

NEW YORK STOCK EXCHANGE, INC.

**EXCHANGE HEARING PANEL DECISION 05-116**

October 19, 2005

MARIA ADRIANA CORDOVA  
FORMER NON-REGISTERED EMPLOYEE

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**Violated Exchange Rule 476(a)(6) by engaging in conduct inconsistent with just and equitable principles of trade in that she failed to disclose her criminal history on her employment application submitted to her member firm employer, which at the time subjected her to a statutory disqualification – Consent to censure and 18-month bar.**

**Appearances:**

For the Division of Enforcement  
Scott M. Andersen, Esq.  
Emily K. Penney, Esq.

For the Respondent  
Ardis M. Conant, 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 Maria Adriana Cordova (“Respondent”), a former non-registered employee with Morgan Stanley DW, Inc. (the “Firm”). Without admitting or denying guilt, Respondent consented to a finding by the Hearing Panel that she violated Exchange Rule 476(a)(6) by engaging in conduct inconsistent with just and equitable principles of trade in that she failed to disclose her criminal history on her employment application submitted to her member firm employer, which, at the time, subjected her to a 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 1978. Her only employment in the securities industry has been with the Firm working as a non-registered employee. Respondent was employed by the Firm as a receptionist in the Firm’s Los Angeles, California branch office from approximately March 31, 2004 through September 17, 2004. She is no longer employed in the securities industry.
2. On or about September 17, 2004, Enforcement received a Form RE-3 filed by the Firm which indicated that Respondent was terminated from her position as a branch office receptionist because the Firm determined that she was statutorily disqualified.

3. Enforcement notified Respondent of its investigation by a letter dated February 8, 2005, which Respondent received.

### **Summary of Violative Conduct**

4. During March 2004, Respondent failed to disclose on an employment application submitted to her member firm her prior criminal history, which at the time subjected her to a statutory disqualification.

### **Violative Conduct**

5. While seeking a position with the Firm, Respondent completed the Firm's employment application on or about March 9, 2004.
6. The Personal Data section of the employment application asked whether Respondent had ever been convicted of a crime. Question 5(a) of the Personal Data section asked, "Have you ever been arrested, charged with, convicted of or plead no contest to any FELONY?" In response to the question, Respondent falsely answered "NO."
7. Question 5(b)(i) of the Personal Data section asked, "Have you ever been arrested, charged with, convicted of or plead no contest to any MISDEMEANOR involving . . . theft . . ." In response to the question, Respondent falsely answered "NO."
8. Respondent's misstatements on the employment application misled the Firm to believe that she had not been convicted of any crime.
9. On or about March 31, 2004, Respondent began working at the Firm as a receptionist in the Firm's Los Angeles, California branch office.
10. On or about September 1, 2004, the Firm received a United States Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division fingerprint report ("DOJ Report") which reflected that Respondent had been arrested nine times from 1993 to 2004, though only four of those arrests resulted in charges.
11. Thereafter, the Firm learned through court documentation, and a statement from Respondent, that she was found guilty of misdemeanor petty theft on or about November 2000, misdemeanor petty theft on or about September 2001, and then felony petty theft on or about June 20, 2002. The June 20, 2002 petty theft resulted in a three-strikes felony conviction under California law.
12. Under Sections 3(a)(39)(F) and 15(b)(4)(B) of the Securities Exchange Act of 1934 (the "1934 Act"), a person is subject to a statutory disqualification for a period of ten years upon conviction if such person has been convicted of, among other things, any felony.
13. As Respondent's June 20, 2002 conviction for petty theft in violation of California Penal Code § 666 constitutes a felony conviction, under Section 15(b)(4)(B) of the

1934 Act, Respondent was statutorily disqualified from employment with an Exchange member organization at the time that she applied for the position with the Firm.

14. In October 2004, Respondent's felony conviction for petty theft was reduced to a misdemeanor; therefore, Respondent is no longer statutorily disqualified.

### **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 bar for a period of 18 months from membership, allied membership, approved person status, and from employment or association in any capacity with any member or member organization.

Enforcement relies on the following Exchange precedents to support the agreed upon penalty: In re Chaim Rieger, Decision 05-92 (N.Y.S.E Hearing Panel, Aug. 24, 2005); In re Andrew Davis Mills, Decision 05-88 (N.Y.S.E. Hearing Panel, Aug. 5, 2005); and In re John R. Johnson, Decision 05-19 (N.Y.S.E. Hearing Panel, Jan. 27, 2005).

In Rieger, the respondent was convicted of a misdemeanor and two felonies, all of which he failed to disclose on his employment application; he consented to a penalty of a censure and two-year bar beyond the period of statutory disqualification. In Mills, the respondent failed to disclose a prior misdemeanor petty theft conviction on an employment application and consented to a penalty of a censure and one-year bar. In Johnson, the respondent consented to a penalty of a censure and three-year bar beyond the period of statutory disqualification for failing to disclose a felony conviction for which he was on probation at the time of the employment application, notwithstanding the fact that the official record pertaining to the case would be sealed if he successfully completed probation.

In the present case, Respondent failed to disclose one felony and two misdemeanor convictions. The fact that the felony conviction consisted of a misdemeanor act that only became a felony because of the California three-strikes law and has now been converted back to a misdemeanor does not negate its serious nature.

For the Hearing Panel

Peggy Kuo - Chief Hearing Officer  
Panelists:  
Thomas Liriano  
Peter Tuzzo