

NEW YORK STOCK EXCHANGE, INC.

**EXCHANGE HEARING PANEL DECISION 05-36**

March 23, 2005

RIZALINA DONES FLORES

FORMER NON-REGISTERED EMPLOYEE

\* \* \*

**Failed to disclose her criminal history on an employment application including a conviction which made her subject to a statutory disqualification – Censure and six year bar.**

**Appearances:**

For the Division of Enforcement  
Julie Han Broderick, Esq.  
Kimberly J. Rosner, Esq.

For the Respondent  
No Appearance

\* \* \*

An Exchange Hearing Panel conducted a hearing on a charge brought by the Exchange's Division of Enforcement against Rizalina Dones Flores (the "Respondent"), a former non-registered employee with A.G. Edwards & Sons, Inc. (the "Firm"). The Respondent was charged with having engaged in conduct inconsistent with just and equitable principles of trade in that she failed to disclose, on an employment application submitted to her member organization employer, her criminal history, including a conviction which made her subject to a statutory disqualification.

The Respondent did not submit an Answer to the Charge Memorandum. Neither she 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 the Respondent had failed to file an Answer. The Motion was granted and the Hearing Panel found as follows:

**Background and Jurisdiction**

1. The Respondent was born on June 19, 1967. Her employment in the securities industry is as follows: Firm A from 1993 to 2000; and the Firm from October 2003 to December 2003. She is no longer employed in the securities industry.
2. On December 17, 2003, the Division of Enforcement ("Enforcement") received a Form RE-3 from the Firm, reporting that the Respondent was terminated on December 10, 2003 due to her criminal history and statutory disqualification status.

3. By letter dated June 15, 2004 (the “June 15<sup>th</sup> Letter”) sent by first class mail and certified mail return receipt requested to the Respondent’s last known address, Enforcement attempted to notify her of its investigation and requested a written explanation. Both copies of the June 15<sup>th</sup> Letter were returned to Enforcement as undeliverable and unable to be forwarded. (The Firm has the same last known address information for the Respondent as Enforcement. Additionally, Enforcement conducted Lexis and Internet searches to obtain correct address information. No additional address information was found in these searches.)
4. Under Exchange Rules 476(d) and 477, in order to serve effective notice of its investigation, the Exchange is entitled to rely on her last known address as reflected in Exchange records.

#### **Failure to Disclose Arrests and Conviction on the Employment Application**

5. On January 16, 1998, the Respondent was arrested by the Alexandria, Virginia police department for purchasing merchandise with a payment stopped personal check in September 1997. On March 11, 1998, she pled guilty to and was convicted of a misdemeanor false pretenses charge in the Alexandria General District Criminal Court and was sentenced to a six-month jail sentence, five months of which were suspended, and ordered to pay restitution of \$111.61.
6. In September 2001, she was charged with a second misdemeanor for writing a bad check in May 1998. This charge was later dropped.
7. In 2002, she was charged with misdemeanor theft under \$500 by the Sheriff’s Department of Upper Marlboro, Maryland. A Probation Before Judgment with a stipulation was issued in which she agreed to pay restitution of \$195 and serve two months probation.
8. On October 9, 2003, the Respondent was hired by the Firm as an unregistered Financial Assistant. On or about October 13, 2003, she completed an employment application and submitted her fingerprints to the Firm.
9. On the employment application, she was asked if she had “ever been convicted of, or pleaded guilty or no contest to, any felony or any misdemeanor other than minor traffic offenses,” and if she had “ever been arrested for, or charged with, a misdemeanor involving dishonesty, the wrongful taking of property, or any matter of fraud.”
10. She responded “no” to both of these questions, which is not true.
11. Under Sections 3(a)(39)(F) and 15(b)(4)(B)(i) and (iii) of the Securities Exchange Act of 1934, as a result of her theft conviction in March 1998, the Respondent is statutorily disqualified from employment with an Exchange member organization for ten years, that is, until March 2008.

12. On or about December 10, 2003, the Firm terminated the Respondent's employment based on her statutory disqualification status and her failure to disclose her arrests and conviction on the Firm's employment application.

**DECISION**

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

**PENALTY**

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Ms. Flores be censured and barred for six years 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

Vincent F. Murphy – Hearing Officer  
Panelists:  
Thomas Liriano  
Anthony Prestia