

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 03-154

August 18, 2003

PATRICK W. DONOHUE

FORMER REGISTERED REPRESENTATIVE

* * *

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

Appearances:

For the Division of Enforcement
David H. Steiner, Esq.
Steven M. Tanner, Esq.

For the Respondent
No Appearance

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An Exchange Hearing Panel conducted a hearing on charges brought by the Exchange's Division of Enforcement against Patrick W. Donohue, a former registered representative with Quick & Reilly, Inc. (the "Firm"). Mr. Donohue was charged with having:

- I. Engaged in conduct inconsistent with just and equitable principles of trade by misappropriating funds belonging to a customer of his member firm employer.
- II. Violated Exchange Rule 477 by failing to comply with a written request of the Exchange for information regarding certain matters which had occurred prior to the termination of his status as a registered employee of a member organization.

Mr. Donohue did not submit an Answer to the Charge Memorandum. Neither he 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 alleged in the Charge Memorandum deemed admitted since Mr. Donohue had failed to file an Answer. The motion was granted and the Hearing Panel found as follows:

Background and Jurisdiction

1. Patrick W. Donohue ("Donohue") was born in May 1973. He entered the securities industry in February 2000 as an employee in the operations area of the Firm.
2. Donohue was approved by the Exchange as an RR in June 2000, and became a registered representative at the Firm in approximately September 2001. According to

the CRD, he has not been employed in the securities industry in a registered capacity since leaving the Firm in April 2002.

3. In about August 2002, the Exchange received from the Firm a Form U-5 (Uniform Termination Notice for Securities Industry Registration) reporting that Donohue's employment with the Firm had been terminated, and that Donohue had misappropriated funds from a customer's account.
4. Thereafter, Donohue failed to comply with Enforcement's requests for information, as set forth below.

Misappropriation From a Customer Account

5. In or about July 1988, RG opened an individual account at the Firm (the "RG Account"). The new account form for the RG Account, which is dated July 15, 1988, reported that at the time RG was 35 years old. In September 1988, RG also opened an individual retirement account at the Firm.
6. In or about September 2001, Donohue began to handle both of RG's accounts.
7. In or about April 2002, during preparation for an internal audit, the Firm discovered that Donohue had caused funds to be removed from the RG Account, as discussed below.
8. Donohue caused a \$2,000 check to be issued, dated February 22, 2002, which was drawn against the RG Account and made payable to Donohue (the "Check").
9. Thereafter, Donohue delivered to the Firm a letter of authorization ("LOA"), dated February 26, 2002, containing a signature purporting to be that of RG, and directing that \$2,000 be wired out of the RG Account to the bank account of "Pat Donahue" (sic). In response, the Firm wired the funds to Donohue's personal bank account.
10. Thereafter, Donohue delivered to the Firm another LOA, dated March 16, 2002, containing a signature purporting to be that of RG, and directing that \$4,000 be wired out of the RG Account to the bank account of "Pat Donahue" (sic). In response, the Firm wired the funds to Donohue's personal bank account.
11. Donohue subsequently admitted to the Firm that he forged the Check, and that he prepared the LOAs and forged RG's signatures on them. In a memorandum from Donohue to the Firm, dated April 10, 2002, Donohue pledged to make full restitution to any customers from whom he misappropriated funds, including the RG Account.
12. The Firm made restitution to RG in the amount of \$8,000.
13. To date, Donohue has not reimbursed the Firm for any portion of funds misappropriated.

Failure to Cooperate

14. By letter to Donohue dated August 8, 2002 (the "August 8 Letter"), sent to Donohue's last known address as reported in Exchange records, via certified mail, return receipt requested, and first class mail, the Exchange notified Donohue that it was investigating certain matters that had occurred while he was employed as an RR at the Firm, which included misappropriation of customer funds, and requested that he provide a written response to Enforcement.
15. The August 8 Letter advised Donohue that his failure to provide the requested written statement could result in the institution of formal disciplinary proceedings against him, based upon his failure to comply with the Exchange's request for information.
16. Donohue did not respond to the August 8 Letter. The August 8 Letter sent by certified mail was returned to the Exchange, marked "moved left no address." The August 8 Letter sent via first class mail was not returned to the Exchange.
17. After the certified copy of the August 8 Letter was returned to Enforcement, an Internet search disclosed two other possible addresses for Donohue, one in California, and one in Illinois.
18. By letters to Donohue dated October 3, 2002, sent to the newly discovered possible addresses by first class mail and certified mail, return receipt requested (the "October 3 Letter"), the Exchange notified Donohue that it was investigating certain matters that had occurred while he was employed as an RR at the Firm, which included misappropriation of customer funds, and requested that he provide a written response to Enforcement.
19. The October 3 Letter advised Donohue that his failure to provide the requested written statement could result in the institution of formal disciplinary proceedings against him, based upon his failure to comply with the Exchange's request for information.
20. Donohue did not respond to the October 3 Letter. Both copies of the October 3 Letter sent to the California address were returned to Enforcement marked "undeliverable as addressed" and "FOE" (forwarding order expired). The certified copy of the letter sent to the Illinois address was returned to Enforcement, marked "attempted, not known"; the first class copy was not returned to Enforcement.
21. After both certified copies of the October 3 Letter were returned, Enforcement made a further attempt to obtain a valid address for Donohue, but was unable to obtain one.
22. To date, Donohue has failed to comply with Enforcement's requests for information.

DECISION

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

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Mr. Donohue 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

Vincent F. Murphy
Hearing Officer