

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 05-72

June 6, 2005

RICHARD PAUL ZIEGLER

FORMER REGISTERED REPRESENTATIVE

* * *

Violated Exchange Rule 477 by failing to comply with requests for a written statement and for testimony – Censure and bar until he complies.

Appearances:

For the Division of Enforcement
Virginia J. Harnisch, Esq.
W. Kwame Anthony, Esq.

For the Respondent
No Appearance

* * *

A Hearing Panel of the New York Stock Exchange, Inc. (“Exchange”) conducted a hearing on charges brought by the Exchange’s Division of Enforcement (“Enforcement”) against Richard Paul Ziegler (“Respondent”), a former registered representative with Wells Fargo Investments, LLC (the “Firm”). The Respondent was charged with having:

- I. Violated Exchange Rule 477 in that he failed to comply with one or more written requests by the Exchange for a written statement concerning matters that occurred prior to the termination of his status as a registered representative prior to the termination of his status as a registered representative with a member organization.
- II. Violated Exchange Rule 477 in that he failed to comply with a written request by the Exchange that he appear and provide testimony.

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. The motion was granted on proof of notice of the Charge Memorandum to the Respondent, and, on that basis, the Hearing Panel found as follows:

Background and Jurisdiction

1. Respondent was born in January 1971. He entered the securities industry in 1995 as a registered representative (“RR”) with a member firm where he remained until March 1997.
2. From July 1997 to May 2003, he was employed as an RR with the Firm, a member organization.

3. The Firm filed a Form U-5 dated June 4, 2003, reporting that Respondent was terminated on May 19, 2003. The Firm filed an amended Form U-5 dated October 8, 2003, reporting the customer complaint of a customer (the "Customer").
4. Respondent has not been employed in the securities industry in any capacity known to the Exchange since his employment with the Firm was terminated.

Failure to Cooperate

5. By letter dated November 4, 2003, Enforcement notified Respondent of its inquiry into allegations that he failed to follow customer instructions with respect to the Customer's account. Enforcement requested that Respondent provide a written explanation by December 4, 2003 and advised him that failure to comply with the Exchange's request could subject him to disciplinary action pursuant to Exchange Rules 476 and 476A.
6. Enforcement's November 4th letter was sent to Respondent via first class U.S. mail to his last known address as reflected on the Central Registration Depository ("CRD") and Exchange records. The November 4th letter was not returned by the United States Postal Service ("USPS").
7. Respondent failed to respond to Enforcement's request for a written explanation.
8. Thereafter, by letter dated January 6, 2004, Enforcement advised Respondent that it had not received the written explanation it requested in the November 4th letter. (A copy of Enforcement's November 4, 2003 letter also was enclosed.) Enforcement requested that Respondent comply with its request for a written explanation by January 20, 2004, and that failure to comply could result in the institution of disciplinary proceedings based upon his failure to cooperate.
9. Enforcement's January 6th letter was sent to Respondent via certified mail, return receipt requested, to his last known address as reflected on the CRD and Exchange records, and a copy was sent by regular first class U.S. mail. Thereafter, the January 6th letter sent by certified mail, return receipt requested, was returned by the USPS marked, "Unclaimed." The copy that was sent by first class mail was not returned by the USPS. Respondent failed to submit his written explanation, as requested.
10. By letter dated June 2, 2004, Enforcement again informed Respondent of its inquiry into the Customer matter, including allegations that he failed to forward a complaint letter from the Customer to the Firm's compliance department. Enforcement requested that Respondent provide a written explanation by July 2, 2004 and stated that failure to comply with Enforcement's request could result in disciplinary action against him.
11. The June 2nd letter was sent by first class U.S. mail to Respondent's last known address as reflected on the CRD and Exchange records. The June 2nd letter was not returned by the USPS. Thereafter, Respondent failed to submit his written explanation to the Exchange.

12. By letter dated December 13, 2004, Enforcement stated to Respondent again that it was investigating allegations that he failed to follow the Customer's instructions with respect to her account, and that he received one or more written complaints from the Customer and failed to forward them to the Firm's compliance department. Enforcement requested that Respondent submit a written explanation of the allegations by January 3, 2005, and warned him that failure to submit such an explanation could result in disciplinary action against him. In addition, Enforcement requested that Respondent appear and testify at the office of Enforcement on January 14, 2005 at 9:30 A.M.
13. Enforcement's December 13th letter was sent to Respondent by certified mail, return receipt requested, to his last known address as reflected on the CRD and Exchange records, and a copy was sent by regular first class U.S. mail. The copy that was sent by certified mail, return receipt requested, was returned by the USPS marked, "Unclaimed." The copy that was sent by first class mail was not returned by the USPS.
14. To date, Respondent has not complied with the Exchange's requests for a written explanation.
15. To date, Respondent has not complied with the Exchange's request that he appear and testify.

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 he complies with the Exchange's requests with which he has failed to comply.

For the Hearing Panel

Peggy Kuo - Chief Hearing Officer
Panelists:
Audrey LaBolle
Robert P. Snyder