

NEW YORK STOCK EXCHANGE, INC.

**EXCHANGE HEARING PANEL DECISION 04-140**

September 8, 2004

PAUL M. MINUTELLO

FORMER REGISTERED REPRESENTATIVE

\* \* \*

**Violated Exchange Rule 477 by failing to comply with requests for information – Censure and bar until he complies, to become permanent if he does not comply within three months.**

**Appearances:**

For the Division of Enforcement  
Susan F. Axelrod, Esq.  
Joseph O. Okpaku, 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 Paul M. Minutello, a former registered representative with UBS Financial Services, Inc. and with Legg Mason Wood Walker, Inc. Mr. Minutello was charged with having violated Exchange Rule 477 in that he failed to comply with one or more written requests by the Exchange for information regarding matters that occurred prior to the termination of his employment with a member organization.

Mr. Minutello did not submit an Answer to the Charge Memorandum, and neither Mr. Minutello 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. Minutello did not submit an Answer. The motion was granted on proof of notice to Mr. Minutello and, on that basis, the Hearing Panel found as follows:

**Background and Jurisdiction**

1. Paul M. Minutello ("Minutello") was born on July 18, 1959. Minutello began working in the securities industry in or around September 1989 when he became employed by PaineWebber, Inc. (now known as "UBS Financial Services, Inc."). Minutello was employed as a registered representative ("RR") with Paine Webber/UBS ("UBS" or the "Firm") until November 2003, when he left UBS to take a position with Legg Mason Wood Walker, Inc. ("Legg Mason"). Minutello's employment at Legg Mason was terminated on February 9, 2004. Minutello is not currently employed in the securities industry.
2. On or about March 4, 2004, the Exchange's Division of Enforcement ("Enforcement") received a Uniform Termination Notice of Securities Industry

Registration (“Form U-5”) reporting that Minutello’s employment at Legg Mason had been terminated on February 9, 2004. Legg Mason cited allegations of forgery and possible misappropriation as the reasons for Minutello’s termination on the Form U-5.

3. By letters dated March 5, 2004 (the “March 5<sup>th</sup> letter”) sent by certified mail return receipt requested and first-class mail, and March 31, 2004 (the “March 31<sup>st</sup> letter”) sent by Federal Express Overnight Delivery, certified mail return receipt requested and first-class mail, Enforcement notified Minutello that it was formally investigating the allegations that he misappropriated funds from one or more customers.

#### **Failure to Cooperate**

4. As noted above, by letter dated March 5, 2004 (the “March 5<sup>th</sup> Letter”) sent by certified mail return receipt requested and first-class mail to Minutello’s last known address as reflected in Exchange records, the Exchange notified Minutello of its formal investigation and requested a detailed written explanation of the matter reported on the Form U-5. The letter advised Minutello that his failure to comply with the request could result in the institution of disciplinary action against him based upon his failure to cooperate pursuant to Exchange Rules 476(a) and 477. The green United States Postal Service Return Receipt was signed for by “Paul Minutello” on March 10, 2004, and the letter sent via first class mail was not returned to the Exchange.
5. The March 31<sup>st</sup> letter, which was sent via Federal Express Overnight Delivery to the above-noted address, again requested that Minutello submit a detailed written explanation of the allegations that he misappropriated funds from one or more customers. The letter again advised Minutello that his failure to comply with the Exchange’s request for information could result in the institution of disciplinary charges against him based on his failure to cooperate pursuant to Exchange Rules 476(a) and 477. The copy of the March 31<sup>st</sup> letter sent by Federal Express was signed for by a “P. Sinotello” [sic] on April 1, 2004 at 9:45 a.m. The green United States Postal Service Return Receipt reflects that “Paul Minutello” signed for the letter on April 7, 2004. The copy of the letter sent via first class mail was not returned to the Exchange.
6. To date, Minutello has failed to respond to the Exchange’s requests for information contained in the March 5<sup>th</sup> and March 31<sup>st</sup> letters.

#### **DECISION**

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

#### **PENALTY**

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Mr. Minutello 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. Given this most serious allegation of misconduct and the Exchange's need for prompt investigation, the Hearing Panel, by unanimous vote, further determined that Mr. Minutello be permanently barred from membership, allied membership, approved person status and from employment or association in any capacity with any member or member organization if he does not comply with the Exchange's requests, with which he has failed to comply, within three months from the date this decision becomes final.

For the Hearing Panel

Milton M. Stein  
Hearing Officer