

**STATE OF ALABAMA
ALABAMA SECURITIES COMMISSION**

IN THE MATTER OF:

CLARENCE "CAL" ELCAN

RESPONDENT

)
)
) **ADMINISTRATIVE ORDER**
) **NO. CD-2015-0021**
)
)

CEASE AND DESIST ORDER

The Alabama Securities Commission ("Commission"), having authority to administer and provide for the enforcement of all provisions of Title 8, Chapter 6, Code of Alabama 1975, the Alabama Securities Act ("Act"), upon due consideration of the subject matter hereof, and having confirmed information of the offers for sale and/or sale of securities, into, within or from the state of Alabama, has determined as follows:

RESPONDENT

1. **CLARENCE "CAL" ELCAN, ("ELCAN") CRD# 4006999**, at all times relevant, was acted as portfolio manager with Clearpoint Capital Management LLC., with a principal business address of 3601 Springhill Business Park, Suite #201 Mobile, AL 36608. **ELCAN** was also listed as Senior Vice-President and a registered investment advisor of Elcan Wealth Consulting, with an address of 125 Taggart Avenue, Nashville, TN 37205.

STATEMENT OF FACTS

2. FINRA Central Registration Depository ("CRD") and Commission records indicate **ELCAN** was employed with UBS Financial Services Inc. as a registered broker dealer agent and investment advisor from December 2008 through May 2014. **ELCAN** is currently listed as a Portfolio Manager for Elcan Wealth Consulting, a subsidiary of Clearpoint Capital Management LLC.

3. On June 27, 2014, **ELCAN** pled guilty in Davidson County, Tennessee Circuit Court to felony Money Laundering and felony Conspiracy to Commit a drug related charge in Nashville, Tennessee. **ELCAN** is currently serving in a Pre-Trial Diversion Program.

4. On October 22, 2015, Richard Mark Foster ("Foster"), who is an owner and the Compliance Officer for Clearpoint Capital Management LLC., stated that **ELCAN**, from May 2, 2014 to the present, was allowed to access and trade in clients' accounts held at an online brokerage firm using the name and password of other registered Clearpoint Capital Management LLC., employees with the knowledge of Foster and others that **ELCAN** was unregistered. Foster stated that **ELCAN** was the only member of Clearpoint Capital Management LLC., who actively managed and traded clients' accounts. Foster also stated that **ELCAN** was compensated 85 Basis points based on the 1% of management fees for total client assets with Clearpoint Capital Management LLC.

5. According to Iberia Bank records for Clearpoint Capital Management LLC., between the dates of 8/21/2014 and 8/18/2015, two wire transfers in the amount of \$85,053.91, and seven checks totaling \$162,565.70, for a combined total of \$247,619.61, were paid to **ELCAN**. Based on total amount paid to **ELCAN**, this total is consistent with the 85 basis points that were represented to be paid to **ELCAN** on the reported assets under management. During the date of transfers, **ELCAN** was not registered to act as a broker dealer, broker-dealer agent, investment advisor (IA) or investment advisor representative (IAR) in the state of Alabama or Tennessee.

6. A review of the files of the Commission revealed no current registration for **ELCAN** as a broker dealer, broker-dealer agent, investment advisor (IA) or investment advisor representative (IAR) in the state of Alabama. **ELCAN'S** broker dealer agent registration was terminated May 2, 2014 in the state of Alabama. **ELCAN'S** investment advisor registration was terminated September 5, 2014 in the state of Tennessee.

CONCLUSIONS OF LAW

This Order is appropriate in the public interest for the protection of investors and is consistent with the purposes of the Act.

1. Pursuant to Code of Alabama, 1975, Section 8-6-2(19), the definition of Investment Adviser Representative includes any person or individual employed by, or associated with, an investment adviser, who manages accounts or portfolios of clients. ELCAN managed client portfolios for Clearpoint Capital Management LLC. and was compensated at the rate of 85 basis points of the assets under management. ELCAN managed client accounts of an investment advisor for compensation and is an investment adviser representative under the act.

2. Pursuant to Code of Alabama, 1975, Section 8-6-3(b), it is unlawful for any person to transact business in this state as an investment adviser representative unless he is registered under the Act. ELCAN transacted business in Alabama as an investment adviser representative while not being registered with the Commission in violation of the Act.

3. Pursuant to Code of Alabama, 1975, Section 8-6-3(j)(2), the Commission may bar any person from registration or employment with a dealer or investment advisor if the Commission finds that such action is in the public interest and that the person has willfully violated or willfully failed to comply with any provisions of the Act. ELCAN acted in the capacity of an unregistered investment adviser representative, knowingly using representative numbers and passwords not belonging to him, to trade in and manage client accounts. ELCAN participated in such activity knowing it to be unlawful and knowing that he was otherwise ineligible to register as an investment adviser representative under the Act. ELCAN performed such conduct in willful violation of the Act.

ACCORDINGLY, IT IS HEREBY ORDERED that **RESPONDENT** immediately **CEASE AND DESIST** from further offers or sales of any security and the provision of any investment advice into, within or from the state of Alabama. Further, **RESPONDENT IS HEREBY ORDERED** to **SHOW CAUSE** why he should not be permanently barred from

participation, in any capacity, in the securities business in Alabama.

Entered at Montgomery, Alabama, this 30th day of October, 2015.



ALABAMA SECURITIES COMMISSION
401 ADAMS AVENUE SUITE 280
Montgomery, AL 36104
(334) 242-2984

BY:

A handwritten signature in black ink, appearing to read "JP Borg", is written over a horizontal line. A long, thin diagonal line is drawn across the signature from the top left to the bottom right.

JOSEPH P. BORG
Director