

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 03-85

May 6, 2003

JANICE MARIE WILLIAMS

FORMER REGISTERED REPRESENTATIVE

* * *

Wrote off losses in her account and charged the losses to her employer without authorization, issued a check to pay for securities transactions when there were insufficient funds to cover the check; and violated Rule 477 by failing to comply with Exchange requests to provide testimony – Censure and five year bar.

Appearances:

For the Division of Enforcement
Joy A. Weber, Esq.
Robert K. Butani

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 Janice Marie Williams, a former registered representative with First Union Securities (the "Firm"). Ms. Williams was charged with having:

- I. Engaged in conduct inconsistent with just and equitable principles of trade in that on one or more occasions, she wrote off losses in her account and charged the losses to the Firm without authorization.
- II. Engaged in conduct inconsistent with just and equitable principles of trade in that she issued a check drawn on her account at a commercial bank and deposited the check into her account at the Firm to pay for securities transactions when she knew or should have known that there were insufficient funds to cover such check.
- III. Violated Exchange rule 477 in that she failed to comply with Exchange requests that she provide testimony concerning matters which occurred prior to the termination of her employment with a member organization.

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

Background and Jurisdiction

1. Janice Marie Williams (“Williams”) was born on December 28, 1972. She entered the securities industry in September 1995. She was employed by the Firm from October 2000 to June 2001.
2. A Form RE-3 dated August 10, 2001, reported Williams’s termination from the Firm on June 1, 2001. The Form RE-3 stated that Williams had been terminated for “inappropriate action in her personal brokerage account.” The Firm reported that Williams had been under investigation for violation of Firm policies regarding the cancellation of orders and receipt and disbursement of funds in her personal account.
3. On March 13, 2002, letters were sent by the Exchange to addresses listed on the Central Depository Registration for Williams and to an address provided by the Firm. Each letter was returned from the post office as undeliverable. One of the letters contained forwarding address information.
4. By letter dated March 26, 2002, sent to Williams at the forwarding address provided by the post office, and which Williams received, the Exchange notified Williams of its investigation into the Firm’s allegations.

Unauthorized Losses Charged to the Firm, Issuance of a Check Drawn on Insufficient Funds

5. Williams was employed as a Branch Operations Manager at the Firm. In her capacity as Branch Operations Manager, Williams, among other things, was able to access the Firm computer systems dealing with the cancellation of trades and “write-off” of losses.
6. In or about October 2000, Williams opened a cash account, a margin account and an option account at the Firm.
7. At month ending February 28, 2001, Williams’ cash account had a negative balance of approximately \$709.
8. A journal transaction described as a “write-off” in the amount of approximately \$709 thereafter appeared on Williams’ March 2001 monthly statement for her cash account.
9. On or about May 2, 2001, 100 shares of XYZ were purchased in Williams’ cash account for approximately \$6,647 and sold on May 7, 2001 for \$5,942.80 resulting in a loss of approximately \$704.

10. A confirmation notice dated May 7, 2001 indicated that the 100 shares of XYZ purchased in Williams' cash account on May 2, 2001 was cancelled due to a "billing error."
11. On or about May 17, 2001, 100 shares of XYZ were purchased in Williams' cash account for approximately \$5,607 and sold on May 25, 2001 for approximately \$5,229, resulting in a loss of approximately \$377.
12. A confirmation notice dated May 25, 2001 indicated that the 100 shares of XYZ purchased in Williams' cash account on May 17, 2001 was cancelled due to a "billing error."
13. Williams did not receive authorization to have the trades cancelled.
14. On or about May 23, 2001, 100 shares of UVW were purchased in Williams' cash account for approximately \$3,208.
15. Williams paid for the 100 share purchase of UVW with a check dated May 29, 2001 in the amount of approximately \$3,208.
16. On or about June 13, 2001, Williams' check dated May 29, 2001 in the amount of approximately \$3,208 was returned to the Firm's branch office by the Firm's Credit Department due to non-sufficient funds. To date, Williams has not reimbursed the Firm for this amount.

Failure to Cooperate

17. In response to the Exchange's letter dated March 26, 2002, by letter to the Exchange dated April 20, 2002, Williams provided a written statement in which she denied certain allegations without offering any substantiation.
18. By letter dated May 23, 2002, sent by certified mail return receipt requested and by first class mail, the Exchange requested Williams to testify in an on-the-record interview.
19. The certified copy of the Exchange's May 23, 2002 letter to Williams was returned to the Exchange marked "unclaimed." The copy sent by first class was not returned to the Exchange.
20. To date, Williams has not responded to the May 23, 2002 letter, nor has she provided testimony as requested.

DECISION

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

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Ms. Williams 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 five years.

For the Hearing Panel

Edward W. Morris, Jr.
Chief Hearing Officer