

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 02-187

September 25, 2002

MARIO DENARD JOYNER

FORMER REGISTERED REPRESENTATIVE

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Misappropriated customer funds, forged customers' names to letters of authorization – Consent to censure and permanent bar.

Appearances:

For the Division of Enforcement
Susan F. Axelrod, Esq.
Bettina M. Sacklowski

For the Respondent
Robert P. Aulston, Esq.

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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 Mario Denard Joyner, a former registered representative with Merrill Lynch, Pierce, Fenner and Smith, Incorporated (the "Firm"). Without admitting or denying guilt Mr. Joyner consented to a finding by the Hearing Panel that he engaged in conduct inconsistent with just and equitable principles of trade in that he:

- I. Misappropriated funds belong to one or more customers of his member firm employer.
- II. Forged customers' names to letters of authorization without the customers' knowledge or authorization.

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

Background and Jurisdiction

1. Mario D. Joyner ("Joyner") was born on November 9, 1973. During the period of December 1995 through October 2001, Joyner was employed as a registered representative with the Firm. Joyner was terminated on October 12, 2001, when the Firm learned that he had forged letters of authorization and misappropriated funds from customers' accounts.
2. On November 20, 2001, the Exchange received notice, via a Uniform Termination Notice for Securities Industry Registration ("Form U-5"), of Joyner's termination as of October 12, 2001.

3. By letter dated January 11, 2002, (the "January 11th Letter"), sent via certified mail return receipt requested and first class mail, which he received, Enforcement notified Joyner of its investigation in this matter.

Overview

4. As set forth in detail below, from May 2000 through October 2001 (the "relevant period"), Joyner signed four customers' names to letters of authorization and misappropriated approximately \$185,000 in funds and securities from customers of his member organization employer.

Forged Letters of Authorization and Misappropriation of Customer Funds

5. Joyner worked as a registered representative ("RR") at the Firm's Detroit, Michigan branch office from December 1995 until his termination on October 12, 2001.
6. Joyner served as the RR for the accounts of his cousins, DS and SM, both Firm customers. Joyner opened DS' account in 1999 and provided the Firm with his home address as the address of record for the account. Copies of DS' account statements were sent both to Joyner in Michigan and DS at her home in North Carolina.
7. During the relevant period, Joyner drafted and signed the names of four (4) customers of his member firm employer to Letters of Authorization ("LOAs"), without the customers' authorization, with the intent to transfer funds and/or securities into his cousin DS' account.
8. On May 8, 2000, Joyner signed the name of customer MM to a LOA requesting the transfer of 1,540 shares of ABC Fund and 1,540 shares of DEF Fund to DS' account. On September 24, 2001, Joyner again signed MM's name to a LOA requesting the transfer of 907 shares of the Firm's X fund to DS' account. MM did not authorize these transfers.
9. On July 7, 2000, Joyner transferred 95,240 shares of GHI from an account belonging to customer GH to another one of GH's accounts. This transfer did not require an LOA because the Firm's policies and procedures for priority customers allowed for transfer between accounts for the same customer to be effected without a LOA.
10. On July 17, 2000, Joyner signed GH's name to a LOA requesting the transfer of 95,000 shares of GHI to DS' account.
11. On October 1, 2001, Joyner signed the name of customer CR to a LOA requesting the transfer of 15,000 shares of JKL CD to DS' account.
12. On October 5, 2001, Joyner signed the name of customer JF to a LOA requesting the transfer of 25,000 shares of JKL CD to DS' account.

13. Once the aforementioned securities were transferred into DS' account, Joyner would periodically sell them in small increments and transfer a portion of the proceeds from DS' account to other accounts, including his cousin SM's account and his own personal account. Joyner would then use the funds in his account for his personal use.
14. The Firm discovered Joyner's conduct when branch management questioned the legitimacy of the JF LOA. Thereafter, the Firm conducted an internal investigation during which Joyner admitted the aforementioned misconduct. Although Joyner admitted to signing the five LOAs and to transferring the securities to DS' account, in fact only three of the transactions went through. JF's and CR's LOAs were stopped by the Firm.
15. The Firm made whole each of the customers affected by Joyner's misconduct. The total amount of adjustments and reimbursements made to the customer accounts was approximately \$185,000.

DECISION

The Hearing Panel, in accepting the Stipulation of Facts and Consent to Penalty, found Mr. Joyner 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. Joyner of a censure 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

Vincent F. Murphy
Hearing Officer