

NEW YORK STOCK EXCHANGE, INC.

JAMES KENNEDY LANGAN, FORMER REGISTERED REPRESENTATIVE WITH DREXEL BURNHAM LAMBERT INCORPORATED, ENGAGED IN CONDUCT INCONSISTENT WITH JUST AND EQUITABLE PRINCIPLES OF TRADE IN THAT HE MISAPPROPRIATED FUNDS BELONGING TO CUSTOMERS OF HIS MEMBER FIRM EMPLOYER, AND, VIOLATED EXCHANGE RULE 477 AND HIS AGREEMENTS WITH THE EXCHANGE IN THAT HE FAILED TO COMPLY WITH OR RESPOND TO WRITTEN REQUESTS BY THE EXCHANGE FOR INFORMATION -- PERMANENT BAR.

EXCHANGE HEARING PANEL DECISION 81-73

September 21, 1981

An Exchange Hearing Panel conducted a hearing on charges brought by the Department of Enforcement against James Kennedy Langan, a former registered representative with Drexel Burnham Lambert Incorporated. Langan was charged with having:

- I. Engaged in conduct inconsistent with just and equitable principles of trade in that he misappropriated funds belonging to customers of his member firm employer.
- II. Violated Exchange Rule 477 in that he failed to comply with or respond to written requests by the Exchange for information regarding matters which occurred prior to the termination of his employment with a member firm.
- III. Violated his agreement with the Exchange in that he failed to comply with or respond to written requests by the Exchange for information concerning certain specified matters.

Langan did not submit an answer to the charge memorandum. Neither Langan, nor any person on his behalf, appeared at the hearing on this matter. At the hearing, the Department of Enforcement moved, pursuant to Exchange Rule 476(d), to have the facts contained in the charge memorandum deemed admitted since Langan had failed to file an answer. After receiving documentary and testimonial evidence, a portion of which related to admissions made by Langan at a meeting with officers of the firm, the Hearing Panel granted the motion and found as follows:

1. James Kennedy Langan ("Langan") was born on [REDACTED]. He entered the securities industry as a registered representative trainee in January 1972 and was approved as a registered representative effective July 19, 1972. In September 1979 he joined Drexel Burnham Lambert Incorporated (the "firm") as a registered representative.

2. In late September 1980 the firm became aware of Langan's conduct when a customer called the branch to report an unauthorized withdrawal. A review by the firm of all accounts serviced by Langan disclosed a number of checks bearing Langan's name as a second endorsement.
3. On October 9, 1980 Langan met with several officers of the firm. Two of the officers present at that meeting testified at the hearing.
4. Langan endorsed, without their authorization, the customer's checks specified in paragraph 9 below. He then obtained the proceeds of these checks for his own use.
5. During the period March 20 through September 1980 Langan misappropriated at least \$18,177.31 from the accounts of six firm customers.
6. Langan in each case informed the branch cashier that a customer had come to the office to pick up a check, which Langan had requested to be drawn on the customer's credit balance.
7. Langan obtained possession of each check, endorsed the payee's name without the payee's knowledge or permission and then endorsed his own name.
8. Langan cashed the checks or deposited them in his personal checking account at a local bank, without the knowledge or permission of the customers or the firm.
9. Langan obtained at least nine checks in this manner, described as follows:

Date of Check	Customer	Amount of Check
March 20, 1980	A	\$ 450.00
April 2, 1980	A	350.00
April 3, 1980	A	123.00
May 2, 1980	B	2,600.00
May 29, 1980	C	1,500.00
June 12, 1980	D	853.71
July 9, 1980	D	5,200.60
July 23, 1980	E	6,000.00
AuguSt 1, 1980	F	1,100.00
		\$18,177.31

10. Langan repaid one customer by making a deposit in the customer's account. The firm reimbursed the other customers.

11. On October 20, 1980, the Exchange received a Uniform Termination Notice for securities and Commodities Industry Registration from the firm reporting it had discharged Langan on October 9, 1980.
12. By letter dated October 29, 1980, the Exchange notified Langan that it was investigating certain matters specified therein and requested him to submit a detailed written explanation thereof to the Exchange. The letter was mailed by certified mail, return receipt requested, to Langan's last known address on Exchange records, which had been furnished by the firm. A copy of the letter was mailed by regular first class mail.
13. Both the original and the copy of the Exchange's October 29, 1980 letter to Langan were returned to the Exchange, stamped "Moved-Left no Address".
14. On November 10, 1980, the Exchange mailed a copy of its October 29, 1980 letter to Langan at a new address obtained from the firm. The mailing was by certified mail, return receipt requested, and, separately, by regular first class mail. The letter sent by certified mail was returned to the Exchange on December 10, 1980, marked "Unclaimed." The regular mail letter was not returned.
15. The Exchange, not having received from Langan compliance with or a response to its initial letter dated October 29, 1980, sent a second letter dated December 26, 1980 to Langan and a copy thereof to his attorney whose name had been obtained from the firm. This letter again requested a written explanation of the matters specified in its October 29, 1980 letter, a copy of which was enclosed, and stated that failure to supply the requested information could result in formal disciplinary proceedings being brought against Langan under Exchange Rule 477.
16. The Exchange's letter dated December 26, 1980 to Langan and the copy to his attorney were sent by certified mail, return receipt requested. A copy of each letter was sent by regular first class mail. The return receipt for the copy of the letter sent to the attorney was received by the Exchange in January 1981. The certified letter sent to Langan was returned to the Exchange marked "Unclaimed." Neither regular mail letter was returned to the Exchange.
17. On January 13, 1981, the Exchange received a letter dated January 7, 1981 from Langan's attorney which asserted a Fifth Amendment privilege on behalf of Langan and requested

the Exchange to "continue", i.e., defer, its investigation until the attorney was satisfied that no criminal prosecution would be brought against Langan.

18. By letter dated January 26, 1981, the Exchange informed Langan's attorney that his January 7, 1981 letter was not responsive to the Exchange's request, and that Langan's failure to supply the requested information might result in formal disciplinary charges being brought against Langan. A copy of the letter was mailed to Langan.
19. The January 26, 1981 letter to Langan's attorney and the copy thereof to Langan were sent by regular first class mail. Neither was returned to the Exchange.
20. To date, no response to the Exchange's January 26, 1981 letter has been received from either Langan or his attorney, and Langan has not furnished the written explanation requested by the Exchange.
21. In connection with his employment by the firm, Langan executed an agreement with the Exchange ("Form U-4, AD-G-1"), dated September 14, 1979, wherein he agreed to comply with or respond to written requests for information by the Exchange following the termination of his employment.

#### DECISION

The Hearing Panel, by unanimous vote, found Langan guilty as charged.

#### PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, determined that Langan be permanently barred from membership, allied membership and employment or association in any capacity with any member or member organization.

For the Hearing Panel

John J. Mulcahy, Jr.  
Chief Hearing Officer