

NEW YORK STOCK EXCHANGE LLC

NYSE HEARING BOARD DECISION 06-207

December 1, 2006

AARON BOLAND OSIER

FORMER NON-REGISTERED EMPLOYEE

* * *

Violated NYSE Rule 476(a)(10) by making misstatement on Form U-4 filed with NYSE; caused violation of NYSE Rule 345.12 by filing inaccurate Form U-4 containing false information with NYSE; violated NYSE Rules 476(a)(11) and 477 by failing to timely comply with one or more written requests by NYSE for information - Consent to censure and two-year bar.

Appearances:

For the Division of Enforcement
Anthony J. Cavallaro, Esq.
Scott M. Anderson, Esq.
Conway Lee, Esq.

For Respondent
Aaron Boland Osier, *pro se*

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A Hearing Officer on behalf of the New York Stock Exchange LLC (“NYSE”) considered a Stipulation of Facts and Consent to Penalty entered into between NYSE Regulation, Inc.’s Division of Enforcement (“Enforcement”) and Aaron Boland Osier (“Respondent”), non-registered employee with Bay Crest Partners, LLC, an NYSE member organization. Without admitting or denying guilt, Respondent consented to a finding by the Hearing Officer that he:

- I. Violated NYSE Rule 476(a)(10) in that he made a misstatement on a Form U-4 filed with the NYSE.
- II. Caused a violation of NYSE Rule 345.12 by filing an inaccurate Form U-4 containing false information with the NYSE.
- III. Violated NYSE Rules 476(a)(11) and 477 in that he failed to timely comply with one or more written requests by the NYSE for information.

For the sole purpose of settling this disciplinary proceeding, without adjudication of any issues of law or fact, and without admitting or denying any allegations or findings referred to in the Stipulation of Facts and Consent to Penalty, Respondent stipulates to certain facts, the substance of which follows:*

Background and Jurisdiction

1. Osier was born in March of 1980. He entered the securities industry in or about February of 2005 as a clerk for the New York, New York office of Non-Member Firm A. In May of 2005, Osier left Non-Member Firm A. On or about August 29, 2005, Osier became employed in a non-registered capacity as a clerk on the Floor of the NYSE for Bay Crest Partners, LLC (“Bay Crest” or the “Firm”), a member firm. On or about December 14, 2005, Osier took a leave of absence from the Firm and never returned. On January 11, 2006, Bay Crest terminated Osier’s employment.
2. On January 13, 2006, Enforcement received a Uniform Termination Notice For Securities Industry Registration (“Form U-5”) from the Firm, reporting Osier’s employment termination.
3. By letter dated April 27, 2006, which Osier received, Enforcement notified Osier it was investigating this matter.

Summary of Violative Conduct

4. On August 29, 2005, Osier made a misstatement on a Uniform Application For Securities Industry Registration or Transfer (“Form U-4”) filed with the NYSE in that he failed to disclose his prior criminal history, and Osier failed to timely comply with one or more of the NYSE’s written requests for information.

Osier’s Prior Criminal History

5. On March 16, 2000, the Boulder County, Colorado Sheriff’s Department arrested and charged Osier with the following offenses: Introducing Contraband in the First Degree, C.R.S. §18-8-203, a felony; Third Degree Trespass, C.R.S. §18-4-504(1), a misdemeanor; and Criminal Impersonation, C.R.S. §18-5-113, a felony. On April 13, 2000, a warrant was issued for Osier’s arrest for failure to appear in court. On November

* Hearing Officer Note: The facts, allegations, and conclusions contained in paragraphs 1 to 20 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 Officer, except that a pseudonym has been provided to protect the privacy of a non-party.

18, 2005, all charges were dismissed except for the 3rd Degree Trespass misdemeanor, for which Osier pled guilty and was required to pay court fees and serve a two-day jail sentence.

