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Discipline

Discipline Penalties imposed on Roche Securities Limited and Douglas Francis Roche – Violations of By-laws 3.3, 16.4, 30.5 and 29.1

Person Disciplined The Alberta District Council of the Investment Dealers Association of Canada (the "Association") has imposed discipline penalties on Roche Securities Limited ("RS") and Douglas Francis Roche ("Roche") (collectively "the Respondents").

By-laws, Regulations, Policies Violated On October 30, 2003, the Alberta District Council considered and reviewed a Settlement Agreement negotiated between RS, Roche and Association staff.

RS and Roche admitted that from July 2002 to October 2003, they contravened the Association's By-laws as follows:

- RS failed to file Monthly Financial Reports ("MFRs") with the Association for the months of March to September 2003, in violation of Association By-law 16.4
- RS failed to file its February 2003 MFR within 10 business days of months' end in violation of Association By-law 30.5(b)
- RS failed to pay its membership fees within the time prescribed by Association By-law 3.3
- Roche engaged in conduct unbecoming or detrimental to the public interest, contrary to Association By-law 29.1, by:
 - (a) failing to maintain proper financial books and records for RS; and
 - (b) removing all of RS's capital and assets in contravention of Early Warning Level 2 restrictions and directions from Association Staff,

thereby undermining the safeguards provided by the Association's By-law 8 resignation process.

Penalty
Assessed

The discipline penalties agreed to in the Settlement Agreement were as follows:

- RS is immediately expelled from the Association
- Roche must pay a fine to the Association in the amount of \$ 20,000.00
- Roche shall be prohibited from holding the position of CFO with any Association Member or being responsible for financial compliance matters for a period of five years
- Roche and RS must pay the Association's costs of this proceeding in the amount of \$ 7,500.00

The Alberta District Council concluded that it would not accept the proposed Settlement Agreement unless, pursuant to Association By-law 20.26, Roche accepted an additional term that he be suspended for a period of two years from being a Partner, Director or Officer of any Association Member. In its Reasons for Decision, the Alberta District Council cited particular concern about Roche's removal of capital from RS which he was aware was not permitted and his failure to file RS's MFRs which would have indicated to Association Staff that he was removing capital from RS. Roche consented to amend the Settlement Agreement to include this additional penalty.

Summary
of Facts

The Respondents

RS became a Member of the Association on September 30, 1996. RS commenced winding down its operations in October 2002. In December 2002, it closed its office in Edmonton, Alberta, and by March 2003 all client accounts had been moved to other Association Members. Roche was the President, Chief Executive Officer and Acting Chief Financial Officer of RS.

Resignation Process

On November 25, 2002, RS indicated its intention to resign from the Association. In order to resign, Association Members must comply with the requirements of Association By-law 8.

In November 2002, RS retained auditors to conduct the termination audit required by Association By-law 8.2. Although initially Roche made his best efforts to assist in the completion of the audit, this audit was not completed because some of the required information and documents were not or could not be located. Roche failed to maintain adequate and complete financial documents and information for RS during the audit process and failed to safeguard information maintained in RS's computer system.

The resignation process was also not completed because Roche removed all of RS's capital and assets before RS could fulfill the requirements of Association By-law 8. In order for a Member to resign from the Association, the Member's auditors must provide an unqualified statement that the Member's assets are sufficient to meet all of its liabilities at the time of resignation. RS could not fulfill this condition because all of its capital and assets had been removed (as more fully described below)

notwithstanding that it continues to have at least four contingent undetermined claims (liabilities), including two claims by former clients.

Removal of RS's Regulatory Capital and Assets

On December 2, 2002, the Association advised the Respondents that RS had been placed in Early Warning Level 2. At that time, the Respondents were also advised that, as a condition of being in Early Warning Level 2, RS could not reduce its capital in any manner without the Association's written consent and that RS was to file its MFRs within 10 business days of the end of each month.

On January 31, 2003, RS was capital deficient in the amount of \$ 39,000. Although this deficiency was corrected, RS became capital deficient again on February 7, 2003, in the amount of \$ 7,000.

On February 25, 2003, Association Staff brought a Motion before the Alberta District Council, pursuant to Association By-law 20.33, and requested an interim suspension of RS as a result of this capital deficiency. The Alberta District Council dismissed this Motion because, *inter alia*, client accounts were not at risk and there was insufficient evidence that the capital deficiency would likely result in financial loss to the public.

On March 22, 2003, RS filed its MFR with the Association for February 2003. According to its February MFR, RS's capital deficiency had increased to \$ 96,000 by the end of that month. In March 2003, it was also revealed that Roche had made capital advances from RS to himself in January 2003 (\$ 21,000) and February 2003 (\$ 44,000). These advances were made without the Association's consent and in violation of Early Warning Level 2 restrictions. These advances were made notwithstanding that Roche had been advised in correspondence and in discussions with Association Staff that RS could not reduce its capital.

RS then stopped filing MFRs with the Association notwithstanding that Roche had been advised of RS's obligation to continue filing such reports within ten business days of month's end. Roche then proceeded to remove the remaining capital and assets from RS. However, no client accounts were put at risk or suffered any losses as a result of the removal of RS's capital and assets.

Failure to Pay Membership Fees, Fines and Levies

When RS was served with the Notice of Hearing and Particulars in this proceeding, it owed the Association \$ 28,038.75 for annual membership fees, fines and levies. After being served with the Notice of Hearing and Particulars, Roche paid all outstanding annual membership fees, fines and levies owed to the Association by RS.

Kenneth A. Nason
Association Secretary