

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 05-18

January 26, 2005

ERASMO F. NUZZI, JR.

FORMER REGISTERED REPRESENTATIVE

* * *

**Violated Exchange Rule 477 by failing to comply with request for testimony –
Censure and permanent bar.**

Appearances:

For the Division of Enforcement

Steven J. Brostoff, Esq.

Myles L. Orosco, Esq.

Howard A. Grinsberg, Esq.

Bettina M. Sacklowski

For the Respondent

Brian R. Hersh, Esq.

* * *

An Exchange Hearing Panel conducted a hearing on a charge brought by the Exchange's Division of Enforcement against Erasmo F. Nuzzi, Jr., a former registered representative with Prudential Securities Incorporated ("Prudential") and with CIBC World Capital Markets ("CIBC"). Mr. Nuzzi was charged with having 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.

Mr. Nuzzi's attorney submitted a response to the Charge Memorandum on behalf of Mr. Nuzzi. The response indicated that, "[s]ince he has ceased practicing as a stockbroker for two years,....Mr. Nuzzi elects not to contest the charge of failure to cooperate. He understands this will result in the permanent loss of his NYSE license." The attorney subsequently indicated that Mr. Nuzzi would not attend the hearing and would not contest the matter.

Neither Mr. Nuzzi nor his attorney appeared at the hearing in this matter. On the basis of Mr. Nuzzi's election not to contest the charge, the Hearing Panel deemed the facts admitted, and found as follows:

Background and Jurisdiction

1. Erasmo F. Nuzzi, Jr. ("Nuzzi") was born on April 20, 1953. He entered the securities industry in September 1994 and was employed as a registered representative at Prudential from January 1996 to June 2001, and at CIBC from June 2001 to September 2002.
2. On September 27, 2002, Enforcement received a Uniform Termination Notice for Securities Industry Registration ("Form U-5") from CIBC reporting that Nuzzi had been discharged on September 12, 2002 for: "... providing a client with bogus documentation

that represented that his accounts were valued at approximately \$5.3 million when in fact they were worth approximately \$750,000.”

3. Nuzzi has not been employed in the securities industry since September 12, 2002.
4. CIBC and Prudential subsequently reported that Nuzzi was the subject of 11 additional customer complaints.
5. By letter dated May 23, 2003, Enforcement notified Nuzzi that it was investigating the allegations by 12 customers that while he was employed at Prudential and CIBC he may have engaged in unauthorized and unsuitable trading in their accounts and provided them with account summaries that inflated the value of their account.

Failure to Cooperate

6. In response to the aforementioned letter from Enforcement, Nuzzi submitted a letter in which he denied any wrongdoing in any of the 12 customer accounts.
7. Enforcement, by letter dated August 13, 2004, sent by Federal Express, with a copy sent by certified mail, return receipt requested, and another copy sent by first class mail, all sent to the same address as the first letter, notified Nuzzi that he was required to appear and testify on September 9, 2004 about the allegations by his former customers that he engaged in unauthorized and unsuitable trading in their accounts and provided them with fraudulent account summaries to cover up his activities.
8. The letter sent by Federal Express and the copy sent by certified mail were signed for at Nuzzi’s address. The copy of the letter sent by first class mail was not returned to the Exchange.
9. Nuzzi did not appear and testify on September 9, 2004. To date, he still has not cooperated with the Exchange’s request that he appear and give testimony.

DECISION

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

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Mr. Nuzzi 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:
Frank Carl Scheuer, Jr.
Peter A. Wiener