

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 05-65

May 23, 2005

RICHARD T. BENNETT
FORMER EXCHANGE MEMBER

* * *

Violated Exchange Rule 54 in that he transacted business on the Exchange Floor when he was not a member; and violated Exchange Rule 303.40 in that after the termination of his employment as a member associated with a member organization, he wore his member identification badge on the Exchange Floor and effected trades while wearing the trading identification badge – Consent to censure and \$10,000 fine.

Appearances:

For the Division of Enforcement
Martin S. Mazur, Esq.
Suzanne R. Elovic, Esq.
Jeanne R. Elmadany, Esq.

For the Respondent
John J Phelan, III, Esq.

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A Hearing Panel of the New York Stock Exchange, Inc. (“Exchange”) met to consider a Stipulation of Facts and Consent to Penalty entered into between the Exchange’s Division of Enforcement (“Enforcement”) and Richard T. Bennett (“Respondent”), a former Exchange Member with Brill Securities Inc. (the “Firm”). Without admitting or denying guilt, Respondent consented to a finding by the Hearing Panel that he:

- I. Violated Exchange Rule 54 in that he transacted business on the Exchange Floor when he was not a member.
- II. Violated Exchange Rule 303.40 in that after the termination of his employment as a member associated with a member organization, he wore his member identification badge with name of his former member organization employer on the Exchange Floor and effected trades on the Exchange Floor while wearing that trading identification badge.

For the sole purpose of settling this disciplinary proceeding, Enforcement and Respondent stipulate to certain facts, the substance of which follows:

Background and Jurisdiction

1. Respondent, of Amawalk, New York, was born July 9, 1945. He entered the securities industry in September 1970 with Firm A and remained there until March 1971 when he became a specialist clerk on the Trading Floor of the Exchange (the

- “Floor”) with Firm B. He was a lessee member and independent broker on the Floor of the Exchange from approximately March 1977 to February 2001. Respondent was next employed on April 25, 2001 when he joined the Firm as its qualifying member. Respondent became dually employed with Firm C in November 2001. Respondent maintained dual employment with both firms until April 15, 2002 when the Firm terminated his employment, in connection with it ceasing to be an Exchange member firm. Firm C terminated his employment on February 4, 2003. Respondent has not been employed in the securities industry since that time.
2. On April 19, 2002, the Exchange’s Membership Services department became aware of Respondent’s improper use of identification issued to him in connection with his past employment by the Firm to enter upon and transact business on the Floor during the preceding 4-day period when he was not a member of the Exchange. (Respondent was employed by Firm C, but only in a non-member capacity, on April 16 through 19, 2002, and could not properly transact business as a member on those dates based on his employment with Firm C. Further, Respondent did not possess any Exchange issued identification in connection with his employment by Firm C. His employment by Firm C on those dates did not entitle him to enter the Exchange premises or the Floor on those dates.)

Overview

3. Enforcement’s investigation revealed that from April 16 through April 19, 2002 Respondent conducted business on the Floor as a member, when he was not a member of the Exchange. On these dates he improperly used his Exchange-issued identification card (“Exchange ID”) and Exchange-issued member identification badge (“Floor trading badge”) to enter the Exchange premises and the Floor, and to execute trades while improperly representing himself to be a Firm employee.

Improper Entry and Transaction of Business on the Exchange Floor

4. Exchange Rule 54 provides, in pertinent part, that only members are permitted to transact business on the Floor.
5. Exchange Rule 303.40 provides:

All members who execute orders on the Floor must be provided with an identification badge and must wear the same while on the Floor.

Every member’s badge must contain his name and a number, and if he is a participant in a member organization, the name of such organization.
6. In connection with his employment as the Firm’s qualifying member beginning in April 2001, Respondent had a seat lease agreement (“Lease”). By its terms, the Lease terminated, *inter alia*, on the termination of Respondent’s employment with the Firm.

7. Respondent's employment with the Firm terminated as of the close of business April 15, 2002, in connection with it ceasing to be an Exchange member firm. As a result of the termination of his employment with the Firm, Respondent's Lease also terminated and Respondent ceased to be a member.
8. In connection with his employment as the Firm's qualifying member, Respondent possessed an Exchange ID that permitted him to enter upon Exchange premises and the Floor.
9. In connection with his employment as the Firm's qualifying member, Respondent also possessed a Floor trading badge, which he was required to wear while executing orders on the Floor and which identified him as a Firm employee.
10. Respondent used the Exchange ID issued in connection with his past employment by the Firm to enter the Exchange premises and the Floor on April 16 through 19, 2002, when he was no longer a Firm employee.
11. By wearing his Firm trading badge on the Floor on April 16 through 19, 2002, Respondent falsely held himself out as a member and as an employee of the Firm.
12. Respondent used the trading badge issued to him in connection with his past employment as the Firm's qualifying member to transact business as a member on the Floor. Though he was not then a member, Respondent effected in excess of 200 trades for various customers as an independent Floor broker on trade dates April 16 through April 19, 2002.

DECISION

The Hearing Panel, in accepting the Stipulation of Facts and Consent to Penalty, found Respondent guilty as set forth above by unanimous vote.

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, imposed the penalty consented to by Respondent of a censure and a fine in the amount of \$10,000.

For the Hearing Panel

Vincent F. Murphy - Hearing Officer
Panelists:
Timothy J. Cochrane
Stephen McSherry