing false information.
- III. Violated Exchange Rule 476(a)(10) by making a misstatement on an application for approval filed with the Exchange.

Mr. Heetland did not submit an Answer to the Charge Memorandum and neither Mr. Heetland nor any person on his behalf appeared at the hearing in this matter. At the hearing, the Division of Enforcement moved pursuant to Exchange Rule 476 to have the facts in the Charge Memorandum deemed admitted because Mr. Heetland did not submit an Answer. After receiving evidence, the Hearing Panel granted the motion and found as follows:

Background and Jurisdiction

1. Timothy Scott Heetland ("Heetland") was born on September 4, 1969.

2. Heetland entered the securities industry in March 1996 and was approved as a registered representative by the New York Stock Exchange, Inc. (the "Exchange") in July 1996.
3. Heetland joined the Firm in December 1998 as a non-registered employee, pending Exchange approval of the transfer of his registration.
4. In a Form U-5 Uniform Termination Notice for Securities Industry Registration ("Form U-5"), received by the Exchange on May 4, 1999, the Firm reported that Heetland's employment was terminated on April 1, 1999, with an explanation to follow.
5. In an amended Form U-5, received by the Exchange on July 13, 1999, the Firm reported that Heetland's employment was terminated for accepting and entering customer orders prior to the transfer of his registration.
6. By letter dated November 16, 1999 (the "November Letter"), sent to his last known address of record, Heetland was advised of the Exchange's investigation by certified and first class mail. As evidenced by a signed return receipt, the letter was received at Heetland's address.

Performance of the Duties of a Registered Representative Without Exchange Approval

7. In December 1998, Heetland was hired by the Firm as a non-registered employee.
8. Heetland's registration was not transferred at the time he was employed or thereafter for the reasons set forth in paragraphs 19 to 22.
9. Heetland was instructed by Firm personnel during his training not to enter customer orders until his registration had been transferred.
10. Heetland was assigned to a trading team headed by AB, a Team Manager. Heetland was provided with a computer access code that did not permit him to enter customer orders.
11. In early 1999, AB established a procedure under which Heetland could obtain order information from a customer, prepare a computerized order entry form, and then have AB or another registered person confirm and enter the order.
12. Under that procedure, AB would log on to Heetland's computer by using his access code on a daily basis.¹
13. By utilizing AB's access code, Heetland was able to complete an order entry form.
14. However, Heetland was instructed by AB to have AB or another registered person verify the information with the customer and actually enter the order.

¹ AB was able to log on to Heetland's computer while remaining logged on to his own computer.

15. At all relevant times, Schwab audiotaped telephone calls between its representatives and customers.
16. In March 1999, a review of the Firm's audiotapes based upon a customer inquiry revealed that Heetland had entered an order for this customer on his own, utilizing AB's access code.
17. Firm management conducted a review to ascertain whether Heetland had engaged in a similar practice on other occasions.
18. The review determined that Heetland had personally entered up to 52 orders during February and March 1999, while he was unregistered.

Misstatement on Form U-4

19. On March 1, 1988, Heetland was arrested by the Valley City, North Dakota Police Department and charged with theft shoplifting. The charge was subsequently dismissed.
20. On February 16, 1999 in connection with his registration and employment with the Firm, Heetland executed a Form U-4 Uniform Application for Securities Industry Registration or Transfer ("Form U-4").
21. Question 22B on the Form U-4 asks, in pertinent part: "Have you ... ever been charged with any felony or charged with a misdemeanor specified in [Question 22] A in a domestic, foreign, or military court?" Question 22A specifies the "wrongful taking of property."
22. Heetland responded in the negative to Question 22B on the Form U-4 which he authorized the Firm to submit to regulatory authorities. Due to Heetland's 1988 charge of theft shoplifting, his response to Question 22A was false.

DECISION

The Hearing Panel, by unanimous vote, found Mr. Heetland guilty as charged.

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Mr. Heetland be censured and barred from membership, allied membership, approved person status, and from employment or association in any capacity with any member or member organization for a period of eight months.

For the Hearing Panel

Edward W. Morris, Jr.
Chief Hearing Officer