

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 05-177

February 8, 2006

LEE MACKAY TURNER

FORMER REGISTERED REPRESENTATIVE

* * *

**Failed to comply with NYSE requests for information and testimony,
impersonated a customer and made material misstatements to his firm –
Consent to censure and permanent bar.**

Appearances:

For the Division of Enforcement
Simon Swider, Esq.
Jennifer L. Mennella, Esq.

For Respondent Firm
Lee Mackay Turner
pro se

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A Hearing Panel of the New York Stock Exchange, Inc. (the “NYSE” or the “Exchange”) met to consider a Stipulation of Facts and Consent to Penalty entered into between the NYSE’s Division of Enforcement (“Enforcement”) and Lee Mackay Turner (“Respondent”), a former registered representative with Edward D. Jones & Company, a member organization. Without admitting or denying guilt, Respondent consented to a finding by the Hearing Panel that he:

- I. Failed to comply with Exchange requests for information and testimony.
- II. Engaged in conduct inconsistent with just and equitable principles of trade by:
 - (A) impersonating a customer of a member firm for the purpose of transferring his account; and
 - (B) making material misstatements to a member firm compliance officer during the course of an internal investigation.

For the sole purpose of settling this disciplinary proceeding, the Division of Enforcement and the Respondent stipulate to certain facts, the substance of which follows:¹

¹ The facts, allegations, and conclusions contained in paragraphs 1-17 are taken from the executed Stipulation of Facts and Consent to Penalty between Enforcement and Respondent. No changes have been made to the stipulated paragraphs by the Hearing Panel, except that certain names have been deleted to protect the privacy of non-parties.

Background and Jurisdiction

1. Lee Mackay Turner (“Turner”) was born in October 1966. Turner entered the securities industry in or about October 1997 as a registered employee with Edward D. Jones & Company (“Edward Jones” or “Firm”) where he was employed in the Firm’s Mukilteo, Washington branch until January 9, 2004.
2. On December 11, 2003, the New York Stock Exchange (“the Exchange”) Division of Enforcement (“Enforcement”) received a Form RE-3, “Submission of Required Information Pertaining to Members, Member Organizations, Allied Members, Registered and Non-Registered Employees and Approved Persons” (the “RE-3”) from the Firm. The RE-3 states that Turner placed trades for a client to buy mutual funds without first confirming the trades.
3. Enforcement received a Uniform Termination Notice for Securities Industry Registration (“Form U-5”) dated February 9, 2004. It reported that Turner’s employment was terminated because he contacted a brokerage firm and represented himself to be a client of that firm in order to liquidate and transfer a customer’s account to the Firm.
4. Enforcement notified Turner of its formal investigation by letter dated July 14, 2004, which Turner received.

Summary of Violative Conduct

5. As set forth below, Turner failed to comply with Exchange requests for information and testimony, impersonated a customer of a member firm in order to cause an account to be transferred to him and then lied about the impersonation to a compliance officer.

Failure to Cooperate

6. By letter dated July 14, 2004, sent via certified mail and copy by first class mail, the Exchange notified Turner of its investigation into the allegation that while he was employed at the Firm, he impersonated Customer C, a client of XYZ, in order to liquidate and transfer Customer C’s account to Edward Jones. Additionally, Turner was notified that the Exchange was investigating the allegation that he exercised discretion in the account of Customer W. Enforcement requested a detailed written explanation of these matters within 20 days of the letter.
7. On August 10, 2004 Turner sent a responsive email to Enforcement stating that he was traveling in India and stated, “I pledge you my assistance once I return, I retained copious notes just for this forum.” Additionally, Turner stated “I’ll be there (Zanskar) for nearly 12 days so I wont be in touch until at least then.” Turner never contacted Enforcement as required and promised.

8. By letter dated November 30, 2004, sent via certified mail and copy by first class mail, the Exchange again notified Turner of its investigation and requested a detailed written explanation of the allegations on or before December 23, 2004. The letter explained that Turner's failure to supply the requested information could result in the institution of formal disciplinary proceedings based on his failure to comply with the Exchange requests. Enforcement did not receive any response to the November 30, 2004 letter.
9. A third letter was sent to Turner on January 24, 2005, via certified mail and copy by first class mail, requesting his appearance for an on-the-record interview before the Division of Enforcement on February 22, 2005. In response to this letter, an individual representing herself to be Turner's mother sent an email to Enforcement on January 30, 2005 ("the January 30th email"). The January 30th email stated that Turner would miss the scheduled interview because he would not be in the country on that date. Turner did not appear on January 30, 2005 or otherwise contact Enforcement.
10. By letter dated June 9, 2005 ("the June 9th letter"), sent via Federal Express and copy by first class mail, Enforcement outlined its various attempts to obtain a written statement and testimony from Turner. Additionally, Enforcement requested Turner's appearance for an on-the-record interview before Enforcement on June 27, 2005.
11. In response to the June 9th letter, an individual representing herself to be Turner's mother sent an email to Enforcement on June 11, 2005 ("the June 11th email"). The June 11th email contains a statement from Turner stating that he plans on returning to the United States in mid - August to early September and then will comply with Enforcement's requests.
12. By letter dated June 15, 2005 (the "June 15th letter"), sent via Federal Express, first class mail and e-mail, Enforcement stated that it has been almost a year since Turner had been initially notified of the allegations and he has yet to submit a substantive response. The June 15th letter advised that Turner's failure to comply with Enforcement's requests for a written detailed explanation and to testify placed him in default of his obligation to cooperate with the Exchange's investigation in this matter.
13. On June 24, 2005 Enforcement received an email from Turner stating that he has written substantive "briefs" to the Firm about the allegations against him and wishes to have this record stand as his response. Turner also states "I do not envision ever working in the financial field again, a self-imposed exile if you will."
14. To date, Turner has failed to respond to the Exchange's requests for written explanation and testimony.

Impersonation of a Customer and a Material Misstatement

15. In October 2003, the Firm received a verbal complaint from client Customer C regarding the liquidation of certain funds he held at XYZ. Customer C had agreed to transfer these funds from XYZ to the Firm, but he did not want to liquidate his positions.
16. Customer C's funds at XYZ were liquidated when Turner called XYZ and falsely represented that he was Customer C and made the request.
17. A Firm compliance officer, questioned Turner about Customer C's complaint. In response, Turner explained that he did call XYZ regarding the transfer of the customer account but Turner claimed that he identified himself as "Lee Turner with Edward Jones, calling on behalf of my client Customer C." That statement was false.

DECISION

The Hearing Panel, in accepting the Stipulation of Facts and Consent to Penalty, found Respondent Firm 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 permanent bar from membership, allied membership, approved person status, and from employment or association in any capacity with any Exchange member or member organization.

For the Hearing Panel

Vincent F. Murphy - Hearing Officer
Panelists:
Domitilia M. dos Santos
Joan McGrath