

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 02-132

June 19, 2002

HARRY WEI TAM

FORMER REGISTERED REPRESENTATIVE

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Misappropriated funds from a customer – Consent to censure and permanent bar.

Appearances:

For the Division of Enforcement
Virginia J. Harnisch, Esq.
Kathleen A. Gallagher, Esq.

For the Respondent
Harry Wei Tam
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 Harry Wei Tam, a former registered representative with Charles Schwab & Co., Inc. Without admitting or denying guilt, Tam consents to a finding by the Hearing Panel that he engaged in conduct inconsistent with just and equitable principles of trade in that he misappropriated funds from a customer of his member organization employer.

For the sole purpose of settling this disciplinary proceeding, the Division of Enforcement and Tam stipulate to the following:

Background and Jurisdiction

1. Tam was born in October 1961. He entered the securities industry in May 1992. In June 1993, Tam joined Charles Schwab & Co., Inc. ("Schwab"). Although Tam was approved by the Exchange as a registered representative in August 1993, he was employed in a non-registered capacity as an operations specialist. In April 1996, Tam left Schwab to become a full time student. In February 1997, he rejoined Schwab, where he again was employed in a non-registered capacity as a senior operations specialist in the risk and credit department. In November 1999, Tam's employment at Schwab was terminated and, since that time, he has not been employed in the securities industry in a registered capacity.
2. Enforcement opened its investigation of Tam after it received a Form U-5 from Schwab in December 1999, reporting that, prior to the termination of Tam's employment, Schwab had conducted an internal review and determined that Tam had opened a Schwab brokerage account with a joint party without the other party's

authorization and made unauthorized cash movements into the joint account to facilitate option trading.

3. By letter dated January 19, 2000, Enforcement informed Tam that it was investigating the possibility that, while he was employed at Schwab, he may have opened a joint brokerage account without the authorization of the purported joint party. Enforcement additionally informed Tam that it was investigating allegations that he misappropriated funds by making unauthorized cash movements from the joint party's individual account to the joint account, and requested his written explanation.
4. On or about February 3, 2000, Enforcement received a written explanation from Tam. Thereafter, Enforcement took certain investigative steps and completed its investigation. As part of the investigation, by letter dated November 16, 2001, Tam submitted a second written explanation to Enforcement.

Violative Conduct

Misappropriation of Customer Funds

5. As part of his job responsibilities as a senior risk operations specialist at Schwab, Tam had the ability to transfer funds to and from customer accounts. Specifically, his responsibilities included transferring or journaling funds based on customer instructions.
6. On or about May 1, 1999, AB, an acquaintance of Tam, opened an individual account at Schwab (the "Individual Account").
7. On or about September 20, 1999, Tam opened a joint account at Schwab, identifying AB as he account holder and himself as the joint account holder (the "Joint Account"). The Joint Account was opened by Tam without AB's knowledge or consent.
8. On or about September 21, 1999, Tam prepared a Letter of Authorization ("LOA") for a journal of \$14,000 from the Individual Account to the Joint Account and signed AB's name on the LOA without AB's knowledge or consent. The transfer was completed on September 22, 1999.
9. In the period between September 22, 1999 and November 12, 1999, using the \$14,000 transferred from the Individual Account to the Joint Account, Tam effected numerous options transactions in the Joint Account, resulting in an overall profit for the account of more than \$50,000.
10. On or about October 18, 1999, Tam executed an authorization for a \$5,000 check to be issued from the Joint Account payable to himself. On or about October 19, 1999, a check payable to Tam in the amount of \$5,000 was issued from the Joint Account.

11. Thus, while employed at Schwab, Tam misappropriated funds from a customer.

DECISION

The Hearing Panel, in accepting the Stipulation of Facts and Consent to Penalty, found Mr. Tam 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 Mr. Tam of a ensure and a permanent bar from membership, allied membership, approved person status, and from employment or association in any capacity with any member or member organization.

For the Hearing Panel

Edward W. Morris, Jr.
Chief Hearing Officer