

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 04-145

September 14, 2004

WAYMAN N. LOCKHART

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 six months.

Appearances:

For the Division of Enforcement

Anthony J. Cavallaro, Esq.

Cynthia Kitay, 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 Wayman N. Lockhart, a former non-registered employee with Edward D. Jones & Co. (the "Firm"). Mr. Lockhart 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. Lockhart did not submit an Answer to the Charge Memorandum, and neither Mr. Lockhart 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. Lockhart did not submit an Answer. The motion was granted on proof of notice to Mr. Lockhart and, on that basis, the Hearing Panel found as follows:

Background and Jurisdiction

1. Wayman N. Lockhart ("Lockhart") was born on December 11, 1974. His only employment in the securities industry was at the Firm from October 27, 1998 to October 13, 2003. Lockhart is not currently employed in the securities industry.
2. The Division of Enforcement ("Enforcement") received a Form RE-3 dated October 21, 2003 from the Firm reporting that the employment of Lockhart, a non-registered employee in the Firm's Mutual Fund Control Department, was terminated on October 14, 2003 for questionable activity in his Firm personal account.
3. The Form RE-3 also reported, in substance, that on October 2, 2003, Lockhart withdrew \$200 from his member Firm by depositing a \$200 check into his personal account at the Firm that had been drawn on Lockhart's outside personal bank account.

After making the deposit, Lockhart wired the proceeds of the \$200 check deposit from his Firm account to the same personal bank account, withdrew the funds and then closed the account. On October 9, 2003, the check Lockhart deposited into his Firm account on October 2, 2003 was returned with the indication "Return Not Paid – Account Closed." To date, Lockhart has not repaid the Firm the \$200 he withdrew.

4. Enforcement notified Lockhart of its investigation by letter dated October 30, 2003 sent by first class mail.

Failure to Cooperate

5. As stated above, in October 2003, Enforcement sent a letter to Lockhart's last known address of record. Lockhart did not respond and the letter was not returned to the Exchange. In February 2004, Enforcement sent a second letter to Lockhart's last known address of record via certified mail. This letter was returned to the Exchange marked "unclaimed."
6. Both of the above letters requested that Lockhart provide a written explanation concerning the events that gave rise to his employment termination from the Firm and informed him that his failure to supply the written statement could result in disciplinary action.
7. In a letter dated April 29, 2004, sent to Lockhart's last known address of record via Federal Express and first class mail, Enforcement again attempted to obtain a written statement from Lockhart relating to the circumstances surrounding his termination from the Firm. The first class letter was returned to Enforcement stamped "moved, left no address, unable to forward." The Federal Express envelope was accepted and signed for by the apartment manager's office at Lockhart's last known address but was later returned to Enforcement marked "recipient moved."
8. The April 29, 2004 letter also advised Lockhart that his failure to supply the requested information might result in the institution of formal disciplinary proceedings against him based upon his failure to comply with the Exchange's request for information.
9. To date, Lockhart has failed to provide the Exchange with the information it requested.

DECISION

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

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Mr. Lockhart 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. This is a serious allegation of misconduct and the Exchange needs to conduct a prompt

investigation. A failure to cooperate in such matters calls for a permanent bar in short order. However, under the circumstances described above, the Hearing Panel believes that Mr. Lockhart should be given an extended opportunity to explain his actions. Accordingly, the Hearing Panel, by unanimous vote, further determined that Mr. Lockhart 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 six months from the date this decision becomes final.

For the Hearing Panel

Milton M. Stein
Hearing Officer