

NEW YORK STOCK EXCHANGE, INC.

**EXCHANGE HEARING PANEL DECISION 05-25**

February 15, 2005

EILEEN A. KEANE

FORMER NON-REGISTERED EMPLOYEE

\* \* \*

**Violated Exchange Rule 477 by failing to comply with requests for documents and for testimony – Censure and bar until she complies, to become permanent if she does not comply in three months.**

**Appearances:**

For the Division of Enforcement  
Tracy Timbers, Esq.  
Dorian M. Gross, 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 Eileen A. Keane, a former non-registered employee with Brown & Company Securities Corporation n/k/a J.P. Morgan Invest, LLC (the "Firm"). Ms. Keane was charged with having violated Exchange Rule 477, in that she failed to comply with one or more requests by the Exchange that she provide documents and/or testify concerning activities that occurred while she was employed at a member organization.

Ms. Keane did not submit an Answer to the Charge Memorandum, and neither Ms. Keane nor any person on her 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 Ms. Keane did not submit an Answer. The motion was granted on proof of notice to Ms. Keane and, on that basis, and on evidence presented, the Hearing Panel found as follows:

**Background and Jurisdiction**

1. Eileen A. Keane ("Keane") was born on May 1, 1976. She became employed in a non-registered capacity in Boston, Massachusetts at the Firm in or about October 1999, where she remained until her termination on July 17, 2003. Keane is not currently employed in the securities industry according to the records of the Central Registration Depository.
2. The Exchange received from the Firm a Form RE-3 dated August 25, 2003, which reported that Keane was "terminated on July 17, 2003 for violation of internal

corporate credit card policy.” The Firm subsequently advised the Exchange that Keane was reimbursed for expenses that she had charged on her corporate credit card but she had not paid off the balance as required by Firm policy. The Firm also advised that the monies that Keane was reimbursed were deposited into her personal bank account. Due to the credit card abuses, Keane owed the Firm approximately \$8,500.

3. By letter dated November 6, 2003, addressed to Keane at her last known place of residence as reflected in Exchange records (the “Address”), the Exchange requested that Keane respond to the matter reported in the Form RE-3. By letter dated December 2, 2003, Keane replied that “I was not paying the credit cards on time and I used the credit card for personal use.”
4. By letter dated January 7, 2004 (the “January 7<sup>th</sup> Letter”), addressed to Keane at the Address, sent by certified mail and by first class mail, the Exchange notified Keane that she was the subject of an Exchange investigation relating to the matter reported by the Firm. The copy of the letter sent by certified mail was returned unclaimed. The copy sent by first class mail was not returned.

#### **Failure to Comply with Requests by the Exchange**

5. In addition to notifying Keane of its investigation, the Exchange in the January 7<sup>th</sup> Letter also requested that Keane produce to the Exchange, by January 28, 2004, specified documents, including but not limited to, bank statements.
6. By letter from the Exchange dated March 23, 2004 (the “March 23<sup>rd</sup> Letter”) which Keane received, sent to Keane at the Address by Federal Express and by first class mail, the Exchange supplemented its prior request for bank statements, none of which had been produced by Keane by the date of the letter. Keane was requested to produce bank statements for the period June 2002 through August 2003 for each bank account into which she deposited an expense reimbursement check that she received from the Firm. In the event Keane was unable to locate copies of her bank statements, she was requested to obtain duplicate copies from her bank. Although Keane was requested in the March 23<sup>rd</sup> Letter to produce the bank statements by April 5, 2004, she did not do so.
7. By letters from the Exchange dated April 6, 2004, April 19, 2004, and April 30, 2004, which Keane received, sent to Keane at the Address, the Exchange again requested that Keane immediately provide the requested bank statements. The letters were sent to Keane by Federal Express and by first class mail.
8. In May 2004, Keane produced some but not all of the requested bank statements. By letter from the Exchange dated June 17, 2004 (the “June 17<sup>th</sup> Letter”) which Keane received, sent to Keane at the Address, by Federal Express, by certified mail and by first class mail, the Exchange requested that Keane produce the remainder of the requested bank statements by June 22, 2004. The Exchange also requested in the

June 17<sup>th</sup> Letter that Keane appear to give on-the-record testimony at the Exchange's offices in New York on July 1, 2004.

9. Keane was advised in writing by the Exchange, including in the June 17<sup>th</sup> Letter, that her failure to comply with a request by the Exchange could result in a formal disciplinary action being brought against her, based upon her failure to cooperate.
10. Although requested to do so in the June 17<sup>th</sup> Letter, Keane has not produced the outstanding bank statements, nor did she appear at the Exchange's offices on July 1, 2004 to give on-the-record testimony.

### **DECISION**

The Hearing Panel, by unanimous vote, found Ms. Keane guilty as charged.

### **PENALTY**

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Ms. Keane 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 she complies with the Exchange's requests with which she 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 Ms. Keane 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 she does not comply with the Exchange's requests, with which she has failed to comply, within three months from the date this decision becomes final.

For the Hearing Panel

Milton M. Stein – Hearing Officer  
Panelists:  
William B. Peterson  
Peter Tuzzo