

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 02-188

September 25, 2002

WILLIAM REMMERT VAHRENKAMP, JR.
FORMER REGISTERED REPRESENTATIVE

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Caused a violation of Exchange Rule 472(a) by posting an electronic communication to the public concerning securities on an Internet bulletin board without the knowledge or approval of his employer, and posted communications containing speculative statements concerning securities on an Internet bulletin board – Consent to censure and two month bar.

Appearances:

For the Division of Enforcement
Virginia J. Harnisch, Esq.
W. Kwame Anthony, Esq.

For the Respondent
James G. Cobb, 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 William Remmert Vahrenkamp, Jr., a former registered representative with PaineWebber Incorporated (the "Firm"). Without admitting or denying guilt Mr. Vahrenkamp consented to a finding by the Hearing Panel that he:

- I. Caused a violation of Exchange Rule 472(a) on one or more occasions by posting an electronic communication to the public concerning securities on an Internet bulletin board without the knowledge or approval of his member organization employer.
- II. Engaged in conduct inconsistent with just and equitable principles of trade by, on one or more occasions, posting on an Internet bulletin board, without approval from his member organization employer, communications containing speculative statements concerning one or more securities which might reasonably be expected to affect investor interest.

For the sole purpose of settling this disciplinary proceeding, the Division of Enforcement and Mr. Vahrenkamp stipulate to certain facts, the substance of which follows:

Background and Jurisdiction

1. William Remmert Vahrenkamp, Jr. ("Vahrenkamp") was born on [REDACTED]. He entered the securities industry in December 1998 when he became employed as a registered representative ("RR") trainee at the Fort Worth, Texas

branch office of the Firm. He was approved as an RR by the Exchange in April 1999. Vahrenkamp's employment with the Firm terminated in February 2000.

2. Thereafter, in April 2000, Vahrenkamp joined a non-member firm, where he worked for two weeks. Vahrenkamp is not currently employed in the securities industry in a registered capacity.
3. On or about March 10, 2000, the Exchange received a Form U-5 from the Firm reporting that Vahrenkamp's employment had terminated on or about February 16, 2000, after an internal investigation revealed that Vahrenkamp had failed to comply with Firm policies and procedures regarding the use of the Internet.
4. By letter dated July 10, 2000, which Vahrenkamp received, the Exchange's Division of Enforcement ("Enforcement") notified Vahrenkamp that it was investigating the allegations reported in the Form U-5.
5. Thereafter, Vahrenkamp appeared and testified in connection with the Exchange's investigation concerning the matter reported in the Form U-5.

Summary of Violative Conduct

6. As set forth below, Vahrenkamp caused a violation of Exchange Rule 472(a) on one or more occasions by posting an electronic communication to the public concerning securities on an Internet bulletin board without the knowledge or approval of his member organization employer, and engaged in conduct inconsistent with just and equitable principles of trade by, on one or more occasions, posting on an Internet bulletin board, without approval from his member organization employer, communications containing speculative statements concerning one or more securities which might reasonably be expected to affect investor interest.

Improper Communications via the Internet

7. Exchange Rule 472(a) provides in relevant part, that "[e]ach advertisement, market letter, sales literature or other similar type of communication which is generally distributed or made available by a . . . member organization to customers or the public shall be approved in advance by a member, allied member, supervisory analyst or person designated under the provisions of [Exchange] Rule 342(b)(1)."
8. Beginning in June 1999, the Firm distributed to all its employees, including Vahrenkamp, a Guide to Electronic Communications, which states in substance that, unless authorized by the firm, use of the Internet, in connection with the touting of securities, participation in "bulletin boards", and use of the PaineWebber name on "chat rooms" for professional identification, is prohibited.
9. From on or about January 12, 2000 through on or about February 7, 2000, Vahrenkamp, without seeking or obtaining the Firm's authorization, accessed his

personal account at Yahoo through the Internet, utilizing the Firm's computers at his workplace.

10. During the period of January through February 2000, without the Firm's approval, he posted over 20 messages on Yahoo's finance bulletin boards and identified himself as an RR for the Firm. In these messages, Vahrenkamp touted various securities, such as ABC, DEF, GHI, JKL, and MNO (collectively, the "Securities").
11. Some of these postings contained speculative statements regarding the Securities. For example, Vahrenkamp posted this message regarding JKL:

<u>Date</u>	<u>Time</u>	<u>Message</u>
1/24/00	9:01 PM	Loving life. I own 20 contracts of this stock and I plan to sell for a HUUUUUUUUge profit. I guess I will post again at 25 dollars. Load up!!

Vahrenkamp posted this message regarding ABC:

02/07/00	11:30 AM	Idiots are selling right now, complete idiots. Here is our chance to get to take advantage of all those people that got in on the ground floor of companies like PQR, STU, VWX. Just think about it!
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Vahrenkamp posted this message regarding GHI:

01/28/00	9:12 AM	GHI a product of bad, confused.... Marketplace. Hold tight and be patient. I have tried to instill this into my clients. See you at 40 plus longs.
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DECISION

The Hearing Panel, in accepting the Stipulation of Facts and Consent to Penalty, found Mr. Vahrenkamp 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. Vahrenkamp of a censure and a two month bar 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

Vincent F. Murphy
Hearing Officer