

NEW YORK STOCK EXCHANGE LLC

NYSE HEARING BOARD DECISION 06-82

June 27, 2006

JOHN PETTUS  
BRANCH OFFICE MANAGER

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**Violated NYSE Rule 342 by failing to reasonably discharge his duties and obligations as branch office manager by failing to reasonably supervise certain activities, including anti-money laundering compliance obligations, failing to reasonably supervise intra-account journals of customers and employees, and failing to reasonably supervise and control activities of registered representatives subject to his control; caused violation of Section 220.3 of Regulation T, by arranging for extension of credit to customer on terms different than Regulation T allows – Consent to censure, three-month supervisory suspension, and requirement that he retake and pass Series 8 Examination and any other qualifying supervisory examinations before resuming any supervisory position.**

**Appearances:**

For the Division of Enforcement  
Susan Light, Esq.  
Marianne Paoli, Esq.  
Robert Meyers, Esq.

For Respondent  
Marvin Pickholz, Esq.

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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 John Pettus (“Respondent”), a branch office manager with Oppenheimer & Co. Inc., an NYSE member organization. Without admitting or denying guilt, Respondent consented to a finding by the Hearing Officer that he:

- I. Violated NYSE Rule 342 by failing to reasonably discharge his duties and obligations as a branch office manager in that he:
  - a. failed to reasonably supervise certain activities at the branch office of his member firm employer, including anti-money laundering compliance obligations;

- b. failed to reasonably supervise intra-account journals of customers and employees of his member firm employer; and
  - c. failed to reasonably supervise and control the activities of registered representatives of his member firm employer subject to his control.
- II. Caused a violation of Section 220.3 of Regulation T, promulgated by the Board of Governors of the Federal Reserve System in that he arranged for the extension of credit to a person maintaining a customer account at his member firm employer on terms different than Regulation T allows.

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. Pettus was born in 1967. Pettus entered the securities industry in September 1990, working as an analyst with a non-member firm. In April 1992, Pettus became employed with Fahnstock & Co., Inc., which since September 2003, as a result of a series of business combinations has been known as Oppenheimer & Co. Inc. (the "Firm"). Pettus has served as branch office manager in one of the Firm's foreign branch offices (the "Foreign branch office") for all relevant times through the present.
2. In 2003, the Sales Practice Review Unit of the Division of Member Firm Regulation ("MFR"), which was then a part of the New York Stock Exchange, Inc., conducted a sales practice examination of the supervisory standards and sales practice procedures established and maintained at the Firm in various branch offices and a review of the Firm's anti-money laundering program (the "2003 MFR examination").<sup>1</sup>
3. By letter dated May 26, 2004, which Pettus received, Enforcement notified Pettus that it was formally investigating the matters set forth in the 2003 MFR examination, including deficiencies in his execution of his responsibilities as a branch manager.

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\* Hearing Officer Note: The facts, allegations, and conclusions contained in paragraphs 1 to 19 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 pseudonyms have been provided to protect the privacy of non-parties.

<sup>1</sup> MFR is now a division of NYSE Regulation, Inc.

### **Overview**

4. As set forth below, during the period of 2002 through 2004, (the “relevant period”), Pettus, while employed as branch office manager at the Foreign branch office, failed to adequately supervise and follow-up on certain activities in his branch, including but not limited to, registered representatives and non-registered employees facilitating a large number of intra-account journals through both unrelated customer accounts as well as employees’ personal and employee-related accounts. These money movements occurred in hundreds of accounts and amounted to several million dollars. Pettus and 15 other Foreign branch office personnel took part in the money movements, which involved 31 employee or employee-related accounts. Pettus’ failure to adequately supervise these money movements contributed to the Firm’s failure to properly identify and report those transactions that were suspicious within the meaning of the Bank Secrecy Act.<sup>2</sup> Further, Pettus caused a violation of Section 220.3 of Regulation T, promulgated by the Board of Governors of the Federal Reserve System (“Regulation T”) in that he arranged for the extension of credit to a person maintaining a customer account at the Firm on terms different than Regulation T allows.

