

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 05-85

July 21, 2005

SCOTT E. LANGFITT
FORMER REGISTERED REPRESENTATIVE

* * *

Misappropriated customer funds and violated Exchange Rule 477 in that he failed to comply with Exchange request for testimony and information – Censure and permanent bar.

Appearances:

For the Division of Enforcement
Penny Rosenberg, Esq.
Richard A. Best, Esq.

For the Respondent
Kenneth E. Gamble, Esq.

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A Hearing Panel of the New York Stock Exchange, Inc. (the “Exchange”) conducted a hearing on charges brought by the Exchange’s Division of Enforcement (“Enforcement”) against Scott E. Langfitt (“Respondent”), a former registered representative with Wachovia Securities LLC (the “Firm”). Respondent was charged with having:

- I. Engaged in conduct inconsistent with just and equitable principles of trade in that he misappropriated funds from customers of his member firm employer.
- II. Violated Exchange Rule 477 in that he failed to comply with written requests by the Exchange for testimony and information.

Respondent did not submit an Answer to the Charge Memorandum. Prior to the hearing, Enforcement moved to have the facts set forth in the Charge Memorandum deemed admitted. Enforcement also asked that the charges be deemed admitted. Respondent failed to respond to the motions. Based on the Charge Memorandum and Motion to Deem the Facts Admitted, the lack of a response to either, the Hearing Officer, prior to the hearing and pursuant to Exchange Rule 476(d) granted the motion to have the facts deemed admitted. Enforcement’s Motion to Deem the Charges Admitted is equivalent to a Motion for Summary Judgment. Because a Hearing Officer acting alone does not have the authority to grant Summary Judgment, that issue was reserved for consideration by the full Hearing Panel. The Hearing Panel found as follows:

Background and Jurisdiction

1. Respondent was born in October 1966. He became a registered representative in January 1988. Respondent was employed with six member firms from April 1988 to June 2002. He was employed by the Firm from June 2002 until September 2004.

2. The Division of Enforcement (“Enforcement”) has no information that Respondent is currently employed in the securities industry.
3. In a letter dated October 1, 2004, the Firm notified the Exchange that Respondent’s employment with the Firm was terminated on September 9, 2004 for engaging in the selling away of securities, which may not have existed, without Firm approval and supplying clients with fictitious trade confirmations and account statements bearing the Firm’s name.
4. By letter dated October 20, 2004, sent by Federal Express and First Class Mail, which he received, Enforcement notified Respondent of its investigation.

Misappropriation

5. He was employed as a registered representative with the Firm in its Columbus, Ohio branch office.
6. On or about September 3, 2004, a customer of another registered representative of the Firm inquired into purchasing bonds that Respondent had allegedly sold to Firm customer, F.
7. About 12 customers wired more than \$2.5 million from their accounts at the Firm or other financial institutions to accounts at Bank N (“N”) or Bank T (“T”) to purchase fictitious bonds from Respondent. The accounts at Bank N and Bank T were not accounts of the Firm.
8. The customers and amounts of money wired from the Firm are set forth below.

CUSTOMER NAME	DATE OF WIRE	AMOUNT OF WIRE	INSTITUTION RECEIVING WIRES
A	2/6/04	\$28,500	N
B	11/21/03	\$58,250	N
C	12/24/02	\$360,000	N
C	1/2/03	\$132,000	N
D	6/6/03	\$50,000	T
D	7/22/04	\$36,500	T
E	6/14/04	\$23,975	N
F	7/26/04	\$1,100,000	T
F	7/26/04	\$100,000	T
G	5/15/02	\$25,000	N
H	11/5/02	\$100,000	N
H	11/20/02	\$100,000	N
H	8/21/03	\$100,000	N
H	10/3/03	\$100,000	N
J	6/13/02	\$45,000	N

CUSTOMER NAME	DATE OF WIRE	AMOUNT OF WIRE	INSTITUTION RECEIVING WIRES
K	1/4/02	\$25,000	N
K	1/16/02	\$25,000	N
K	10/23/02	\$2,000	N
K	10/23/02	\$17,000	N
L	5/14/04	\$57,500	N
M	4/29/04	\$57,500	N
Total		\$2,543,225	

