

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 05-14

January 25, 2005

MICHAEL EUGENE SNAPP

FORMER NON-REGISTERED EMPLOYEE

* * *

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

Appearances:

For the Division of Enforcement
Virginia J. Harnisch, Esq.
Adeline Liu, Esq.
Joyce Tavoulaareas, Esq.

For the Respondent
No Appearance

* * *

An Exchange Hearing Panel conducted a hearing on charges brought by the Exchange's Division of Enforcement against Michael Eugene Snapp, a former non-registered employee with Wells Fargo Investments, LLC (the "Firm"). Mr. Snapp was charged with having:

- I. Violated Exchange Rule 477 in that he failed to comply with a written request by the Exchange to provide testimony 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 a written request by the Exchange to provide information regarding matters occurring prior to the termination of his employment with a member organization.

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

Background and Jurisdiction

1. Michael Eugene Snapp ("Snapp") was born on October 15, 1963. Snapp entered the securities industry in or about 1989 when he became employed in a non-registered capacity in the San Jose, California branch of a non-member firm.

2. In or around December 1990, Snapp left his first securities industry employer, and joined another non-member firm, where he remained until about February 1994. In or around February 1994, Snapp joined a member organization. Snapp remained at that firm until about November 1997.
3. In or around November 1997, Snapp became employed at the Phoenix, Arizona branch of the Firm as a non-registered operations manager. Snapp's employment with the Firm was terminated on December 31, 2001 when his position was eliminated. Based on the information currently available to the New York Stock Exchange, Inc. (the "Exchange"), Snapp has not been employed in the securities industry in any capacity since that time.
4. The Exchange received an Amended Uniform Termination Notice ("Form U-5") from the Firm dated July 1, 2002 reporting that the Firm had initiated an internal investigation during June 2002 to review the possibility that Snapp had engaged in the misappropriation of customer funds during the course of his employment with the Firm.
5. By letter dated July 17, 2002, which Snapp received, the Exchange's Division of Enforcement ("Enforcement") notified Snapp that Enforcement was conducting an inquiry into the allegation that he may have engaged in the misappropriation of customer funds during the course of his employment with the Firm, and requested his written explanation. In the July 17, 2002 letter, Enforcement informed Snapp that his failure to comply with Enforcement's request could result in the institution of disciplinary action against him pursuant to Exchange Rule 476. This letter was sent to Snapp at his last known address as reflected in Exchange records, an address in Phoenix, Arizona (the "AZ address").
6. Snapp responded to Enforcement by facsimile dated August 6, 2002, which indicated receipt of Enforcement's July 17, 2002 letter. Snapp did not provide an explanation as requested, but asked Enforcement to provide him with additional details regarding the Firm's allegations.
7. By letter dated August 7, 2002, Enforcement notified Snapp that he should contact the Firm to obtain any additional information required to respond to Enforcement's July 17, 2002 request for information.
8. By letter dated September 5, 2002, which Snapp received, Enforcement again requested that Snapp provide a written explanation in response to the Firm's allegation that he may have engaged in the misappropriation of customer funds during the course of his employment with the Firm.
9. Snapp responded to Enforcement by facsimile dated September 19, 2002, which indicated receipt of Enforcement's September 5, 2002 letter. Snapp did not provide an

explanation as requested, but asked Enforcement to provide him with additional details regarding the Firm's allegations.

