

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 04-144

September 14, 2004

THOMAS HUNT

FORMER NON-REGISTERED EMPLOYEE

* * *

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
Martin S. Mazur, Esq.
Suzanne R. Elovic, 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 Thomas Hunt, a former non-registered employee with Merrill Lynch, Pierce, Fenner & Smith Inc. (the "Firm"). Mr. Hunt was charged with having violated Exchange Rule 477 by failing to comply with written requests by the Exchange for information concerning a matter that occurred prior to the termination of his employment as a non-registered employee of a member organization.

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

Background and Jurisdiction

1. Thomas Hunt ("Hunt") was born on January 14, 1963. Hunt entered the securities industry on August 20, 1984 as a non-registered employee with the Firm in the Firm's Manhattan Funds Processing branch. Hunt held the title of Senior Specialist in Cash Management Services and Support. His employment with the Firm was terminated on November 21, 2002.
2. The Exchange has no record that Hunt is currently employed in the securities industry.
3. The Division of Enforcement of the New York Stock Exchange, Inc. ("Enforcement") received a Form RE-3 on or about December 20, 2002 filed by the Firm indicating

that Hunt's employment had been terminated. According to the RE-3, the Firm terminated Hunt's employment after it came to the Firm's attention that Hunt was involved in conducting improper transactions related to an account of a fellow employee.

4. Specifically, the Firm alleged that Hunt, in his capacity as Senior Specialist, had designated certain checks, drawn from a fellow employee's personal bank account, as government checks and then arranged for those checks to be deposited in the fellow employee's Firm account. Once the checks were deposited, Hunt and his fellow employee were able to immediately withdraw cash from the Firm account because of the government designation. Subsequently the checks deposited were returned for insufficient funds. In all, Hunt and his fellow employee withdrew funds that exceeded the Firm account's available balance totaling approximately \$21,656.60.

Failure to Cooperate

5. On August 29, 2003, Enforcement sent a letter to Hunt's last known address notifying Hunt that Enforcement was conducting a preliminary inquiry into whether Hunt had conducted improper transactions in his account. In that letter, Enforcement requested that a written detailed explanation be submitted by September 28, 2003 and that failure to comply with Enforcement's request could subject Hunt to formal disciplinary action. Hunt never responded to this letter.
6. On November 10, 2003, Enforcement sent a letter by certified mail, return receipt requested, and a copy by first class mail, to Hunt's last known address as indicated on Exchange records. In that letter Enforcement notified Hunt that it was investigating the possibility that, while employed by the Firm, Hunt had assisted another employee in conducting improper transactions in that fellow employee's personal account at the Firm.
7. The letter also requested that Hunt provide a detailed explanation about that matter and informed Hunt that failure to respond by December 1, 2003 could result in formal disciplinary action based upon his failure to comply with the Exchange's request for information.
8. The letter sent by certified mail, return receipt requested, was received and signed for by another individual at Hunt's residence. The copy of the letter that had been sent first class mail was never returned to Enforcement. Hunt did not respond to the November 10, 2003 letter.
9. On March 10, 2004, Enforcement sent a second letter by certified mail, return receipt requested, and a copy by first class mail, to Hunt's last known address according to Exchange records. In that letter Enforcement made another request for information and advised Hunt that failure to respond by April 1, 2004 could result in formal disciplinary action based upon his failure to comply with the Exchange's request.
10. The letter sent by certified mail, return receipt requested was received and signed for by another individual at Hunt's residence. The copy of the letter that had been sent

first class mail was never returned to Enforcement. Hunt did not respond to the March 10, 2004 letter.

11. To date, Hunt has failed to cooperate with the Exchange's requests for information.

DECISION

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

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Mr. Hunt 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. Hunt 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