

NEW YORK STOCK EXCHANGE, INC.

**EXCHANGE HEARING PANEL DECISION 04-39**

March 9, 2004

KATHLEEN O'DOWD-HOOVER  
FORMER NON-REGISTERED EMPLOYEE

\* \* \*

**Failed to disclose felony conviction on employment application – Censure  
and a seven year bar.**

**Appearances:**

For the Division of Enforcement  
Allison A. Bishop, Esq.  
Melissa G. Gable, Esq.

For the Respondent  
No Appearance

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An Exchange Hearing Panel conducted a hearing on a charge brought by the Exchange's Division of Enforcement against Kathleen O'Dowd-Hoover, a former non-registered employee with Edward D. Jones & Co. Inc. (the "Firm"). Ms. O'Dowd-Hoover was charged with having engaged in conduct inconsistent with just and equitable principles of trade in that she failed to disclose a felony conviction on an application she submitted to her member firm employer, which made her subject to a statutory disqualification.

Ms. O'Dowd-Hoover did not submit an Answer to the Charge Memorandum, and neither Ms. O'Dowd-Hoover 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. O'Dowd-Hoover did not submit an Answer. The Motion was granted on proof of notice to Ms. O'Dowd-Hoover, and on that basis, and on evidence submitted, the Hearing Panel found as follows:

**Background and Jurisdiction**

1. Kathleen O'Dowd-Hoover ("O'Dowd-Hoover") was born on October 1, 1955. She entered the securities industry on or about October 15, 2002 as a non-registered employee of the Firm, where she worked until December 27, 2002. Since her termination, O'Dowd-Hoover has not been employed in the securities industry.
2. On December 31, 2002, the Exchange received a Form RE-3 from the Firm reporting that O'Dowd-Hoover's employment with the Firm was terminated on December 27, 2002 as a result of O'Dowd-Hoover's failure to disclose on an employment application that she had been convicted of Felony Theft.

3. The Exchange notified O’Dowd-Hoover of its investigation by letter dated April 30, 2003, which she received. She had responded to an initial Exchange inquiry by admitting she provided inaccurate information to the Firm “by mistake,” in applying for part time employment in a hard hit local economy.

### **Felony Arrest and Conviction**

4. On September 27, 1995, O’Dowd Hoover was arrested on the felony charges of Felony Theft and Felony Fraud.
5. On June 15, 1998, O’Dowd-Hoover pled guilty to one count of Theft, a felony, in the Superior Court of Arizona.
6. On June 15, 1998, O’Dowd-Hoover was sentenced to 120 days incarceration, \$4,053 restitution, and probation of three years.

### **Misstatement**

7. In connection with her employment at the Firm, O’Dowd-Hoover prepared and completed an application for employment dated September 23, 2002 (the “Application”).
8. On the employment application the following question appeared: “Have you ever been arrested or indicted for any felony...?”
9. In response to the question, O’Dowd-Hoover checked the box marked “No.” This was not accurate.

### **Statutory Disqualification**

10. Section 3(a)(39)(F) of the Securities Exchange Act of 1934 (the “Exchange Act”) states in pertinent part that, “A person is subject to a statutory disqualification with respect to membership or participation in, or association with a member of, a self regulatory organization if such member -- (F) has committed ... any offense specified in subparagraph (B) of such paragraph (4) [of section 15(b)] ...”
11. Section 15(b)(4)(B) of the Exchange Act provides for statutory disqualification for convictions, within ten years preceding the filing of any application for registration, of any felony.
12. Based on the above, O’Dowd-Hoover failed to disclose her prior conviction and pursuant to Section 3(a)(39)(F) and 15(b)(4)(B) of the Exchange Act O’Dowd-Hoover is statutorily disqualified from employment in the securities industry until June 2008 as a result of her felony theft conviction.

**DECISION**

The Hearing Panel, by unanimous vote, found Ms. O'Dowd-Hoover guilty as charged.

**PENALTY**

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Ms. O'Dowd-Hoover 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 seven years.

For the Hearing Panel

Milton M. Stein  
Hearing Officer