10. By letter dated November 25, 2002, which Snapp received, Enforcement notified Snapp that Enforcement was investigating the possibility that he may have misappropriated customer funds during the course of his employment with the Firm, and requested his written explanation. In the letter, Enforcement informed Snapp that his failure to provide the requested explanation in a timely manner could result in the institution of formal disciplinary proceedings against him pursuant to Exchange Rule 476.
11. Snapp responded to Enforcement by facsimile dated December 12, 2002, which indicated receipt of Enforcement's November 25, 2002 letter. Snapp did not provide an explanation as requested, but asked Enforcement to provide him with additional details regarding the Firm's allegations.
12. By letter dated January 16, 2003, which Snapp received, Enforcement requested Snapp to appear and provide testimony in connection with Enforcement's investigation and scheduled the testimony for February 18, 2003. In the January 16, 2003 letter, Enforcement informed Snapp that his failure to comply with Enforcement's request to testify could result in the institution of disciplinary action against him pursuant to Exchange Rule 476.
13. By facsimile dated January 24, 2003, Snapp acknowledged receipt of Enforcement's January 16, 2003 request for testimony. In the January 24, 2003 letter, Snapp indicated that he would not be able to provide testimony on the scheduled date and he suggested an alternate date of February 25, 2003. Snapp's facsimile indicated that his new address was in Palm Springs, California (the "CA address").
14. Thereafter, Enforcement continued its investigation, seeking and obtaining documents and information from sources other than Snapp.

Failure to Cooperate

15. By letter dated July 27, 2004, sent via Certified Mail Return Receipt Requested and First Class mail to Snapp at his AZ address and CA address, Enforcement requested Snapp to appear and provide testimony in connection with Enforcement's investigation and scheduled the testimony for August 19, 2004. In the letter, Enforcement informed Snapp that his failure to testify could result in the institution of disciplinary action against him.
16. At or about 11:30 pm Eastern Standard Time ("EST") on August 15, 2004, Snapp left a telephone message with Enforcement and acknowledged receipt of Enforcement's July 27, 2004 request for testimony. Included in his message, Snapp provided Enforcement with a new telephone number where he could be contacted and he

indicated that he would not be able to provide testimony on the scheduled date but that he would be able to provide testimony at a later time.

17. On August 16, 2004, Enforcement attempted to return Snapp's telephone call. Enforcement staff left a message at the phone number Snapp provided, requesting that he contact staff to reschedule his testimony.
18. At or about 11pm EST on August 16, 2004, Snapp left another telephone message with Enforcement requesting additional information.
19. On August 18, 2004, Enforcement attempted to return Snapp's telephone call. Enforcement staff left a message at the phone number Snapp provided, requesting that he contact staff to reschedule his testimony.
20. On August 19, 2004, Snapp did not appear to provide testimony.
21. On August 23, 2004, Enforcement attempted to contact Snapp once again with the phone number he provided in the telephone message he left on August 16, 2004. Enforcement was unable to contact Snapp because the phone number Snapp provided had been disconnected.
22. On August 23, 2004, Enforcement staff ascertained that the phone number provided by Snapp in the telephone message he left on August 16, 2004 was the phone number for an individual in Arvada, Colorado (the "CO address").
23. Snapp has not contacted Enforcement since August 17, 2004.
24. By letter dated September 1, 2004, sent via Federal Express, Certified Mail Return Receipt Requested and First Class mail to the CO address, Enforcement requested that Snapp provide certain information by September 10, 2004 and appear to testify in connection with Enforcement's investigation on September 21, 2004. In the September 1, 2004 letter, Enforcement informed Snapp that his failure to comply with Enforcement's request that he provide information and appear to provide testimony could result in the institution of disciplinary proceedings against him pursuant to Exchange Rule 476.
25. On September 8, 2004, the July 27, 2004 letter sent to Snapp's CA address via Certified Mail Return Receipt Requested was returned to Enforcement unclaimed. The returned letter notified staff that the forwarding address for the CA address is the same as the CO address. The letter of September 1 was also returned unclaimed.
26. Snapp did not provide the information requested in the September 1, 2004 letter on or before September 10, 2004.
27. To date, Snapp has not provided the information requested in the September 1, 2004 letter.

28. On September 21, 2004, Snapp did not appear and provide testimony as requested.
29. To date, Snapp has not complied with Enforcement's request to appear and provide testimony in connection with Enforcement's investigation.

DECISION

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

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Mr. Snapp 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. Snapp 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
Panelists:
Joseph L. Dicandio
Jeffrey L. Friedman