

IIROC NOTICE

Enforcement Notice Decision

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Legal and Compliance

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08-0160
October 27, 2008

IN THE MATTER OF ANDRÉ BERGERON – DISCIPLINE

SUMMARY

Following a disciplinary hearing held on March 26 and 27, April 16, 17 and 29, and May 2, 5 and 9, 2008, in Montreal, Quebec, a Hearing Panel of the Investment Industry Regulatory Organization of Canada (IIROC) has found André Bergeron (the Respondent) guilty as follows:

1. Count 2: Between November 2001 and May 2002, the Respondent, while employed as a registered representative at Desjardins Securities Inc., a Member firm of the Association, engaged in business conduct or practice unbecoming, failed in his duty to protect the public and showed wilful blindness, contrary to Association By-law 29.1, by systematically opening 47 new delivery-against-payment accounts with Desjardins Securities Inc. for accounts held with B2B Trust, at the request of a third party, without having met or spoken with each of the clients, although he knew or should have known that the circumstances surrounding the new client applications were or could be an indication of suspicious activity or activity contrary to the interests of the clients;
2. Count 4: Between November 2001 and May 2002, the Respondent, while employed as a registered representative at Desjardins Securities Inc., a Member firm of the Association, engaged in business conduct or practice unbecoming or detrimental to the public interest, contrary to Association By-law 29.1, by failing to advise 47 clients



for whom he had opened delivery-against-payment accounts with Desjardins Securities Inc. for accounts held with B2B Trust, in the following circumstances:

- (a) upon the purchase of private placements by two of his clients while he was employed as their registered representative and although he knew or should have known that the circumstances surrounding such private placements were or could be an indication of suspicious activity or activity contrary to the interests of the said clients;
 - (b) by holding accounts, most of which contained private investments purchased by his clients, when he knew or should have known that the circumstances surrounding these private investments were or could be an indicator of suspicious activity or activity contrary to the clients' interest.
3. As regards Count 1, which alleged that the Respondent had failed, between November 2001 and May 2002, to use due diligence to learn and remain informed of the essential facts relative to the identity of 45 new clients, when he opened delivery-against-payment accounts with Desjardins Securities Inc. for accounts held with B2B Trust without having met the clients, contrary to Regulation 1300.1(a) and in conjunction with Association By-law 29.1, the Hearing Panel found the Respondent not guilty.
 4. The Panel also found the Respondent not guilty on Count 3, which alleged that, between November 2001 and May 2002, while employed as a registered representative at Desjardins Securities Inc., a Member firm of the Association, the Respondent engaged in business conduct or practice unbecoming or detrimental to the public interest, contrary to Association By-law 29.1, by acting as a registered representative in 47 off-book accounts with B2B Trust, the approximate value of which was equal to \$1,418,256.00, without the knowledge or consent of Desjardins Securities Inc.

The Hearing Panel published its decision and reasons on July 30, 2008. In a separate decision on penalty dated October 3, 2008, the Hearing Panel imposed the following penalties on the Respondent:

- (a) On Count 2, a fine of \$25,000, payable within a maximum of three (3) years;
- (b) On Count 4, a fine of \$25,000, payable within a maximum of three (3) years;
- (c) Payment of a minimum sum of \$12,500 per year, effective the date of this decision, for all of the monetary penalties;
- (d) Suspension of approval as an authorized representative for a period of twelve (12) months from the date of service of this decision on the Respondent;



- (e) Successful completion of the Conduct and Practices Handbook examination, before the Respondent may reapply for approval as an authorized representative;
- (f) If the Respondent is granted such approval as an authorized representative, the obligation that he be under close supervision for a period of three (3) years following his reapproval;
- (g) "Close supervision" reports shall be filed monthly for the full duration of the supervision.

The Hearing Panel also ordered the Respondent to pay part of the costs incurred by IIROC, in the amount of \$25,000, payable within a maximum of three (3) years;

The IDA formally initiated the investigation into the Respondent's conduct on October 13, 2005. The contraventions occurred while the Respondent was a registered representative at a branch of Desjardins Securities Inc. located at 5 Complexe Desjardins, suite 247, in Montreal. The Respondent is no longer approved as a registered representative with any IIROC-regulated firm.

The decision and reasons of the Hearing Panel may be viewed at <http://docs.iroc.ca/DisplayDocument.aspx?DocumentID=DD0942925CA146B0A4423E84E34B0639&Language=en>.