

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 02-166

August 20, 2002

WILLIAM EDWARD EVANS, II
FORMER REGISTERED REPRESENTATIVE

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Violated Exchange Rule 472(a) by posting communications on Internet message boards without employer approval; posted communications containing speculative statements concerning securities which could be expected to affect investor interest at a time he and his customers held an interest in such securities – Consent to censure and two month bar.

Appearances:

For the Division of Enforcement
Steven F. Korostoff, Esq.
Barry M. Hochhauser, Esq.
Howard L. Kneller, Esq.

For the Respondent
William Edward Evans, II
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 William Edward Evans, II, a former registered representative with Raymond James & Associates, Inc. (the "Firm"). Without admitting or denying guilt, Mr. Evans consents to findings by the Hearing Panel that he:

- I. Violated Exchange Rule 472(a) by, on one or more occasions, posting communications concerning securities on Internet message boards without the knowledge and approval of his member firm employer.
- II. Engaged in conduct inconsistent with just and equitable principles of trade by, on one or more occasions, posting on Internet message boards, without the knowledge and approval of his member firm employer, communications containing speculative statements concerning securities which could reasonably be expected to affect investor interest at a time when he and/or his customers held an interest in such securities.

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

Background and Jurisdiction

1. Evans was born in [REDACTED]. He entered the securities industry in January 1994 with a non-member firm. After leaving that firm in October 1994, Evans was unemployed for approximately five months. In April 1995, Evans joined a member organization.

He was first approved as a registered representative (“RR”) by the Exchange in May 1995. Evans left that employer in March 1998.

2. In March 1998, Evans became employed by the Firm. Evans’ employment at the Firm terminated in March 2000.
3. From April 2000 through October 2001, Evans was employed by another member organization. Evans is currently not employed in the securities industry in a registered capacity.
4. On or about April 6, 2000, the Exchange received from the Firm a Form U-5 (Uniform Termination Notice For Securities Industry Registration) reporting that Evan’s employment terminated in March 2000. The Form U-5 also reported that Evans failed to obtain the Firm’s approval before posting information on the Internet.
5. By a letter dated September 12, 2000, which Evans received, Enforcement notified Evans of its investigation of the Internet postings described above.
6. Thereafter, Evans appeared and testified in connection with the Exchange’s investigation.

Summary Of Violative Conduct

7. During August 1999 through March 2000 (the “Relevant Period”), on one or more occasions, Evans violated Exchange Rule 472(a) by posting communications concerning securities on Internet message boards without the knowledge and approval of his member firm employer. In addition, Evans engaged in conduct inconsistent with just and equitable principles of trade by posting on such Internet message boards, without the knowledge or approval of his member firm employer, communications containing speculative statements concerning securities which could reasonably be expected to affect investor interest at a time when he and/or his customers held an interest in such securities.

Unapproved Communications With The Public Via The Internet

8. Exchange Rule 472 (a) provides that “Each advertisement, market letter, sales literature, or other similar type of communication which is generally distributed or made available by a member or member organization to customers or the public shall be approved in advance by a member, allied member, supervisory analyst or qualified person designated under [Exchange rules].” Rule 472.10 defines “communications” as including, among other things, “electronic communications ... which are shown or distributed to customers or the public.”
9. During the Relevant Period, Evans posted messages from his home computer concerning a number of stocks on message boards maintained at either of two web sites. The messages posted by Evans primarily related to three companies (hereinafter “XYZ”, “UVW” and “RST”, collectively referred to as the

“Companies”). The stocks of each of the Companies traded on the NASDAQ during the Relevant Period.

10. For each of the postings, Evans used one of two user names, “blackjack0570” or “blackjack0980.” In total, Evans made over 75 postings. In the postings, Evans stated positive information about the future of the Companies. He also stated that significant news announcements about the Companies were imminent and that such news would cause the share prices of the Companies to rise. While Evans did not identify himself as an employee of the Firm in the postings, he did refer to the Firm by name in a number of instances.

11. Examples of Evan’s Postings include:

Stock	Date	User Name	Excerpt or Full Text of Posting
XYZ	8/8/99 at 9:23 p.m.	blackjack0980	[XYZ] will gap up tomorrow morning with a good amount of volume on instinct.
XYZ	8/12/99 at 7:30 a.m.	blackjack0980	[M]ore news to come tomorrow. [F]rom my sources: still expect deal...[A]lso, major write up in national business newspaper ... this weekend. [Y]ou must be long going into the weekend. [G]ood luck to all.
XYZ	9/3/99 6:46 a.m. and 7:09 a.m.	blackjack0980	[O]n Tuesday, you will see a major news announcement. ... is what [I] hear from a very good source....[T]his is a source [I] use that seems to know many things about [XYZ] before they are announced. [I]’m [sic] not guaranteeing a [T]uesday announcement. [I]’m [sic] just content that something will be announced. [I] don’t want to look like a pumper.
XYZ	10/18/99 8:23 p.m.	blackjack0980	Stock being taken over. [I] have a VERY GOOD feeling. [T]rust me on this one.
XYZ	10/24/99 8:44 p.m.	blackjack0980	[Y]ou will start to see more major news announcements. [A]lso, [I] heard of another private placement. [G]ood things to come....[T]his stock will do nothing but go up. [N]ot in a straight line of course.
UVW	11/22/99 10:07 p.m.	blackjack0980	[N]ews tomorrow a.m. [Y]ou heard it here first....[M]ajor news announcements coming soon and also news coverage by a major brokerage firm. [I]t could be Gold in these hills!
RST	3/4/00 at 10:57 a.m.	blackjack0570	[I]n my last post [I] stated that [I] have been hearing of big announcements in the near future. [W]ell, the near future is here my fellow longs. [J]ust bought more at \$9 5/8. [G]ood luck to all. [R]emember, don’t invest because you read the chat sites. [D]o your own due dilly.

12. The above-mentioned statements, as well as other statements contained in the postings made by Evans, were speculative and could reasonably be expected to affect investor interest in the Companies.
13. During the Relevant Period, Evans and several of his customers held or traded shares of the Companies described in the postings made by Evans.

DECISION

The Hearing Panel, in accepting the Stipulation of Facts and Consent to Penalty, found Mr. Evans 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. Evans of a censure and a bar for a period of two months 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

Milton M. Stein
Hearing Officer