### **Violative Conduct by the Respondent**

#### **Failure to Supervise**

5. NYSE Rule 342(a) requires a branch office manager to reasonably discharge his duties and obligations in connection with the supervision and control of employees under his supervision to comply with NYSE Rules and federal securities laws.
6. During the relevant period, Pettus was branch office manager for the Foreign branch office, and consequently was responsible for the supervision of all registered representatives and non-registered individuals employed by the Firm who worked at that branch office, and for all customer accounts serviced by those registered representatives.
7. During the relevant period, under Pettus’ watch as the branch office manager, registered representatives and other personnel in the Foreign branch office facilitated a large number of intra-account journals through both unrelated customer accounts as well as employees’ personal and employee-related accounts, without relevant security transactions and for no apparent economic benefit.
8. These money movements occurred in hundreds of accounts and amounted to several million dollars. Pettus and 15 other Foreign branch office personnel took part in the money movements, which involved 31 employee or employee-related accounts. For example, on March 21, 2003, Pettus journaled \$400 from his personal account into an unrelated account of a customer of the Firm.

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<sup>2</sup> 31 U.S.C. §5318(g)

9. Pettus did not require employees of the branch office to obtain verification of the reasons for the transfers between unrelated accounts. As a result, the Firm was without knowledge of essential facts relevant to the purpose of the transfers between unrelated accounts.
10. To transfer funds via a journal transfer, Firm policy and procedures required the account holder to issue a signed letter of authorization identifying the amount of the transfer and the receiving account; the branch office manager had to review the letter of authorization and show his approval in writing.
11. Numerous letters of authorization relating to journal transfers between unrelated customer accounts and between customer accounts and employee or employee-related accounts failed to evidence supervisory review. Pettus did not exercise the requisite due diligence with respect to these transactions, which contributed to the Firm's inability to properly identify and report transactions that were suspicious within the meaning of the Bank Secrecy Act regulations.
12. Pettus was aware of securities industry prohibitions on transfers of funds between customers' and employees' accounts. Yet, he personally participated in these transactions, and also permitted employees under his supervision to engage in similar transactions.
13. As a result, Pettus failed to exercise reasonable supervision at the Foreign branch office and thereby failed to supervise in a manner consistent with the Firm's anti-money laundering compliance obligations, in violation of NYSE Rule 342(a).

#### **Violation of Regulation T**

14. Regulation T regulates the extension of credit by and to brokers and dealers. Section 220.2 of Regulation T defines a "creditor" as any broker or dealer, any member of a national securities exchange, or any person associated with a broker or dealer.
15. Section 220.3(g) of Regulation T provides, in part, that a creditor may arrange for the extension or maintenance of credit to or for any customer by any person, provided the creditor does not willfully arrange credit that violates parts 221 or 224 of the Federal Reserve System.<sup>3</sup>
16. On or about March 24, 2003, Pettus caused the transfer of \$10,000 to a Firm customer from a branch account for which Pettus was one of the principals. On or about June 9, 2003, that same customer transferred \$10,000 from the customer's account to another branch office account for which Pettus was one of the principals.

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<sup>3</sup> Section 221.7 of Regulation U, promulgated by the Board of Governors of the Federal Reserve System ("Regulation U") provides that the maximum loan value of any margin stock is 50% of its current market value.

17. In response to the transfer in paragraph 16 above, on or about June 10, 2003, the Firm's anti-money laundering compliance analyst asked Pettus if he was aware of the reason for the transfer. Pettus acknowledged that the \$10,000 represented repayment of a loan that Pettus made to a Firm client after the Firm Margin Department had denied the client's loan request.
18. Pettus was aware that the Firm Margin Department had denied extending credit to the customer and ignored Firm policy in making a loan to a customer from a branch office account.
19. Pettus' actions allowed for a customer to receive \$10,000 from a branch office account, and thereby arranged for the extension of credit on terms that exceeded 50% of the current market value of the customer's margin stock in violation of Section 220.3 of Regulation T.

### **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, a three-month supervisory suspension, and a requirement that he retake and pass the Series 8 examination and any other qualifying supervisory examinations before resuming any supervisory position at the Firm, or taking any supervisory position with any other NYSE member organization.

For the Hearing Board

Vincent F. Murphy - Hearing Officer