

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 03-184

October 2, 2003

VIKKI LEE POPE

FORMER NON-REGISTERED EMPLOYEE

* * *

**Failed to disclose prior criminal history on employment application;
violated Exchange Rule 477 by failing to comply with requests for
information – Censure and six year bar.**

Appearances:

For the Division of Enforcement
Steven J. Brostoff, Esq.
Aida Vernon, 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 Vikki Lee Pope, a former non-registered employee with Edward D. Jones & Co. (the "Firm"). Ms. Pope was charged with having:

- I. Engaged in conduct inconsistent with just and equitable principles of trade in that she failed to disclose to her member firm employer on an employment application her prior criminal history, which made her subject to a statutory disqualification.
- II. Violated Exchange Rule 477 in that she failed to comply with written requests by the Exchange for information concerning matters that occurred prior to the termination of her employment with a member firm.

Ms. Pope did not submit an Answer to the Charge Memorandum and neither Ms. Pope 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 alleged in the Charge Memorandum deemed admitted since Ms. Pope did not submit an Answer. The motion was granted and, on that basis, the Hearing Panel found as follows:

Background and Jurisdiction

1. Vikki Lee Pope ("Pope") was born on March 20, 1964. She entered the securities industry in January 2002 as a non-registered Branch Office Administrator with the Firm. The Firm terminated her employment on March 14, 2002. Pope is not presently employed in the securities industry.

2. On March 22, 2002, the Exchange received a "Submission of Required Information Pertaining to . . . Registered and Non-registered Employees" ("Form RE-3") from the Firm reporting that it had terminated Pope's employment because she failed to disclose prior criminal convictions on her employment application.
3. By letter dated July 30, 2002, mailed to Pope's last place of residence as reflected in Exchange records, Enforcement notified Pope that it was investigating the above matter.

Relevant Criminal History

4. Pope was arrested five times in the state of Georgia between 1985 and 1999. Four of the arrests resulted in convictions.
5. On or about April 30, 1985, Pope was arrested in Decatur, Georgia for passing bad checks. Subsequently, she was convicted of one count of Issuing a Bad Check, a misdemeanor, and sentenced to six months probation and a \$50 fine.
6. On or about March 23, 1986, Pope was arrested in Atlanta, Georgia for, among other things, Driving Under the Influence of Alcohol or Drugs ("DUI"), a misdemeanor. Subsequently, she pled no contest to the DUI charge. Pope received a one-year suspended sentence and was fined \$450.
7. On or about June 26, 1991, Pope was arrested in Canton, Georgia for DUI and a traffic violation. She pled no contest to the DUI charge on or about August 19, 1991 and was fined \$480.
8. On or about March 7, 1996, Pope was arrested in Decatur, Georgia and charged with passing bad checks in exchange for value. On or about April 9, 1996, Pope was convicted of two counts of Deposit Account Fraud, a misdemeanor. She was sentenced on each count to ten days in jail, to run concurrently, and an aggregate fine of \$500.
9. On or about October 26, 1999, Pope was arrested in Alpharetta, Georgia for passing a bad check. The case was dismissed on or about November 16, 1999 after Pope made restitution to the complainant.

Failure to Disclose

10. In January 2002, Pope applied for employment with the Firm in Georgia. On or about January 4, 2002, she filled out an employment application containing the following question: "Have you ever been convicted of, or pleaded guilty or no contest to, any felony or misdemeanor other than minor traffic offenses?" Pope answered "No" to this question.
11. Pope's convictions in 1985, 1986, 1991 and 1996 required her to answer "Yes" to the question.

12. Subsequent to the submission of the completed application, the Firm hired Pope. The Firm terminated Pope's employment on March 14, 2002, after her background check disclosed her criminal history.

Statutory Disqualification

13. Sections 3(a)(39)(F) and 15(b)(4)(b) of the Securities Exchange Act of 1934 provide that a person is subject to a statutory disqualification if she has been convicted of a designated offense, including a misdemeanor involving the "larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities," within 10 years of the filing of an application for association with an Exchange member organization.
14. Pope's conviction on two counts of Deposit Account Fraud in April 1996 subjects her to a statutory disqualification through April 2006.

Failure to Cooperate

15. By letters dated April 3 and May 30, 2002, mailed to Pope's last place of residence as reflected in Exchange records, Enforcement requested that Pope provide a written explanation for the allegation that she failed to disclose her criminal history to the Firm.
16. Pope did not submit a written statement as requested. On June 18, 2002, Pope told Enforcement, during a telephone conversation, that her criminal history was none of the Exchange's business and that she would not cooperate with Enforcement's investigation.
17. By letters dated July 30 and September 16, 2002, mailed to Pope's last place of residence as reflected in Exchange records, Enforcement again requested that Pope provide a written explanation for the allegation that she failed to disclose her criminal history to the Firm. The letters were sent by certified mail, return receipt requested, and a copy was sent by first class mail.
18. The certified mail correspondence was returned to the Exchange as unclaimed after several delivery attempts. The copies sent by first class mail were not returned.
19. In both letters, Pope was advised that she might be subject to disciplinary action if she failed to respond to the Exchange's requests for information.
20. To date, Pope has not provided the Exchange with a written explanation of her conduct in this matter. Recent efforts to contact Pope have also failed.

DECISION

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

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Ms. Pope 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 six years. This penalty incorporates the remaining period of Ms. Pope's statutory disqualification and an additional period for her misrepresentations on her employment application and her failure to cooperate in this matter.

For the Hearing Panel

Milton M. Stein
Hearing Officer