

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 02-178

September 17, 2002

KARI K. CAMPBELL

FORMER NON-REGISTERED EMPLOYEE

* * *

Misappropriated customer funds and violated Rule 477 by failing to comply with the Exchange's request for information – Censure and permanent bar.

Appearances:

For the Division of Enforcement
Martin S. Mazur, Esq.
Daniel E. Eisenberg, Esq.

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 Kari K. Campbell, a former non-registered employee with Merrill Lynch, Pierce, Fenner & Smith Inc. (the "Firm"). Ms. Campbell was charged with having:

- I. Engaged in conduct inconsistent with just and equitable principles of trade in that she misappropriated funds belonging to a customer of her member organization employer.
- II. Violated Exchange Rule 477 by failing to comply with a request by the Exchange for information concerning matters that occurred prior to the termination of her employment as a non-registered employee of a member organization.

Ms. Campbell did not submit an Answer to the Charge Memorandum and neither she nor any person on her 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 Ms. Campbell did not submit an Answer. The Hearing Panel granted the motion and found as follows:

Background and Jurisdiction

1. Kari K. Campbell ("Campbell") was born on October 7, 1976. She entered the securities industry with the "Firm" in November 1995. She remained with the Firm until she resigned on April 12, 2001 and is not currently employed in the securities industry.

2. While Campbell was employed with the Firm, she was a Cashier from November 1995 to March 1997 when she became a Service Support Controller. In May 1999, Campbell became a Client Associate (“CA”)¹ and remained as such until her resignation.
3. The Division of Enforcement (“Enforcement”) opened this case on June 4, 2001 as a result of the Exchange’s receipt on May 29, 2001 of a Form RE-3 from the Firm stating that Campbell had misappropriated approximately \$22,865 from a customer account.
4. By letter dated July 10, 2001, sent by first class mail at her last known address on Exchange records, which Campbell received, Enforcement notified her that it was inquiring into certain matters, which had occurred during her employment with the Firm and requested her to submit a detailed written explanation of that matter to Enforcement.
5. On August 1, 2001, Enforcement received a reply (“the Reply”) to that letter from Campbell.

Misappropriation

6. On February 20, 2001, XYZ, a Firm customer, deposited three checks totaling \$22,865.26 to its account number 278-07J59. The funds were erroneously deposited into account number 278-07L59, in the name of ABC, a partnership that is an unrelated customer.
7. DE, the Registered Representative servicing the ABC account, noted this deposit during a routine review of customers’ cash balances. Since the account had been completely inactive for about two years, she thought that there was something unusual about the deposit and assigned Campbell to investigate it.
8. On March 14, 2001, Campbell had the Firm draw a check for \$22,865.26 (“the Check”), the total amount of the deposit, from the ABC account payable to a bank.
9. Thereafter Campbell obtained the Check.
10. On or about April 3, 2001, Campbell opened both a savings and checking account at the bank. On or about April 4, 2001, Campbell deposited the Check into her savings account at the bank and then transferred the funds into her checking account. Thereafter, Campbell withdrew all of the funds.

¹ Merrill terminology for sales assistant.

Failure to Cooperate

11. By letter dated October 31, 2001, sent by first class mail to her last known address on Exchange records, which Campbell received, Enforcement confirmed a telephone conversation with her in which she had been advised that the Reply had been destroyed on 9/11 and requesting her, since she said that she did not have a copy of the Reply, to send another letter of explanation to Enforcement. That letter advised Campbell that her failure to provide the requested information might result in the institution of formal disciplinary proceedings against her based upon such failure pursuant to Exchange Rule 477.
12. Since Campbell had not responded to that letter, Staff called her and Campbell stated that her attorney had instructed her not to respond or to otherwise cooperate with the Exchange.
13. To date Campbell has not provided the requested written explanation.

DECISION

The Hearing Panel, by unanimous vote, found Ms. Campbell guilty as charged.

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Ms. Campbell be censured and permanently barred from membership, allied membership, approved person status, and from employment or association in any capacity with any member or member organization.

For the Hearing Panel

Edward W. Morris, Jr.
Chief Hearing Officer