

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 05-40

April 11, 2005

JING WANG

FORMER NON-REGISTERED EMPLOYEE

* * *

Failed to disclose on an employment application submitted to his member firm employer prior criminal convictions and violated Exchange Rule 477 by failing to comply with Exchange requests for information – Censure and a five year bar.

Appearances:

For the Division of Enforcement
Julie Han Broderick, Esq.
Kevin T. McDonald, Esq.

For the Respondent
No Appearance

* * *

An Exchange Hearing Panel conducted a hearing on charges brought by the Division of Enforcement (“Enforcement”) of the New York Stock Exchange, Inc. (the “Exchange”) against Jing Wang (“Respondent”), a former non-registered employee with Credit Suisse First Boston LLC (the “Firm”). Respondent was charged with having:

- I. Engaged in conduct inconsistent with just and equitable principles of trade in that on one or more occasions he failed to disclose on an employment application submitted to his member firm employer prior criminal convictions.
- II. Violated Exchange Rule 477 by failing to comply with Exchange requests for information concerning matters that occurred prior to the termination of his employment with a member organization.

Respondent did not submit an Answer to the Charge Memorandum. Neither he nor any person on his behalf appeared at the hearing in this matter.

At the hearing, Enforcement moved, pursuant to Exchange Rule 476, to have the facts alleged in the Charge Memorandum deemed admitted since Respondent had failed to file an Answer. Enforcement represented that the certified copy of the Charge Memorandum was signed for at Respondent’s last known address on Exchange records. The copy sent by first class mail was not returned. The motion was granted and the Hearing Panel found as follows:

Background and Jurisdiction

1. Respondent was born November 23, 1969. He entered the securities industry in April 2003, as a non-registered employee at the Firm, in the information technology and network support areas. His employment with the Firm terminated on or about May 14, 2003. He has not been employed in the securities industry since that time.
2. On or about May 19, 2003, the Firm filed a Form RE-3 reporting the termination of Respondent. This Form RE-3 reported that he was terminated by the Firm when a Department of Justice ("DOJ") review disclosed that he had a criminal conviction which he had not reported on his employment application with the Firm.

Failure to Cooperate

3. By letter dated June 19, 2003, sent by first class mail to his last known address, Enforcement notified Respondent that it was investigating his failure to disclose his conviction and requested a detailed written explanation of the matter. He never responded to this letter.
4. By letter dated November 11, 2003, sent by certified mail, return receipt requested, Enforcement again notified Respondent that it was investigating his failure to disclose his conviction, and again requested a detailed written explanation.
5. He responded in an e-mail to XYZ, of the Division of Enforcement, dated November 22, 2003, asking for one more week to provide the required material.
6. There was no further correspondence from Respondent after this e-mail, and as such, he failed to respond by the November 25, 2003 due date as per the November 11, 2003 Second Request Letter.
7. By letter dated January 22, 2004, Enforcement again sent a letter to his last known address by certified mail, return receipt requested, requesting once more that he provide a detailed written explanation to Enforcement as he had been previously requested in the letters dated June 19, 2003 and November 11, 2003. He failed to respond by the February 11, 2004 due date, and to date, the Exchange has yet to receive the requested information from Respondent.
8. Each of the above-described letters advised him that his refusal or failure to respond could result in the institution of formal disciplinary proceedings against him pursuant to Exchange Rule 476(a)(1).
9. To date, Respondent has failed to supply the requested explanation and information.

Failure to Disclose a Prior Criminal Conviction on an Employment Application

10. On February 24, 2003 he completed and signed an application for employment with the Firm (“Employment Application”). On the application, he was asked the question: Have you ever been convicted of or pleaded guilty to a criminal charge?” He checked off an adjacent box marked “No”. In addition, Respondent did not provide any written explanation of that negative response, even though space was provided.
11. Shortly thereafter, he was hired by the Firm as a non-registered employee in the technology area. This was his first employment in the securities industry.
12. Subsequently, the Firm submitted his fingerprints for DOJ review. The Firm received the results of this examination on or about May 7, 2003, and learned that he had a criminal record. He was terminated on or about May 14, 2003.
13. A review of the DOJ report, indicates that on January 21, 1993 the Respondent was arrested for a hit and run violation, with resulting property damage. He was subsequently convicted, and received probation and a suspended sentence. On March 30, 1996 he was arrested on charges of shoplifting (a misdemeanor), and violating California Penal Code Section 484(a) (Theft of Personal Property), which appears to be a misdemeanor. He was convicted of these violations, on or about April 25, 1996. He was sentenced to 180 days in jail, but this was suspended. He was also placed on two years summary probation.

DECISION

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

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Respondent be censured and barred for five 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:
David M. Tarrío
Peter Tuzzo