

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 02-128

June 18, 2002

MARIA Z. PADOWITZ

FORMER NON-REGISTERED EMPLOYEE

* * *

**Violated Exchange Rule 351(b) by failing to disclose criminal history –
Consent to censure and eleven year bar.**

Appearances:

For the Division of Enforcement
Susan F. Axelrod, Esq.
Kenneth R. Bozza, Esq.

For the Respondent
Maria Z. Padowitz
pro se

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An Exchange Hearing Panel met to consider a Stipulation of Facts and Consent to Penalty entered into between the Exchange's Division of Enforcement and Maria Z. Padowitz, a former non-registered employee with Salomon Smith Barney Inc. (the "Firm"). Without admitting or denying guilt, Ms. Padowitz consents to a finding by the Hearing Panel that she violated Exchange Rule 351(b) by failing to disclose to her member organization employer facts concerning her criminal history.

For the sole purpose of settling this disciplinary proceeding, the Division of Enforcement and Ms. Padowitz stipulate to certain facts, the substance of which follows:

Background and Jurisdiction

1. Maria Z. Padowitz ("Padowitz") was born on October 19, 1960. She entered the securities industry in June 2000 as a sales assistant with the Firm. The Firm terminated Padowitz's employment on February 14, 2001, and she is not currently employed in the securities industry.
2. The Exchange's Division of Enforcement ("Enforcement") received an undated Form RE-3 reporting that the Firm had terminated Padowitz on February 14, 2001 for failing to disclose an arrest involving embezzlement, which the Firm did not become aware of until receiving a fingerprint card from the Exchange.
3. By letters dated March 23, 2001, January 29, 2002 and April 4, 2002, Enforcement notified Padowitz that it was conducting an inquiry and later was formally investigating her failure to disclose to the Firm information concerning her criminal history.

Overview

4. Padowitz began working at the Firm on June 19, 2000. On December 13, 2000, while still employed at the Firm, Padowitz was arrested for the crime of Misapplication of Bank Funds, a Class B. Felony. However, at no time during the course of her employment at the Firm did Padowitz disclose this felony arrest to anyone at the Firm. Following the termination of her employment, Padowitz was convicted of this crime, which subjected her to a statutory disqualification.

Failure to Disclose Criminal Arrest

5. On June 19, 2000, Padowitz began her employment with the Firm. On that date, Padowitz signed a document entitled "Employee Handbook Receipt," acknowledging that she had received the Firm Employee Handbook. In the Handbook, under a section entitled "Required Reporting," it is stated that employees must notify the Compliance Department and Manager if they become, or if they have ever been, the subject of any **arrest**, summons, subpoena, arraignment, indictment or conviction for a criminal offense (emphasis added).
6. On December 13, 2000, Padowitz was arrested for the crime of Misapplication of Bank Funds, a Class B Felony, in violation of Section 656 of Title 18 of the United States Code ("18 U.S.C. §656"). (A violation of 18 U.S.C. §656, which is entitled "Theft, embezzlement, or misapplication by bank officer or employee," occurs when an officer, director, agent or employee of any bank embezzles, abstracts, purloins or willfully misapplies any of the money, funds or credits of such bank. A person commits a felony under this section if the amount of money embezzled, abstracted, purloined or misapplied exceeds \$1,000.)
7. At no time during the course of her employment at the Firm did Padowitz disclose this felony arrest to anyone at the Firm.
8. Exchange Rule 351(a) requires, among other things, that members and member organizations promptly report to the Exchange whenever an employee "is arrested, arraigned, indicted or convicted of, or pleads guilty to, or pleads no contest to, any criminal offense (other than traffic violations)."
9. Exchange Rule 351(b) requires, among other things, that each non-registered employee of a member organization shall promptly report the existence of any event described in Rule 351(a) to the member organization with which such person is associated.
10. By failing to disclose her felony arrest to the Firm at any time during her employment, Padowitz violated Exchange Rule 351.
11. On May 24, 2001, following the termination of her employment, Padowitz pled guilty to and was convicted of Misapplication of Bank Funds, a Class B Felony.

12. Under Section 3(a)(39)(F) and Section 15(b)(4)(B) of the Securities and Exchange Act of 1934 (the “Exchange Act”), a person is subject to a statutory disqualification if such person has been convicted, within the past ten years, of any felony and certain specified misdemeanors (including those involving theft or misappropriation of funds) delineated in subsections (i), (ii), (iii) and (iv) of Section 15(b)(4)(B) of the Exchange Act.
13. In addition to her having been convicted of a felony following the termination of her employment, Padowitz’s conviction was for a crime involving theft and misappropriation of funds. Accordingly, Padowitz’s conviction was for a crime specified by the Exchange Act as automatically subjecting her to a statutory disqualification.

DECISION

The Hearing Panel, in accepting the Stipulation of Facts and Consent to Penalty, found Ms. Padowitz guilty as set forth above by unanimous vote.

PENALTY

In view of the above findings, the Hearing Panel, by unanimous vote, imposed the penalty consented to by Ms. Padowitz of a censure and an eleven year bar from membership, allied membership, approved person status, and from employment or association in any capacity with any Exchange member or member organization.

For the Hearing Panel

Milton M. Stein
Hearing Officer