

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 05-69

June 13, 2005

JENNIFER HIYASHI

FORMER NON-REGISTERED EMPLOYEE

* * *

Failed to comply with Exchange requests for information. – Censure and bar until she complies.

Appearances:

For the Division of Enforcement
Simon Swidler, Esq.
Kevin E. Pogue, Esq.

For the Respondent
No Appearance

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A Hearing Panel of the New York Stock Exchange, Inc. (“Exchange”) conducted a hearing on a charge brought by the Exchange’s Division of Enforcement (“Enforcement”) against Jennifer Hiyashi (“Respondent”), a former non-registered employee with H&R Block Financial Advisors (the “Firm”). Respondent was charged with having violated Exchange Rule 477 in that she failed to comply with requests by the Exchange for information.

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 Respondent had failed to file an Answer. After receiving evidence the motion was granted and the Hearing Panel found as follows:

Background and Jurisdiction

1. Respondent was born on July 1968. On or about March 28, 2004 she applied for a registered position with the Firm and completed a Form U-4 questionnaire. On or about May 3, 2004, after receiving a report from the United States Department of Justice concerning Respondent, the Firm rejected her application to become a registered representative.
2. As far as the Enforcement Division of the Exchange can ascertain, Respondent has not been employed by any other employer in the securities industry.
3. On or about May 24, 2004, the Exchange received a Form RE-3 from the Firm indicating that Respondent had been terminated because of her failure to disclose her criminal history in response to questions on a Form U-4. Thereafter, on June 2, 2004, the Firm filed a Uniform Termination Notice for Securities Industry Registration (“Form U-5”) reporting that Respondent was terminated because her answers on a Form U-4 concerning her criminal history were inconsistent with court records.

4. By letter dated June 30, 2004, the Exchange, by first class mail, wrote to Respondent's last known address as reflected in the Central Registration Depository record ("CRD") advising her that the Exchange was conducting an inquiry regarding the reported matter. The first class letter was not returned to the Exchange. Respondent did not respond to the letter.
5. Thereafter, by letter dated December 16, 2004 (the "December 16 letter"), sent by first class mail and certified mail, return receipt requested, the Exchange wrote to Respondent advising her that the Exchange had opened a formal investigation regarding her answers to Form U-4 questions concerning her criminal history. The Exchange's letter sent by certified mail, return receipt requested, was returned to the Exchange by the U.S. Postal service as unclaimed. The first class letter, however, was not returned.

Failure to Cooperate

6. The December 16 letter requested Respondent to provide a detailed written response concerning the Firm's allegations by no later than January 18, 2005.
7. On January 8, 2005, the December 16 Letter was returned to the Exchange as unclaimed mail by the United States Postal Service, following two separate delivery attempts. The first class letter sent to Respondent was not returned.
8. To the date of the Hearing, Respondent has not responded to the December 16 Letter.

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 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.

For the Hearing Panel

Vincent F. Murphy – Hearing Officer
Panelists:
Paul Giappone, Esq.
William J. Taft