

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 05-92

August 24, 2005

CHAIM RIEGER

FORMER NON-REGISTERED EMPLOYEE

* * *

Failed to disclose his prior criminal convictions, which made him subject to statutory disqualification. – Consent to censure and two year bar past the period of statutory disqualification.

Appearances:

For the Division of Enforcement
Barry M. Hochhauser, Esq.
Jasmine Alencherril

For the Respondent
Chaim Rieger

* * *

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 Chaim Rieger (“Respondent”), a former non-registered employee with Credit Suisse First Boston, LLC (the “Firm”). Without admitting or denying guilt, Respondent consented to a finding by the Hearing Panel that he engaged in conduct inconsistent with just and equitable principles of trade in that he failed to disclose on an employment application submitted to his member firm employer, his prior criminal convictions, which made him subject to statutory disqualification.

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 was born in April 1975. On March 8, 2004, he entered the securities industry as a non-registered employee at the Firm.
2. Respondent was employed by the Firm until March 15, 2004, when the Firm terminated his employment because he had made a misstatement on his employment application. Respondent has not been employed in the securities industry since his termination from the Firm.
3. On March 23, 2004, Enforcement received a Form RE-3 from the Firm reporting that it had terminated Respondent’s employment on March 15, 2004 for “falsification of employment records.”
4. By letters dated April 22, 2004 and August 5, 2004 sent first class and certified mail,

return receipt requested, to Respondent's last known address in the Firm records, the Exchange notified Respondent of its preliminary inquiry into the matters leading to his employment termination.

5. On October 29, 2004, Enforcement sent letters to Respondent, by first class and certified mail to two addresses obtained for Respondent notifying him of Enforcement's investigation of the circumstances leading to his employment termination.

Summary of Violative Conduct

6. During February 2004, Respondent failed to disclose, on an employment application he submitted to his member organization, prior felony convictions that made him subject to statutory disqualification as set forth below.

Failure to Disclose Information on an Employment Application

7. Respondent's criminal history is as follows: during November 1998 he was convicted of a misdemeanor relating to disorderly conduct; in March 2001, he was convicted of a felony relating to the theft of property; and in February 2001, he was convicted of a felony relating to aggravated criminal sexual abuse.
8. On his employment application, dated February 21, 2004, Respondent answered "no" to the following question: "Have you ever been convicted of or pleaded guilty to a criminal charge?"
9. The Firm hired Respondent as a non-registered employee on March 8, 2004.
10. Subsequent to his hiring, the Firm learned that Respondent had been convicted of two felonies (February 2001 and March 2001) and a misdemeanor (November 1998).
11. Exchange Rule 346(f) prohibits a member organization from employing any person, without the permission of the Exchange, "who is known, or in the exercise of reasonable care should be known, to be subject to any 'statutory disqualification.'"
12. Under Sections 3(a)(39)(F) and 15(b)(4)(B) of the Securities Exchange Act of 1934, an individual is statutorily disqualified from employment in the securities industry if such person has been convicted of certain specified crimes or "any other felony within ten years of the date of the filing of an application for membership or participation in, or to become associated with a member of [a] self-regulatory organization."
13. As a result of Respondent's most recent felony conviction, which occurred in March 2001, he is subject to statutory disqualification until March 19, 2011.
14. He did not disclose his guilty plea or convictions to the Firm at the time of his application for employment, and as a result, was hired and continued his employment at the Firm during a period in which he was subject to statutory disqualification.

15. When the Firm became aware of Respondent's criminal background and his misstatement on his employment application, it terminated his employment.

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 two year bar past the period of statutory disqualification (March 19, 2011) from membership, allied membership, approved person status, and from employment or association in any capacity with any Exchange member or member organization. In support of this penalty, Enforcement relies on the following precedents: In the Matter of Gregory Leonard Williams, HPD 04-170 (November 9, 2004), In the Matter of Vikki Lee Pope, HPD 03-184 (October 2, 2003), In the Matter of Kenneth Rogers, HPD 04-25, (February 18, 2004). In each of these cases the Respondents were subject to a statutory disqualification and were barred for a period from 1 ½ to 3 ½ years beyond the statutory disqualification. The case involving the 3 ½ year add-on (Pope) involved 5 arrests and 4 convictions and that respondent refused to cooperate with the investigation. The other cases involved a 1 ½ year add-on (Rogers) and a 2 ½ year add-on (Williams). Considering the precedents and the facts and circumstances of this case the penalty of a censure and a two year add-on to the period of statutory disqualification is appropriate.

For the Hearing Panel

Vincent F. Murphy - Hearing Officer
Panelists:
Norman Marcus
William B. Peterson, Esq.