

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 04-106

July 7, 2004

JOHN A. LEONARD

FORMER REGISTERED REPRESENTATIVE

* * *

During an internal inspection, he concealed documents from his member firm employer – Consent to censure, two month bar and an undertaking.

Appearances:

For the Division of Enforcement

Susan E. Light, Esq.

Steven J. Brostoff, Esq.

George Tidona, Esq.

For the Respondent

John A. Leonard

pro se

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An Exchange Hearing Panel met to consider a Stipulation of Facts and Consent to Penalty entered into between the Exchange's Division of Enforcement and John A. Leonard ("Leonard"), a former registered representative with Fidelity Brokerage Services, LLC (the "Firm"). For the sole purpose of settling this disciplinary proceeding, and without admitting or denying guilt, Mr. Leonard consented to a finding by the Hearing Panel that he engaged in conduct inconsistent with just and equitable principles of trade in that, during an internal inspection, he concealed documents from his member firm employer:

For the sole purpose of settling this disciplinary proceeding, the Division of Enforcement and Mr. Leonard stipulate to certain facts, the substance of which follows:

Background and Jurisdiction

1. Leonard was born on May 10, 1954. He entered the securities industry in 1987 and was employed in a registered capacity by the Firm until October 2002. Leonard is not currently employed in the securities industry.
2. On October 31, 2002, the Firm reported to the Exchange that it had terminated Leonard's employment on October 1, 2002, for concealing internal paperwork containing signature guarantees that were not prepared in accordance with the Firm's policy.
3. By letter dated November 12, 2002, which Leonard received, Enforcement notified him that it was investigating the matter described above.

Summary

4. In July 2002, Leonard's branch office manager ("BOM") received notification from the Firm's internal inspection department that the branch office would be inspected shortly. In preparation for the inspection, the BOM reviewed branch documents, including letters of authorization. The BOM discovered a number of documents that had been signature guaranteed by two people who were not authorized by the Firm to do so. The BOM and Leonard agreed to conceal these documents from the Firm's inspectors by having Leonard temporarily remove them from the branch office.

Violative Conduct

5. The Firm had 88 branch offices, called "investor centers," throughout the United States. At the Firm's branch offices, customers met with registered representatives to discuss their accounts, learned about investments and placed orders to buy and sell securities. In addition, customers were able to initiate wire transfers of funds, open new accounts, and issue account instructions. Each branch office employed registered representatives who were supervised by an on-site branch office manager.
6. Employees from the Firm's internal inspection department conducted on-site internal inspections of branch offices on an annual basis. Branch offices were often notified in advance of the dates on which the inspections would occur.
7. Leonard was a registered employee at the Firm's Salt Lake City branch office and performed clerical as well as customer service duties.
8. Letters of authorization, called "letters of instruction" by the Firm, reflect certain customer instructions relating to transactions, including the transfer of assets. The Firm's policies and procedures required "signature guarantees" on letters of authorization by employee's who were authorized to do so.
9. In July 2002, Leonard's BOM received notification from the Firm's internal inspection department that the branch office would be inspected shortly. To prepare for the internal inspection, the BOM began an extensive review of branch office documents, including letters of authorization to determine if they were completed in accordance with the Firm's policies and procedures.
10. In conducting the review, Leonard's BOM discovered approximately 15 letters of authorization that were signature guaranteed by two persons who were not authorized by the Firm to do so.
11. Leonard was aware that previous branch managers had concealed problematic branch documents from internal inspectors so as to achieve an acceptable inspection result.
12. Shortly before the annual branch inspection, the BOM and Leonard agreed to conceal the problematic documents from the inspectors by having Leonard remove them temporarily from the branch office.

13. Prior to the branch inspection, Leonard removed the problematic documents and took them home where they remained until the inspection was completed.
14. Upon becoming aware of Leonard's actions, the Firm terminated his employment.

DECISION

The Hearing Panel, in accepting the Stipulation of Facts and Consent to Penalty, found Mr. Leonard guilty as set forth above by unanimous vote.

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, imposed the penalty consented to by Mr. Leonard of a censure, a two month bar from membership, allied membership, approved person status, and from employment or association in any capacity with any member or member organization, and an undertaking that he cooperate with the Division of Enforcement and testify truthfully in connection with any disciplinary proceedings relating to matters set forth in the Stipulation and Consent.

For the Hearing Panel

Vincent F. Murphy
Hearing Officer