9. In one or more instances, the above customers arranged to have the funds wired into the accounts at N and T in order to purchase bonds that Respondent claimed were offered by the Firm. After the customers agreed to purchase the bonds Respondent arranged for the customers to provide the Firm with Letters of Authorization to effectuate the wire transfers.
10. In furtherance of the sale of the bonds and the above wire transfers, on one or more occasions, Respondent provided one or more of the above customers with among other things, the names of the bonds, maturity dates, prices and yields. In the above instances, the Firm did not offer the bonds that Respondent presented to the customers.
11. Respondent also sent the above customers fictitious "trade confirmations" and fictitious "supplemental account statements," purportedly from the Firm, that included the name and logo of the Firm, as well as the customers' respective Firm account numbers. These false confirmations and account statements reflected the purchase of the bonds in the customers' accounts.
12. As an example, in July 2004, Respondent offered to sell F. and his son Redevelopment Authority bonds (the "Bonds"), which Respondent represented to the son were being offered by the Firm.
13. Based on Respondent's recommendations and instructions, on or about July 26, 2004, F and his son wired \$1.2 million from accounts outside of the Firm into a T account, titled the "Wacap Group LLC" ("Wacap Group"), to purchase the Bonds. Respondent told the son that the Firm offered the Bonds and that the Wacap Group account was a Firm account.
14. The Wacap Group account at T had been opened by Respondent a few days before the wire transfer and was not affiliated with the Firm. The Firm did not offer the Bonds.
15. After F and his son wired the above funds to the Wacap Group account, as instructed by Respondent, he sent the son a false trade confirmation purporting to have been sent by the Firm, showing the purchase of the Bonds and bearing Respondent's name, as well as the name and logo of the Firm. The trade confirmation was fictitious and was not sent or produced by the Firm.

16. To date, Respondent has not reimbursed F or his son, or any of the other customers listed above the \$2.6 million and the customers have not been provided the Bonds they purchased.

Failure to Cooperate

17. As stated above, by letter dated October 20, 2004, sent by Federal Express and First Class Mail, which he received, Enforcement informed Respondent of its investigation.
18. The above letter requested that he appear and provide testimony on November 4, 2004. The letter also advised him that his failure to comply with the Exchange's request for testimony may result in the institution of formal disciplinary proceedings against him based upon his failure to cooperate.
19. On November 3, 2004, Enforcement received a letter via facsimile, signed by Respondent acknowledging receipt of Enforcement's October 20, 2004 letter. Respondent's letter stated he was unable to appear and provide Enforcement with information regarding the matters contained in Enforcement's letter and requested additional information. The letter did not provide a return address or telephone number for Respondent.
20. He failed to appear and provide testimony on November 4, 2004.
21. On November 4, 2004, a second letter, which he received, was sent to him by Enforcement via Federal Express and First Class mail providing additional details with respect to the allegations, as well as the names of the customers about whom the Exchange wanted to inquire. The letter requested that Respondent appear and testify on November 12, 2004.
22. This letter also advised Respondent that his failure to comply with the Exchange's request for testimony may result in the institution of formal disciplinary proceedings against him based upon his failure to cooperate and informed him that no additional adjournments would be granted.
23. On November 10, 2004, Enforcement received a telephone call from an attorney representing Respondent requesting that the November 12, 2004, date scheduled for his testimony before the Exchange be rescheduled.
24. On November 11, 2004, based upon additional discussions with Respondent's attorney, his testimony was rescheduled for November 22, 2004.
25. On November 18, 2004, his attorney informed the Exchange that Respondent would not appear and testify before the Exchange. On November 22, 2004, he failed to appear and testify.

DECISION

The Hearing Panel, by unanimous vote, granted Enforcement's Motion for Summary Judgment and found Respondent guilty as charged.

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Respondent be censured and permanently barred from membership, allied membership, approved person status, and from employment or association in any capacity with any member or member organization. Respondent's serious misconduct requires that he be permanently barred.