

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 05-96

August 29, 2005

MARLENA D. GRETH

FORMER NON-REGISTERED EMPLOYEE

* * *

Misappropriated funds belonging to her member firm employer, and caused a violation of Section 17 of the Securities Exchange Act of 1934 and Rules 17a-3 and 17a-4 thereunder, and Exchange Rule 440, in that she made or caused to be made, false books and records – Consent to censure and permanent bar.

Appearances:

For the Division of Enforcement
Scott M. Andersen, Esq.
Miranda Chatelain, Esq.

For the Respondent
Marlena D. Greth

* * *

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 Marlena D. Greth (“Respondent”), a former non-registered employee with Charles Schwab & Co., Inc. (the “Firm”). Without admitting or denying guilt, Respondent consented to a finding by the Hearing Panel that she:

- I. Violated Exchange Rule 476(a)(6) by engaging in conduct inconsistent with just and equitable principles of trade in that she misappropriated funds belonging to her member firm employer.
- II. Caused a violation of Section 17 of the Securities Exchange Act of 1934 and Rules 17a-3 and 17a-4 thereunder, and Exchange Rule 440, in that she made or caused to be made, false books and records of her member firm employer concerning its expenses.

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

Background and Jurisdiction

1. Respondent was born in January 1970. She entered the securities industry on or about May 28, 1999 as a non-registered employee in the Richfield, Ohio office of the Firm until her employment was terminated on or about August 25, 2004. She has not been employed in the securities industry since her termination.

2. On or about September 9, 2004, the Exchange received a Form RE-3 from the Firm reporting that Respondent's employment had been terminated for falsifying Firm documents and for the inappropriate use of the Firm's corporate credit card.
3. By letter dated February 7, 2005, which she received, the Exchange notified Respondent that it had opened an investigation into the matter.

Summary of Violative Conduct

4. During the period of November 1999 through July 2004 (the "relevant period"), the Respondent misappropriated approximately \$33,829 from the Firm by using a Firm corporate credit card, without authorization, to make Automated Teller Machine ("ATM") cash withdrawals and to pay for personal expenses. The Respondent also submitted fictitious and or inflated travel and expense reports ("T&E reports").

Violative Conduct

5. The Respondent was hired on May 28, 1999 as an administrative assistant in the Firm's Corporate and Retirement Services Department. One of her responsibilities as an administrative assistant was to make office purchases, travel arrangements and event arrangements for various managers. To do so, she was issued a Firm Diners Club corporate credit card ("corporate credit card") on September 2, 1999. She was only authorized to use the corporate credit card for corporate travel and other business related expenses.
6. On or about November 1999, the Respondent began using the corporate credit card for personal living expenses and at ATMs to obtain cash advances.
7. A Firm audit revealed her improper use of the corporate credit card. Based upon the number of ATM withdrawals made with the corporate credit card, on June 1, 2004 a manager at the Firm referred the matter to the Firm's Risk Management & Investigations ("RM&I") Department to further investigate Respondent's conduct.
8. A review of the corporate credit card statements revealed that she made many personal charges and ATM cash withdrawals. A review of her T&E submissions revealed that many of the T&E reports submitted by Respondent were fictitious or inflated. A template stored on Respondent's Firm workstation was used to generate a number of the false invoices that she submitted to the Firm.
9. When interviewed by the Firm, the Respondent admitted that she had been taking cash advances on her corporate credit card for personal use and that she submitted false T&E invoices in order to receive funds from the Firm to pay down her corporate credit card balance.
10. A review of the corporate credit card statements and T&E invoices submitted by her, during the relevant period, indicate that she submitted to the Firm approximately fifty-four falsified invoices and wrongly received approximately \$33,829 in funds that she wrongly misappropriated from the Firm.

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 cites the following Exchange precedents: In the Matter of Karen Kelsch HPD 05-76 (June 16, 2005), In the Matter of Patricia A. Valdez HPD 04-193 (December 28, 2005), and In the Matter of Carlos Pereyra HPD 04-171 (November 9, 2004). All of the cases resulted in penalties of a censure and a permanent bar. Each case involved a finding of misappropriation alone (Kelsch), or with misstatements (Valdez) or failure to comply (Pereyra). Respondent's conduct clearly warrants the penalty of a censure and a permanent bar which is supported by the cited precedents.

For the Hearing Panel

Vincent F. Murphy
Hearing Officer
Panelists:
Jeffrey L. Friedman
David M. Tarrío