

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 05-91

August 22, 2005

SUSAN JEAN ELVENDAHL

FORMER REGISTERED REPRESENTATIVE

\* \* \*

**Misappropriated funds, forged customer's signatures and violated Exchange Rule 440 and Securities Exchange Act Rule 17a-4 by, on one or more occasions, causing her member firm employer to maintain inaccurate books and records. – Consent to censure and permanent bar.**

**Appearances:**

For the Division of Enforcement  
Matthew L. Moore, Esq.  
Aida Vernon, Esq.  
Radhika Bhargava, Esq.

For the Respondent  
Susan Jean Elvendahl

\* \* \*

A Hearing Panel of the New York Stock Exchange, Inc. ("Exchange") met to consider a Stipulation of Facts and Consent to Penalty entered into between the Exchange's Division of Enforcement ("Enforcement") and Susan Jean Elvendahl ("Respondent"), a former registered representative with Morgan Stanley Dean Witter & Co. (the "Firm"). Without admitting or denying guilt, Respondent consented to a finding by the Hearing Panel that she:

- I. Engaged in conduct inconsistent with just and equitable principles of trade in that she:
  - A. Misappropriated funds belonging to a customer of her member firm employer and,
  - B. On one or more occasions, forged the signature of a customer of her member firm employer on:
    - i. a check issued by her member firm employer; and/or
    - ii. a document submitted to her member firm employer,
- II. Violated Exchange Rule 440 and Securities Exchange Act Rule 17a-4 by, on one or more occasions, causing her member firm employer to maintain inaccurate books and records.

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

### **Background and Jurisdiction**

1. Respondent was born in September 1953. From February 1988 to July 2002, Respondent was employed by the Firm, or its predecessors, as a registered representative in its Bloomington, Minnesota branch office.
2. Respondent was not employed in the securities industry between July 2002 and December 2002. Since December 2002, Respondent has been employed as a registered representative with a broker-dealer that is not an Exchange member organization.
3. On July 9, 2002, the Firm notified the Exchange by a Uniform Termination Notice for Securities Industry Registration ("Form U-5") that it had terminated Respondent's employment on July 2, 2002 because she had made unauthorized transfers of funds from the accounts of relatives who were customers of the Firm.
4. Enforcement notified Respondent of its investigation of those allegations in a letter dated October 29, 2002, which she received.

### **Summary of Violative Conduct**

5. Respondent handled the joint brokerage account of her brother-in-law BL and his wife W, Respondent's sister (the "BW Account"). Respondent also handled the brokerage account and the individual retirement account of her cousin C (the "C Account" and the "C IRA," respectively).
6. During April 2002 through June 2002, without authorization, Respondent obtained three checks drawn on the BW Account totaling \$9,000, forged the signature of BL on disbursement vouchers that she then submitted to the Firm, forged the endorsements of BL and W on the checks, and deposited the three checks into her personal checking account. In an attempt to cover up her unauthorized withdrawals from the BW Account, Respondent signed C's name without permission or authority on a letter (the "C Letter") that purported to authorize the transfer of \$4,000 from the C Account and \$5,000 from the C IRA to the BW Account. Additionally, without permission or authority, Respondent signed C's name on a required IRA distribution form for the purpose of authorizing the withdrawal of funds from the IRA. Respondent submitted the C Letter and the IRA distribution form to the Firm, causing the Firm to transfer a total of \$9,000 from the C Account and the C IRA into the BW Account.

### **Misappropriation of Customer Funds and Forgery**

7. In April 2002, Respondent requested in writing that two checks be drawn on the BW Account and made payable to BL, one for \$4,000 and one for \$1,000. She submitted the requests to the branch office cashier. Respondent indicated that BL was coming

- to the branch office to pick up the checks.
8. In fact, BL was not aware of, nor did he authorize, the requests for the two checks.
  9. On or about April 9, 2002, Respondent told the cashier that BL was in her office. Respondent then picked up the two checks from the cashier along with two disbursement vouchers to be signed by BL as confirmation that he had received the checks. Without authority or permission, Respondent signed BL's name on each of the disbursement vouchers and returned them to the cashier.
  10. On the back of each check, without authority or permission, Respondent made the check payable to herself by signing BL's name as the endorser and putting her name as the payee.
  11. On or about April 9, 2002, Respondent deposited the two checks, totaling \$5,000, into her personal checking account for her own benefit.
  12. In May 2002, BL received his April 2002 account statement for the BW Account showing that two checks totaling \$5,000 had been issued on the account. BL called Respondent about the two checks. He asked her to clear up the matter. She said that she would.
  13. Instead, Respondent requested in writing that another check be drawn on the BW Account. This check was for \$4,000 and was to be made payable to BL and W. She again submitted the request to the cashier and indicated that BL was coming to the branch office to pick up the check.
  14. In fact, the BL and W were not aware of, nor did they authorize, this request.
  15. On or about May 31, 2002, Respondent told the cashier that BL was in her office. Respondent then picked up the check from the cashier along with a disbursement voucher. Without authority or permission, Respondent signed BL's name on the disbursement voucher and returned it to the cashier.
  16. On the back of the check, without authority or permission, Respondent made the check payable to herself by signing BL and W's names as the endorsers and putting her name as the payee.
  17. On or about May 31, 2002, Respondent deposited the check for \$4,000 into her personal checking account for her own benefit.
  18. In June 2002, BL received his May 2002 account statement showing that a third check had been drawn on the BL Account. BL called Respondent for an explanation; she assured him she would take care of it.
  19. After that conversation, Respondent signed C's name without permission or authority

on a letter (the “C Letter”) that purported to authorize the transfer of \$4,000 from the C Account and \$5,000 from the C IRA to the BW Account.

20. Without permission or authority, Respondent also signed C’s name on a required IRA distribution form for the purpose of authorizing the withdrawal of funds from the IRA. Respondent submitted the C Letter and the IRA distribution form to the Firm.
21. As a result of Respondent’s actions, the Firm made two unauthorized transfers into the BW Account: \$4,000 from the C Account on June 12, 2002 and \$5,000 from the C IRA on June 13, 2002.
22. In fact, C was not aware of, nor did he authorize, the transfers from his accounts to the BW Account.

### **DECISION**

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

In support of the penalty, Enforcement relies on In the Matter of Patrick W. Donohue, HPD 03-154 (August 18, 2003), In the Matter of Mario Denard Joyner, HPD 02-187 (September 25, 2002) and In the Matter of Eugene Shvartsman, HPD 01-120 (July 6, 2001) all of which involved penalties of censure and permanent bar for misappropriation. Respondent’s conduct here requires no less than a permanent bar.

For the Hearing Panel

Vincent F. Murphy - Hearing Officer  
Perry Scopelliti  
Stewart J. Teichman