

NEW YORK STOCK EXCHANGE, INC.

EXCHANGE HEARING PANEL DECISION 05-117

October 19, 2005

SUZANNE MARIE FORCHER
FORMER NON-REGISTERED EMPLOYEE

* * *

Engaged in conduct inconsistent with just and equitable principles of trade in that on one or more occasions she misappropriated funds from customers of her member firm employer; violated Exchange Rule 477 in that she failed to comply with written requests by the Exchange for information concerning matters which occurred prior to her termination of employment with a member organization – Consent to censure and permanent bar.

Appearances:

For the Division of Enforcement
Penny Rosenberg, Esq.
Michael W. Bautz, Esq.

For the Respondent
Michael P. Gibson, Esq.

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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 Suzanne Marie Forcher (“Respondent”), a former non-registered employee with Citigroup Global Markets, Inc. (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 on one or more occasions she misappropriated funds from customers of her member firm employer.
- II. Violated Exchange Rule 477 in that she failed to comply with written requests by the Exchange for information concerning matters which occurred prior to her termination of employment with a member organization.

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 July 1961. Respondent’s employment in the securities industry has been as an unregistered employee at the following firms: July 1995 –

September 1999, the Firm; September 1999- January 2000, member firm X; January 2000 – January 2001, non-member firm Y; and July 2001 – April 23, 2004, the Firm.

2. Respondent is not currently employed in the securities industry.
3. On April 28, 2005, the Exchange received a Form RE-3 (“Submission of Required Information Pertaining to Members, Member Organizations, Allied Members, Registered and Non-Registered Employees and Approved Persons”) (“Form RE-3”) from the Firm reporting that it had terminated Respondent after it became aware that Respondent made unauthorized transfers of funds from three customer accounts.
4. By letter dated November 2, 2004, which Respondent received, Enforcement notified Respondent that it was investigating the circumstances surrounding her termination and requested a detailed written explanation.

Summary of Violative Conduct

5. In March 2004, Respondent caused seven unauthorized transfers, totaling approximately \$14,098, to be made from the accounts of three Firm customers to accounts that she created and controlled at Paypal, Inc. (“Paypal”), an on-line payment service. Further, on two separate occasions, Enforcement requested that Respondent provide a detailed written explanation about these unauthorized transfers. To date, Respondent has not satisfied those requests.

Misappropriation

6. At all relevant times, Respondent was an unregistered sales assistant in the Firm’s McKinney, Texas branch office.
7. As a sales assistant, Respondent had access to certain personal information of the Firm’s customers (e.g., address, date of birth, social security number, bank account numbers).
8. At some time prior to March 15, 2004, Respondent used the information provided to the Firm by three of its customers to establish accounts in their name with Paypal. Respondent linked each of these accounts with other Paypal accounts she controlled.
9. On or about March 15, 2004, Respondent initiated instructions that caused the Firm to effect four transfers, totaling approximately \$8,598, from Customer A’s account at the Firm to the Paypal account that Respondent had established in Customer A’s name. Respondent initiated the four transfers without Customer A’s knowledge or authorization.
10. On or about March 17, 2004, Respondent initiated instructions that caused the Firm to transfer approximately \$250 from Customer B’s account at the Firm to the Paypal

account that Respondent had established in Customer B's name. Respondent initiated the transfer without Customer B's knowledge or authorization.

11. On or about March 22, 2004, Respondent initiated instructions that caused the Firm to transfer approximately \$250 from Customer B's account at the Firm to the Paypal account that Respondent had established in Customer B's name. Respondent initiated the transfer without Customer B's knowledge or authorization.
12. On or about March 26, 2004, Respondent initiated instructions that caused the Firm to transfer approximately \$5,000 from Customer C's account at the Firm to the Paypal account that Respondent had established in Customer C's name. Respondent initiated the transfer without Customer C's knowledge or authorization.

Failure to Cooperate

13. Upon notification from Paypal of the above transfers, the Firm conducted an internal investigation, which resulted in Forcher's termination.
14. Accordingly, on or about April 28, 2005, the Firm submitted the Form RE-3 to the Exchange reporting that it had terminated Respondent after it became aware that Respondent had made unauthorized transfers of funds from three customer accounts.
15. By letters dated July 12, 2004 and November 2, 2004, which Respondent received, Enforcement notified Respondent that it was investigating the circumstances surrounding her termination from the Firm and requested her to provide a written explanation of the facts set forth in the RE-3 provided by the Firm.
16. The letter dated November 2, 2004 also informed Respondent that failure to provide a written explanation could result in the institution of formal disciplinary proceedings for failure to cooperate with the Exchange's request for information.

To date Respondent has failed to provide the Exchange with a written explanation regarding her activities prior to her termination of employment with 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 a permanent bar, Enforcement cites the following Exchange precedents: In re Martin P. Maxwell, Decision 04-178 (N.Y.S.E. Hearing Panel Nov. 17, 2004); In re Carlos Pereyra, Decision 04-171 Decision 04-171 (N.Y.S.E. Hearing Panel Nov. 9, 2004); and In re Kristina Lynn Kunst, Decision 05-16 (N.Y.S.E. Hearing Panel Jan. 26, 2005).

In Maxwell and Pereyra, the respondents were censured and permanently barred for both misappropriation and failure to cooperate with Exchange requests for information. In Kunst, the respondent was censured and permanently barred for misappropriation of customer funds alone.

Misappropriation alone, especially of customer funds, is one of the most serious violations and warrants a correspondingly serious penalty. In addition, Respondent also failed to comply with Exchange requests for information. Accordingly, the Hearing Panel imposed the agreed upon penalty.

For the Hearing Panel

Peggy Kuo - Chief Hearing Officer

Panelists:

Thomas Liriano

Peter Tuzzo