

BEFORE THE
STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF SECURITIES

In the Matter of
MERRILL LYNCH PIERCE FENNER & SMITH INC.

PETITION FOR ORDER

Respondent.

File No. S-04280(LX)

The staffs of the Licensing & Compliance Bureau and the Enforcement Unit, Registration and Enforcement Bureau of the Division of Securities, Department of Financial Institutions, State of Wisconsin have conducted an investigation in this matter pursuant to sec. 551.56, Wis. Stats. and as a result thereof allege as follows:

1. Merrill Lynch Pierce Fenner & Smith Inc. ("Merrill") is a broker-dealer (CRD # 7691) with a last known address of 4804 Deer Lake Dr., E. Jacksonville, FL 32246-6486;
2. Michael C. Ribich ("Ribich") (CRD #4472460) is a securities agent licensed in Wisconsin with a last known address of 1359 N. Lincoln, Unit 3073, Urbana, IL 61801;
3. On October 12, 2004, the staff became aware that Ribich had been the subject of a denial of his application for licensing as an insurance agent by the Wisconsin Office of the Commissioner of Insurance ("OCI") on August 16, 2004;
4. The denial of his insurance agent application was based on Ribich's failure to respond to OCI's request for more information regarding his "yes" answer on his application that he had been convicted of a misdemeanor or felony related to the insurance industry;
5. On October 27, 2004, the staff sent a letter to Gene Porter ("Porter"), the Registration contact for Merrill, at PO Box 44222, Jacksonville, FL 32231-4222, asking for an explanation of the "yes" answer regarding a conviction on his insurance application, with a response date of November 10, 2004;
6. We received no response to the October letter, so on November 26, 2004, the staff sent a letter to Christopher Cavuoti ("Cavuoti"), Compliance contact for Merrill, at 222 Broadway, 16th Floor, New York, NY 10038-2510, with a copy to Ribich, stating that the Division had not received a reply to the October 27, 2004 letter to Porter and giving the firm and Ribich until December 7, 2004 to respond before the matter would be referred to Enforcement;
7. The Division received no response to either the October or the November letter so on December 21, 2004 the Administrator issued an Order of Suspension, suspending Ribich's license until the information requested was received;

8. On December 21, 2004 at 3:27pm CST, the staff faxed a copy of the signed Order and Petition to Merrill's Registration Department at 904-218-7202 in an attempt to elicit a response;

9. On December 27, 2004, the staff send a certified letter to Ribich at his last know office of employment address of 225 West Wacker Drive, Chicago, IL 60606 which letter was signed for by "C. Smith" on December 29, 2004;

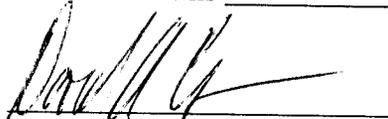
10. It was not until the Division sent, on January 20, 2005, a proposed Petition for Order and Order that sanctioned Merrill for its failure to respond that the Division received any response from Merrill;

11. The failure of Merrill to respond to multiple requests for information and the summary action against Ribich's license provide a basis, pursuant to sec. 551.34(1)(m), Wis. Stats., for the censure and assessment of its broker-dealer license in Wisconsin.

12. The failure of Merrill to update Ribich's CRD record to reflect his correct address provides a basis, pursuant to sec. 551.33(3), Wis. Stats. and 551.34(2), Wis. Stats. for the censure and assessment of its broker-dealer license in Wisconsin

THEREFORE, the staffs of the Licensing & Compliance and Registration & Enforcement Bureaus petition the Administrator for the issuance of the attached Order.

DATED this _____ day of _____, 2005.



David A. Cohen
Supervising Attorney
Enforcement Unit



Kenneth L. Hojnacki
Director
Licensing & Compliance Bureau