

NEW YORK STOCK EXCHANGE, INC.

**EXCHANGE HEARING PANEL DECISION 05-16**

January 26, 2005

KRISTINA LYNN KUNST  
FORMER NON-REGISTERED EMPLOYEE

\* \* \*

**Misappropriated customer funds – Consent to censure and permanent bar.**

**Appearances:**

For the Division of Enforcement  
Virginia J. Harnisch, Esq.  
Danielle I. Schanz, Esq.  
Michael S. Choi, Esq.

For the Respondent  
Dennis J. Curland, 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 Kristina Lynn Kunst, a former non-registered employee with UBS PaineWebber Inc. (the "Firm"). Without admitting or denying guilt, Ms. Kunst consents to a finding by the Hearing Panel that she engaged in conduct inconsistent with just equitable principles of trade in that she misappropriated funds belonging to customers of her member firm employer.

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

**Background and Jurisdiction**

1. Kristina Lynn Kunst ("Kunst") was born on November 11, 1969.
2. In September 1997, Kunst entered the securities industry as a non-registered employee with a non-member firm, where she was employed until September 1999.
3. On June 19, 2000, Kunst re-entered the securities industry when she began her employment with the Firm as a non-registered employee.
4. Kunst was employed in the Firm's Chesterfield, Missouri branch office as a non-registered wire operator and cashier until her employment was terminated on June 29, 2001.
5. Kunst has not been employed in the securities industry since her termination from the Firm.

6. On or about March 4, 2002, the Exchange received from the Firm a Submission of Required Information Pertaining to Members, Member Organizations, Allied Members, Registered and Non-Registered Employees and Approved Persons ("Form RE-3") reporting that Kunst misappropriated customer funds while employed with the Firm.
7. By letter dated September 18, 2002, which Kunst received, Enforcement notified Kunst of its investigation pertaining to matters alleged on her RE-3 and requested a written explanation.
8. Thereafter, Kunst responded and provided information to Enforcement.

#### **Summary of Violative Conduct**

9. Kunst engaged in conduct inconsistent with just and equitable principles of trade in that she misappropriated approximately \$6,000 belonging to customers of her member firm employer.

#### **Misappropriation of Customer Funds**

10. Kunst worked as a cashier and wire operator in the Firm's Chesterfield, Missouri branch office. Kunst's duties included processing incoming mail and inputting through the Firm's computer system all customer checks received by the branch into the corresponding customer accounts. She was also responsible for creating a deposit slip for such checks for deposit into the Firm's account.
11. On two separate occasions in February 2001, instead of depositing customer checks into the corresponding customers' accounts, Kunst wrongfully deposited the customers' checks into her own resource management account at the Firm for her own benefit. One customer check was in the amount of \$1,000.00 and the other was in the amount of \$4,954.75.
12. Thus, a total of approximately \$6,000 in customer checks were wrongfully deposited by Kunst into her own account.
13. Following an internal investigation by the Firm, it reimbursed the customers from whom Kunst misappropriated funds.

#### **DECISION**

The Hearing Panel, in accepting the Stipulation of Facts and Consent to Penalty, found Ms. Kunst 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. Kunst 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

Milton M. Stein – Hearing Officer  
Panelists:  
Frank Carl Scheuer, Jr.  
Peter A. Wiener