UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Rel. No. 55452 / March 13, 2007

Admin. Proc. File No. 3-11062r

In the Matter of the Application of

CALVIN DAVID FOX
P.O. Box 7900
Jupiter, Florida 33468

For Review of Disciplinary Action Taken by the

NEW YORK STOCK EXCHANGE, INC.

ORDER DENYING REQUEST FOR RECONSIDERATION

On November 30, 2006 we dismissed the appeal of Calvin David Fox from disciplinary action by the New York Stock Exchange, Inc. ("NYSE" or "Exchange") because Fox had failed to file a timely request that the Board of Directors of the NYSE review the hearing panel decision and, consequently, failed to exhaust the remedies provided by the Exchange before appealing to the Commission. 1/ On December 11, 2006, Fox filed a Motion for Reconsideration of the November 30, 2006 Order ("the Order").

Rule of Practice 470 governs our consideration of Fox's motion. 2/ Reconsideration is an extraordinary remedy designed to correct manifest errors of law or fact or permit the introduction of newly discovered evidence. 3/

1/ Calvin David Fox, Securities Exchange Act Rel. No. 54840 (Nov. 30, 2006), __ SEC Docket ____.

2/ 17 C.F.R. § 201.470.

3/ See Philip A. Lehman, Securities Exchange Act Rel. No. 54991 (Dec. 21, 2006) __ SEC Docket ____ (Order Denying Request for Reconsideration).

Fox argues that the Order contains errors of fact and of law and reaches an erroneous conclusion that Fox filed his request for review by the Board of Directors after the time specified by the NYSE rules had expired. For the first time, Fox disputes the factual premise upon which that conclusion is based: that the Exchange mailed the hearing panel decision to Fox on March 31, 2006. He does not, however, introduce newly discovered evidence in support of this claim. Rather, Fox speculates that, because the March 31, 2006 date on the envelope in which the hearing panel decision was mailed is from a postage meter, the NYSE could have stamped it on that date but placed it in the mail on a subsequent date. This speculation, however, is countered by the description given by counsel for the NYSE of the NYSE's settled procedure of mailing letters on the same day that they are stamped by the postage meter. In the absence of evidence that this practice was not followed, we see no reason to disturb our earlier finding that the hearing panel decision was mailed on March 31, 2006.

Before filing this motion for reconsideration, Fox did not contest the date of mailing of the hearing panel decision. Instead, Fox argued that service of the hearing panel decision was not effective until delivery. The Order rejects Fox's service-on-delivery theory as inconsistent with the applicable NYSE rules. Fox reiterates a variation of that legal argument in the instant motion, asserting that service by certified mail is not effective until delivered. Fox offers his interpretation of the Commission's Rules and a definition from Black's Law Dictionary in support of his position. Neither of these is relevant to the interpretation of the clear language of NYSE Rule 476(d) which states that "[s]ervice shall be deemed effective . . . by leaving [the document] either at the respondent's last known office address during business hours or respondent's last place of residence as reflected in Exchange records, or upon mailing same to the respondent at the aforesaid office address or place of residence." 4/ We find that neither Fox's factual assertions nor his legal argument provide any reason for reconsidering the November 30, 2006 Order.

Accordingly, IT IS ORDERED that Petitioner's Motion to Reconsider be, and it hereby is, denied.

By the Commission.

Nancy M. Morris
Secretary

4/ NYSE Rule 476(d). Rule 476(e) provides that hearing panel decisions are to be served as provided in Rule 476(d) which applies to service of Charge Memoranda.