

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 93-66

May 5, 1993

JOHN PETER COREA
FORMER EXCHANGE MEMBER

* * *

Violated Exchange Rule 111 by engaging in transactions, while on the Floor, for an account in which he had an interest without being registered as a Competitive Trader, a Specialist or a Registered Competitive Market Maker; violated Exchange Rule 112.10 by entering orders not received from an order room or other regularly used facility; violated Exchange Rule 134.A(d)(i) by failing to accept a trade into his error account when he could not identify a customer; engaged in fraud and fraudulent acts by causing a member organization to accept one or more trades without a bona fide customer order; violated or caused a violation of SEC Section 7 (of the 34 Act) and Regulation T of the Board of Governors of the Federal Reserve System by failing to make payment for securities transactions; violated SEC Regulation 240.15c3-1 by permitting his net capital to fall below the minimum required; violated Exchange Rule 345(a) by allowing an individual under his employ to perform the duties regularly performed by a registered representative without registration; engaged in acts detrimental to the interest and welfare of the Exchange by becoming associated with a member firm while subject to a statutory disqualification; violated Exchange Rule 477 by refusing to comply with the Exchange's requests for documents and testimony – Censure and permanent bar.

Appearances:

For the Division of Enforcement
Simon Swidler, Esq.
William B. Baran, Esq.

For the Respondent
No Appearance

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An Exchange Hearing Panel conducted a hearing on charges brought by the Exchange's Division of Enforcement against John Peter Corea, a former independent member of the Exchange. Corea was charged with having:

- I. Violated Exchange Rule 477 by refusing to comply with the Exchange's written request to furnish documents and to testify.

- II. Violated Exchange Rule 111 by engaging in transactions, while on the Floor, for an account in which he had an interest without being registered as a Competitive Trader, a Specialist, or a Registered Competitive Market Maker.
- III. Violated Exchange Rule 112.10 by entering orders that were not received from an order room or other regularly used facility for the transmission of orders in the account of a member organization.
- IV. Violated Exchange Rule 134.A(d)(i) by failing to accept a trade into his error account when he could not identify a customer.
- V. Engaged in fraud and fraudulent acts by causing a member organization to accept one or more trades he entered from the Floor of the Exchange without a bona fide customer order into an account of the member organization.
- VI. Violated or caused a violation of SEC Regulation Section 7 and Regulation T of the Board of Governors of the Federal Reserve System by failing to make payment for securities transactions for which he was financially responsible.
- VII. Violated SEC Regulation 240.15c3-1 by permitting his net capital requirement to fall below the prescribed minimum of \$5,000 while engaging in entering securities trades.
- VIII. Violated Exchange Rule 345(a) by allowing an individual under his employ to perform the duties regularly performed by a registered representative without registration and approval by the Exchange.
- IX. Engaged in acts detrimental to the interest and welfare of the Exchange in that he became associated with a member firm of the Exchange while he was subject to a statutory disqualification.

Corea did not submit an Answer to the Charge Memorandum. Neither he nor any person on his behalf appeared at the hearing in this matter. At the hearing, the Division of Enforcement moved, pursuant to Exchange Rule 476, to have the facts contained in the Charge Memorandum deemed admitted since Corea had failed to file an Answer. After receiving evidence, the Hearing Panel granted the motion, and found as follows:

Background and Jurisdiction

1. John Peter Corea ("Corea") was born on [REDACTED]. He entered the securities industry in June 1986 as a Floor clerk. In May 1987, he left the firm to become a Floor clerk for both an independent member and a member organization.
2. On April 22, 1988, Corea was approved by the SEC as a sole proprietor broker/dealer. He was approved by the Exchange as a physical access member of the Exchange. In July 1988, a firm was formed by Corea and his brother. In April 1989, that firm was dissolved.

3. Corea became a lessee member in April 1989 leasing a seat as a sole proprietor. In April 1990, he renewed his lease. Corea operated as a \$2 Floor Broker on the Floor of the Exchange.
4. Corea was never registered as a specialist, a Registered Competitive Market Maker or a Competitive Trader. Therefore, with limited exceptions not relevant here, Corea was not authorized to enter "on Floor" orders for an account in which he had an interest. All his orders were thus required to be entered pursuant to Exchange Rule 112.10.
5. Corea was summarily suspended by the Exchange on August 24, 1990 pursuant to Exchange Rule 475(b)(ii). He is not currently employed by a member or member organization.

Failure to Cooperate with the Exchange

6. By letter dated August 30, 1990, Corea, through counsel, was notified that the Exchange was conducting an investigation relating to his activities as a \$2 Floor broker. The Exchange's letter requested specified documents and testimony by Corea.
7. On September 7, 1990, counsel for Corea orally informed the Exchange on behalf of Corea that Corea would not appear and testify in connection with the Exchange's investigation nor provide any documents requested by the Exchange.
8. By letter dated September 19, 1990, the Exchange reiterated its demand for documents and testimony by Corea.
9. Corea has failed to comply with the Exchange's request for documents and testimony.

