

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 04-171

November 9, 2004

CARLOS PEREYRA
FORMER NON-REGISTERED EMPLOYEE

* * *

Misappropriated Firm funds; violated Exchange Rule 477 by failing to comply with requests for information – Censure and permanent bar.

Appearances:

For the Division of Enforcement
Robert J. Goerke, Esq.
Ryan Burke

For the Respondent
No Appearance

* * *

An Exchange Hearing Panel conducted a hearing on charges brought by the Exchange's Division of Enforcement against Carlos Pereyra, a former non-registered employee with UBS PaineWebber Incorporated (the "Firm"). Mr. Pereyra was charged with having:

- I. Engaged in conduct inconsistent with just and equitable principles of trade by misappropriating checks issued by his member firm employer.
- II. Violated Exchange Rule 477, by failing to comply with one or more written requests by the Exchange for information concerning one or more matters that occurred prior to the termination of his status as a non-registered employee of a member organization.

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

Background and Jurisdiction

1. Carlos Pereyra ("Pereyra") was born in September 1967. In September 2000, he joined the Firm as a non-registered mailroom clerk. Pereyra continued working in that capacity until the Firm terminated his employment in February 2003. Since that time, Pereyra has not been employed in the securities industry.

2. On March 17, 2003, the New York Stock Exchange, Inc. (the “Exchange”) received a Form RE-3 from the Firm reporting that it had terminated Pereyra’s employment on February 27, 2003 after Pereyra admitted to Firm personnel that he took nine Firm accounts payable checks from the Firm’s mailroom, which totaled approximately \$23,000.
3. By letter dated September 23, 2003 (the “September 23rd Letter”), the Exchange’s Division of Enforcement (“Enforcement”) notified Pereyra that it was conducting an inquiry of the circumstances surrounding the termination of his employment with the Firm. Enforcement requested that Pereyra provide a written detailed explanation with respect to the information reported by the Firm on the Form RE-3.

Misappropriation of Checks Issued by Firm

4. During August and September 2002, among other reimbursement checks, the Firm issued nine checks, totaling approximately \$23,000, to payees as reimbursements for business expenses and for vendor services provided to the Firm.
5. In November 2002, the Firm discovered that, although the checks were cashed, they were not delivered to the rightful payees.
6. The Firm conducted an investigation of the matter and, when questioned about the missing checks in February 2003, Pereyra admitted to misappropriating the checks.

Failure to Cooperate

7. The September 23rd Letter, which was sent by first class mail to Pereyra’s last home address known to the Exchange, informed Pereyra that his failure to comply with Enforcement’s request by October 23, 2003 may subject him to appropriate disciplinary action pursuant to Exchange rules.
8. Pereyra did not provide Enforcement with a response to the September 23rd Letter. Moreover, the September 23rd Letter was not returned to Enforcement by the United States postal authorities.
9. By letter dated November 6, 2003 (the “November 6th Letter”), Enforcement renewed its request that Pereyra provide the aforementioned written detailed explanation.
10. The November 6th Letter, which was sent by certified mail, return receipt requested, to Pereyra’s last home address known to the Exchange, informed Pereyra that his failure to comply with Enforcement’s request by November 20, 2003 may subject him to appropriate disciplinary action pursuant to Exchange rules.
11. The November 6th Letter was returned to Enforcement by the United States postal authorities marked “Unclaimed.”

12. To date, Pereyra has not provided the written detailed explanation requested by Enforcement or otherwise contacted Enforcement.

DECISION

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

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Mr. Pereyra be censured and permanently barred from membership, allied membership, approved person status, and from employment or association in any capacity with any member or member organization.

For the Hearing Panel

Milton M. Stein - Hearing Officer
Panelists:
John M. Ivan
Peter Tuzzo