

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 04-162

October 13, 2004

PAUL EDWARD MAINES

FORMER REGISTERED REPRESENTATIVE

* * *

Violated Exchange Rule 477 in that he failed to appear and testify and failed to submit a written statement – Censure, bar until he complies, to become permanent if he does not comply within three months.

Appearances:

For the Division of Enforcement
Steven J. Brostoff, Esq.
Howard A. Grinsberg, Esq.

For the Respondent
No Appearance

* * *

An Exchange Hearing Panel conducted a hearing on charges brought by the Exchange's Division of Enforcement against Paul Edward Maines, a former registered representative with Morgan Stanley Dean Witter, Inc. (the "Firm"). Mr. Maines was charged with having:

- I. Violated Exchange Rule 477 in that he failed to comply with a request by the Exchange to appear and testify in connection with an Exchange investigation regarding matters occurring prior to the termination of his employment with a member organization.
- II. Violated Exchange Rule 477 in that he failed to comply with written requests by the Exchange that he submit a written statement concerning one or more matters which occurred prior to the termination of his employment with a member organization.

Mr. Maines did not submit an Answer to the Charge Memorandum. Neither he 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. Maines had failed to file an Answer. The motion was granted and the Hearing Panel found as follows:

Background and Jurisdiction

1. Paul Edward Maines ("Maines") was born on May 18, 1967. He entered the securities industry in March 1997 and has been employed as a registered representative with the following member firms:

Firm A	03/97 – 08/99
The Firm	08/99 - 11/01

2. On January 28, 2002, Enforcement received a Uniform Termination Notice for Securities Industry Registration (“Form U-5”) from the Firm reporting that Maines had been discharged on November 29, 2001 for: “violation of Firm policy regarding financing (arrangements or lending) with clients.”
3. Maines has not been employed in the securities industry since November 29, 2001.
4. The Firm subsequently reported that Maines was the subject of four customer complaints: MLL, CG, AG, and JM.
5. By letter dated November 12, 2002, which he received and responded to, Enforcement notified Maines that it was investigating the MLL, CG, AG, and JM complaints.
6. In early 2004, the Exchange learned of four additional customer complaints against Maines. First, complaints from HR and GC were received. Second, complaints from NM, who was Maines’ wife’s grandmother, and A and JC who were Maines’ wife’s great aunt and great uncle, were received.
7. NM and A and JC alleged that Maines, without their knowledge or authorization, had put through a change of address for each of their accounts, had transferred funds and securities in excess of \$300,000 out of their accounts, and had provided them with fictitious monthly account statements that concealed the unauthorized transfers.

Failure to Cooperate

8. By letter dated February 24, 2004, sent by certified mail, return receipt requested and a copy by first class mail to Maines’ last known address according to Exchange records, Enforcement informed Maines that it was investigating the HR and GC complaints and asked him to provide a detailed written explanation.
9. The copy of the February 24, 2004 letter sent by certified mail was returned by the post office indicating that Maines had moved to a new address (the “New Address”). The copy of the letter sent on February 24, 2004 by first class mail was not returned to the Exchange. Maines did not respond to the request that he provide a written explanation to the Exchange.
10. By letter dated March 5, 2004, sent to the New Address by certified mail, return receipt requested, and a copy by first class mail, Enforcement informed Maines that it was investigating the NM and A and JC complaints and asked him to provide a detailed written explanation.

11. The copy of the March 5, 2004 letter sent by certified mail was returned by the post office marked “unclaimed.” The copy of the letter sent on March 5, 2004 by first class mail was not returned to the Exchange. Maines did not respond to the request that he provide a written explanation to the Exchange.
12. By letters dated April 6, 2004, sent by certified mail, return receipt requested, and a copy by first class mail, to three addresses that the Exchange had on record for Maines, including the New Address, Enforcement notified Maines that he was required to appear and testify on May 4, 2004.
13. The certified copy of the letter sent to the New Address was returned by the post office marked “unclaimed.” The copy of the letter sent by first class mail to the New Address was not returned to the Exchange. The letters sent to the other two addresses were returned to Enforcement by the post office as undelivered.
14. Maines did not appear and testify on May 4, 2004.

DECISION

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

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Mr. Maines 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. Further, if he does not comply within three months, the bar shall become permanent.

For the Hearing Panel

Vincent F. Murphy – Hearing Officer
Panelists:
Joseph P. Fenton
Anthony Prestia