

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 03-149

July 29, 2003

BRODERICK N. CHAPMAN
FORMER NON-REGISTERED EMPLOYEE

* * *

Violated Exchange Rule 345.12 by submitting a Form U-4 containing false information, violated Exchange Rule 476(a)(10) by making a misstatement and/or omission of fact on his application for registration with the Exchange, failed to disclose a criminal conviction which made him subject to a statutory disqualification on an employment application – Censure and two year bar.

Appearances:

For the Division of Enforcement
Simon Swidler, Esq.
Clarence E. Sanders, Jr., Esq.

For the Respondent
Broderick N. Chapman
pro se

* * *

An Exchange Hearing Panel conducted a hearing on charges brought by the Exchange's Division of Enforcement against Broderick N. Chapman, a former non-registered employee with Morgan Stanley DW Inc. (the "Firm"). Mr. Chapman was charged with having:

- I. Violated Exchange Rule 345.12 by submitting a Form U-4 Uniform Application for Securities Registration and Transfer containing false information.
- II. Violated Exchange Rule 476(a)(10) by making a misstatement and/or omission of fact on his application for registration with the Exchange.
- III. Engaged in conduct inconsistent with just and equitable principles of trade in that he failed to disclose a prior criminal conviction, which made him subject to a statutory disqualification, on an employment application submitted to his member organization employer.

Mr. Chapman did not submit an Answer to the Charge Memorandum. He appeared at the hearing by telephone. After hearing from Mr. Chapman the Hearing Panel determined that he did not have adequate reason to excuse his failure to file an Answer. Therefore his defense options were limited by the provisions of Exchange Rule 476(d). At the hearing, the Division of Enforcement moved, pursuant to Exchange Rule 476, to have the facts alleged in the Charge Memorandum deemed admitted since Mr. Chapman had failed to file an Answer. The motion was granted and the Hearing Panel found as follows:

Background and Jurisdiction

1. Broderick N. Chapman ("Chapman") was born on October 13, 1969. His only employment in the securities industry has been with the Firm, where he was employed in non-registered capacities as a sales assistant and a registered representative trainee, from March 7, 2000 through January 31, 2002.
2. On February 1, 2002, the Firm reported to the New York Stock Exchange, Inc. (the "Exchange") via an Electronic Form U-5 Uniform Termination Notice for Securities Industry Registration ("Form U-5"), that Chapman's employment was terminated on January 31, 2002.
3. By letter dated October 2, 2002, the Exchange notified Chapman it was investigating the allegations set forth on the Form U-5.

Failure to Disclose Criminal Conviction

4. In or about April 1993, Chapman was arrested by the City of Atlanta Police Department in Atlanta, Georgia, and charged with, among others things, "Giving a False Name to Police."
5. On April 4, 1993, Chapman was convicted by the City Court of Atlanta, of the charge of "Giving a False Name/Information to Police," a misdemeanor. Chapman's conviction became final on April 4, 1993.
6. Under §3(a)39(F) and §15(b)(4) of the Securities Exchange Act of 1934 (the "Exchange Act"), Chapman's misdemeanor conviction for "Giving a False Name/Information to Police" subjected him to a statutory disqualification from April 4, 1993 to April 4, 2003, because it involved the "making of a false report," as specified in subsection (B)(i) of Section 15(b)(4) of the Exchange Act.
7. While seeking a position with the Firm on or about February 26, 2000, Chapman completed an employment application ("Application"), which asked, "Have you ever been convicted or pleaded no contest to a felony of any kind, or of a misdemeanor involving Embezzlement, Theft, Counterfeiting, Forgery, Fraud, False Statements, Misappropriation of Funds, Abuse or Misuse of a Fiduciary Relationship, or a Purchase or Sale of any security arising out of the conduct of a Broker-Dealer?"
8. Chapman failed to disclose his conviction for "Giving a False Name/Information to Police," on the Application.
9. On or about March 7, 2000, Chapman commenced employment with the Firm as a sales assistant in the Firm's Atlanta, Georgia branch office. Thereafter, in or about April 2001, Chapman began working as a registered representative trainee.

10. On or about May 31, 2001, Chapman submitted to the Firm a Form U-4 Uniform Application for Securities Industry Registration or Transfer (“Form U-4”), which was filed with the Exchange.
11. Question 23B (1)(a) of the Form U-4 asked, in pertinent part, “Have you ever been convicted of or pled guilty or nolo contendere (“no contest”) in a domestic, foreign or military court to a misdemeanor involving: investments or an investment-related business or any fraud, false statements ... perjury ...?” Question 23B (1)(b) asked, “Have you ever been charged with a misdemeanor specified in 23B(1)(a)?”
12. To questions 23B(1)(a) and 23B(1)(b) of the Form U-4, Chapman falsely answered “NO.”

DECISION

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

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Mr. Chapman be censured and barred for two years 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