6. On February 21, 2002, the Maui County, Hawaii Police Department arrested and charged Osier with Operating a Motor Vehicle While Under the Influence of an Intoxicant, H.R.S. §291E-61, a misdemeanor. Upon information and belief, Osier was not convicted of this offense.
7. On September 2, 2002, the Oneida, New York State Police Department arrested and charged Osier with Driving While Intoxicated With Alcohol, N.Y. V.T.L. §1192(3), a misdemeanor. Osier was convicted after pleading guilty to the charge and was required to pay a fine in the amount of \$325.
8. On December 10, 2002, the San Francisco, California Police Department arrested and charged Osier with one count of Possession of a Narcotic Controlled Substance, H.S. §11350(A), a felony. Osier successfully completed a drug court program and the matter was dismissed on April 4, 2005.
9. On August 1, 2003, the Pennsauken, New Jersey Police Department arrested and charged Osier with Possession of Drug Paraphernalia, N.J.S.A. §2C: 36-2, and Possession of Marijuana/Hash, N.J.S.A. §2C: 35-10A(4). Both charges are classified as “disorderly person” offenses, which in New Jersey are equivalent to misdemeanors. Osier pled guilty to both charges on January 15, 2004. Additionally, in a Pennsauken Police Department complaint dated August 1, 2003, Osier was identified as a fugitive from justice, N.J.S.A. §2A: 160-21, stemming from the felony charge for Possession of a Narcotic Controlled Substance in San Francisco, California. This matter was dismissed.

Osier’s Failure to Report Prior Criminal History

10. On August 29, 2005, upon commencement of employment with the Firm, Osier completed a Form U-4, which was filed with the NYSE on the same day. In Section 14 of the Form U-4, entitled, “Disclosure Questions,” Osier was required to answer questions inquiring of his criminal background.
11. Question 14(A)(1)(b) of Section 14 on the Form U-4 asked, “Have you ever been *charged* with any *felony*?” In response to Question 14(A)(1)(b), Osier selected the “NO” answer.
12. Based upon his March 16, 2000 charge for Criminal Impersonation, and his December 10, 2002 charge for Possession of a Narcotic Controlled Substance, both felonies, Osier was required to select the “YES” answer in response to Question 14(A)(1)(b) in Section 14 of the Form U-4.

13. By answering Question 14(A)(1)(b) on the Form U-4 in the negative, Osier misstated to the NYSE his prior criminal history by failing to disclose the prior felony charges.

Statutory Disqualification Determination

14. A person is subject to statutory disqualification under Section 3(a)(39)(F) and Section 15(b)(4)(B) of the Securities Exchange Act of 1934 (the "Exchange Act") if such person has been convicted of any felony or a specified misdemeanor as enumerated in subsections (i), (ii), (iii) and (iv) of Section 15(b)(4)(B) of the Exchange Act "within ten years of the date of the filing of an application for membership or participation in, or ... become[s] associated with a member of [a] self-regulatory organization."
15. Because Osier has not been convicted of any felonies within the previous ten years of the commencement of his employment with the Firm, nor any of the enumerated misdemeanors as specified in the Exchange Act within the same time period, Osier is not subject to statutory disqualification.

Osier's Failure to Timely Cooperate

16. By letter dated April 27, 2006, which Osier received, Enforcement requested information from Osier pertaining to its investigation. Osier's response was due on May 26, 2006. This letter informed Osier that his failure to comply with Enforcement's request for information could subject him to disciplinary action, including charges of failure to cooperate.
17. Osier called Enforcement staff on May 10, 2006, and during this conversation, Osier agreed to provide a written statement responsive to Enforcement's inquiries. No response was provided.
18. On June 1, 2006, Enforcement sent a second request to Osier, which Osier received, seeking the same information. No response was provided.
19. On July 19, 2006, Enforcement sent a third letter to Osier, which Osier received, again requesting the same information. No response was provided.
20. On August 4, 2006, having received no reply from Osier, Enforcement staff contacted Osier via telephone. Osier confirmed that he had received the earlier letters from Enforcement, and agreed to provide a written statement by August 14, 2006. No such written statement was provided by August 14, 2006.
21. Just prior to midnight, on September 5, 2006, Osier sent an email response to Enforcement staff, providing information responsive to Enforcement's request of April 27, 2006. However, Osier provided no explanation for his failure to respond in a timely manner to the previous requests for information.

DECISION

The Hearing Officer, in accepting the Stipulation of Facts and Consent to Penalty, found Respondent guilty as set forth above.

PENALTY

In view of the above findings, the Hearing Officer imposed the penalty consented to by Respondent of a censure and a bar for a period of two years from membership, allied membership, approved person status, and from employment or association in any capacity with any member or member organization.

For the Hearing Board

Vincent F. Murphy - Hearing Officer