

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 04-132

August 4, 2004

CHARLES C. TUNIS

FORMER REGISTERED REPRESENTATIVE

* * *

Violated Exchange Rule 477 by failing to comply with requests for information – Censure and bar until he complies.

Appearances:

For the Division of Enforcement
Anthony J. Cavallaro, Esq.
Richard R. Best, 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 Charles C. Tunis, a former registered representative with Legg Mason Wood Walker Incorporated ("Legg Mason") and with First Union Securities Incorporated, now known as Wachovia Securities, Inc. ("Wachovia"). Mr. Tunis was charged with having violated Exchange Rule 477 in that he failed to comply with the Exchange's written requests for information with respect to activities that occurred while he was an employee of a member organization.

Mr. Tunis did not submit an Answer to the Charge Memorandum, and neither Mr. Tunis 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. Tunis did not submit an Answer. The motion was granted and the Hearing Panel found as follows:

Background and Jurisdiction

1. Charles C. Tunis ("Tunis") was born on June 16, 1951.
2. Tunis' first position in the securities industry was with the Bank X from March 1978 until December 1989, where he was a Vice-President and Trust Officer. In January 1990, Tunis began working at Legg Mason as a Financial Advisor. He left Legg Mason in June 2000 and assumed a position, in the same month, with First Union, now known as Wachovia, also as a Financial Advisor.
3. Tunis was terminated from Wachovia on March 11, 2003, for violating the firm's policy regarding the concentration of securities in client accounts.

4. Tunis is not currently employed in the securities industry.
5. On or about April 9, 2001, an Amended Uniform Termination Notice for Securities Industry Registration (“Amended Form U-5”) was filed by Legg Mason reporting that it was conducting an internal investigation to review the nature and extent of trading in the account of E and AE (the “Es”). It also disclosed that two of Tunis’ customers, J and CR (the “Rs”), had a pending complaint with Legg Mason alleging that Tunis had engaged in unsuitable and excessive trading in their account.
6. On April 23, 2001, the Exchange, by first class mail, requested information from Tunis about the Rs’ allegations. Tunis responded to this letter on May 18, 2001, by providing an explanation of the activity in the account.

Failure to Cooperate

7. On or about February 20, 2002, Enforcement sent a letter to Tunis, by certified mail and return receipt requested and a copy by first class mail requesting information regarding the complaint by the customers, the Es.
8. Enforcement received the return receipt dated February 25, 2002, confirming that the letter was received at the posted address. Enforcement also received a response to the letter from Tunis via e-mail on February 26, 2002.
9. During the course of the investigation, on or about January 5, 2004, the Exchange received an Amended Form U-5 from Wachovia reporting that Tunis was a named party in a National Association of Securities Dealers arbitration proceeding involving a former customer of Tunis, GA. GA also alleged that Tunis engaged in unsuitable trading in her account.
10. In response to this notification, on February 2, 2004, Enforcement sent a letter to Tunis, via certified mail and return receipt and a copy by first class mail, informing him that the investigation into the allegations involving the Es’ account was continuing and requesting a detailed written explanation regarding his handling of the GA account.
11. The letter that was sent by certified mail and return receipt requested, was returned to the Exchange. The envelope was marked “Return To Sender” and “Unclaimed.” It also contained a forwarding address label stating that the recipient had moved to a new address and provided the new address. The copy of the letter that was sent via first class mail was not returned.
12. On or about March 10, 2004, Enforcement sent a letter to Tunis at the new address as stated on the prior returned envelope. This letter also requested a detailed written statement from Tunis about the GA account and included in the envelope was a copy of the February 2, 2004, letter. The letter was also sent by certified mail and return receipt requested and a copy was sent via first class mail.

13. The letter that was sent by certified mail and return receipt requested was again returned to Enforcement. This time, the envelope contained the stamp "Return to Sender" and "Unclaimed." However, the envelope did not have a forwarding address label. The copy that was sent via first class mail was not returned.
14. To date, Tunis has failed to contact the Exchange or provide the detailed written statement and information as requested.

DECISION

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

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Mr. Tunis 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 until he complies with the Exchange's requests with which he has failed to comply.

For the Hearing Panel

Vincent F. Murphy
Hearing Officer