Improper Trading

10. During July and August 1990, Corea made 12 purchase transactions in three listed securities and named Firm A as the buyer. Corea did not have a customer order for any of these trades.
11. Firm A had not authorized Corea to enter these trades. Accordingly, the trades so made by Corea were uncomparated at Firm A and became questioned trades the day after they were entered.
12. In accordance with standard procedures, Corea was confronted by a Firm A clerk, on the day after the trades were made (T+1). However, instead of accepting the trades into his error account, Corea persuaded the clerk to temporarily accept the trades into a Firm A account. This violated Exchange Rule 134.A(d)(i) and its predecessor sections (see then Section 134) concerning error trades.

13. The initial transaction entered by Corea as described above, was a purchase of 7,000 shares of RST on July 12, 1990. On or about July 17, 1990, Corea purchased 5,000 shares of UVW. At that time, the two positions had a total value of \$488,750.
14. From July 23 through August 3, Corea made eight additional purchases of UVW at progressively lower prices. he also added positions in RST and in another security XYZ. These additional transactions increased the size of the wrongfully placed positions to 50,400 shares of UVW, 17,000 shares of RST and 1,500 shares of XYZ. At the time of purchase, the positions had a value in excess of \$4 million.
15. As of August 3, 1990, Corea was obligated to make payments of approximately \$1.9 million to meet Regulation T requirements. He failed to do so.
16. Prior to August 23, 1990, Corea moved a total of 15,000 shares of UVW and 7,000 shares of RST from Firm A into an error account at another firm. (This left 30,400 shares of UVW, 10,000 shares of RST and 1,500 XYZ at Firm A).
17. On August 23, 1990, Corea "walked off" the Floor of the Exchange and failed to provide a resolution to the wrongfully placed securities positions. When Firm A management learned that Corea left large positions at Firm A the positions were immediately liquidated at a loss of \$656,632.

Capital Violation

18. During July and August 1990, Corea did not maintain the minimum \$5,000 net capital requirement but continued to operate as a \$2 Floor broker on the Floor of the Exchange.

Violation of Rule 345(a)

19. During 1990, Corea inquired about operating a public business.
20. Corea never received approval by the Exchange to operate a public business.
21. Without Exchange approval, Corea hired a registered representative, RR, to accept orders directly from customers whose accounts were carried by other member organizations. RR, during July and August 1990, referred trades to Corea for execution.
22. Corea failed to qualify and register RR to work for him.

Summary Suspension

23. Corea was summarily suspended by the Exchange on August 24, 1990 in connection with his trading as an independent \$2 broker.

24. Because Corea was suspended by the Exchange, he was subject to a statutory disqualification with respect to membership or participation in, or association with a member or member organization pursuant to Section 3(a)(39) of the Securities Exchange Act of 1934.

Association with a Member Organization

25. Firm B is a member organization which has a retail business consisting of six registered representatives servicing approximately 250 active accounts. It is also a clearing firm for a specialist firm.
26. In June 1991, Corea was still subject to a statutory disqualification.
27. On June 28, 1991 Corea persuaded a would-be customer to open an account at Firm B. She deposited \$50,000 into an account at Firm B and gave Corea discretionary authority over the account. Corea serviced this account from Firm B during the period it was open (June 28, 1991 through July 17, 1991).
28. Corea held himself out as an employee of Firm B and functioned as though he were an employee of Firm B. Corea wrote up order tickets and entered them with the Firm B's trading desk. He had direct wire access from the offices of Firm B to the Floor of the Exchange and entered orders from those offices. He received daily Firm B profit/loss reports of the customer's trading. He entered orders for approximately 150 trades.

Employment by a \$2 Floor Broker

29. Between October 1990 and June 1991 (the "relevant period"), FB was an independent \$2 Floor broker.
30. During the relevant period and while Corea continued to be suspended by the Exchange, FB employed Corea as a "consultant" to solicit customers to place their orders through FB.
31. During the relevant period, FB paid Corea, as compensation, \$20,750. The payments were as follows:

January 18, 1991	\$ 5,000
February 27, 1991	3,000
March 11, 1991	3,000
March 25, 1991	1,000
April 15, 1991	5,000
May 17, 1991	3,000
June 28, 1991	750
	\$20,750

DECISION

The Hearing Panel, by unanimous vote, found Corea guilty of all charges.

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that John Peter Corea, 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.

Mr. Corea's conduct was so far removed from the standard of conduct expected of a member of the New York Stock Exchange, Inc. that no lesser penalty would be appropriate.

For the Hearing Panel

Vincent F. Murphy
Hearing Officer