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For distribution to relevant parties within your firm

BULLETIN #3248
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Discipline

Discipline Penalties Imposed on Golden Capital Securities Ltd. – Violation of By-law 29.1

Person Disciplined The Pacific District Council of the Investment Dealers Association of Canada (the “Association”) has imposed discipline penalties on Golden Capital Securities Ltd. (“Golden”), a Member of the Association.

By-laws, Regulations, Policies Violated On June 19, 2003 and on October 8, 2003, the Pacific District Council considered and reviewed a Settlement Agreement negotiated between Golden and Association staff. The Pacific District Council, in the decision released on January 8, 2004, amended the Settlement Agreement by increasing, with the consent of Golden, the penalty that was originally negotiated and reducing the costs that were originally negotiated.

Pursuant to the Settlement Agreement, Golden admitted that it failed to adequately supervise Ms. Tang and to institute sufficient controls on Ms. Tang’s overlapping functions thereby engaging in business conduct or a practice which is unbecoming or detrimental to the public interest, contrary to By-law 29.1.

Penalty Assessed The Settlement Agreement, as originally negotiated, provided that Golden would be reprimanded. That Settlement Agreement also contained a requirement that Golden pay \$25,000 towards the Association’s costs of investigating this matter.

The Pacific District Council, with the consent of Golden, increased the penalty to a fine of \$20,000 with no reprimand. In so exercising its discretion, the Pacific District Council acknowledged that, notwithstanding that a fraud occurred, Golden’s conduct following the discovery of the fraud had been exemplary. Golden immediately reported the fraud to the Association and changed procedures to ensure that such a fraud could not happen again.

The Pacific District Council also acknowledged that no client was affected and it was Golden that was harmed by Ms. Tang’s actions.

The Pacific District Council also ordered that Golden be required to pay \$5,000 towards the Association’s costs of investigating this matter.

Summary
of Facts

Winnie W.S. Tang was registered as a registered representative with Golden from July 1990 to April 2000. Ms. Tang was also a senior, founding employee of Golden's securities and administration staff.

Ms. Tang was, at all material times, Golden's Accounting Manager. She performed a variety of administrative and accounting functions including:

- Setting foreign exchange rates based on Golden's verbal guidelines;
- Preparing and entering journal entries into Golden's computer system, including foreign exchange transactions;
- Receiving daily reports, including status and foreign exchange reports, from service providers and distributing those reports to others within Golden;
- Preparing monthly statements for mailing to clients. With Golden's knowledge, Ms. Tang took monthly statements to her home to prepare them for mailing.

Golden permitted Ms. Tang, in her registered capacity, to trade securities on behalf of family members and friends in both their Canadian and US dollar accounts (the "Accounts"). Ms. Tang entered all the transactions for the Accounts.

During 1992 to 2000, Ms. Tang misappropriated approximately \$925,000 from Golden to the Accounts by causing Golden to engage in approximately 82 transactions involving the exchange of Canadian dollars and US dollars with the holders of the Accounts (the "Transactions"), which improperly benefited the holders of the Accounts, including herself.

Ms. Tang effected the misappropriation by manipulating the journal entries for the Transactions by entering an inappropriate credit on one account and by using an exchange rate outside the guidelines which was inordinately more favourable to the client than the prevailing rate.

Ms. Tang was able to misappropriate the funds because she could initiate the transactions, she was responsible for setting the foreign exchange rates, she was accorded discretion with respect to setting foreign exchange rates and she had authority to create and process journal entries.

Ms. Tang took steps to conceal her actions from Golden as follows:

- She removed status slips for the Transactions before they could be reviewed by Golden's Chief Compliance Officer;
- Ms. Tang did not print out hard copies of the foreign exchange transactions for review by the Chief Financial Officer ("CFO");
- Ms. Tang was the only employee to receive a daily report of foreign exchange transactions from a service provider. She did not pass this report on to the CFO.

Ms. Tang also took steps to conceal her actions from the clients by removing the monthly statements for the accounts in question so they were not mailed to the clients.

Golden discovered the misappropriation through an internal audit of foreign exchange profitability. Upon this discovery, Golden terminated Ms. Tang's employment, froze the Accounts and contacted the Association.

Golden failed to adequately supervise Ms. Tang's execution of foreign exchange transactions. Golden had no written policies with respect to how foreign exchange rates were to be set or how foreign exchange transactions were to be executed or reviewed. Further, there were no controls in place to ensure foreign exchange transactions were reviewed.

Golden failed to take reasonable steps to ensure the integrity of its system for mailing monthly statements to clients. Golden permitted Ms. Tang to take the monthly statements home for mailing but had no controls in place to ensure that statements were not tampered with, lost or not properly sent to clients. The need for control was heightened because the account statements to which Ms. Tang had access included statements for her own clients.

Golden failed to adequately supervise and institute controls on Ms. Tang's overlapping functions within the firm.

The Association accepted the following as mitigating factors:

- Ms. Tang was a senior and trusted employee of Golden;
- Ms. Tang was receiving medical care at times during the material period;
- Golden promptly and voluntarily reported this matter to the Association;
- Golden immediately took steps to ensure that a similar event could not reoccur;
- It is likely that, given the position of trust, responsibility and overlapping functions with Golden, Ms. Tang could have misappropriated the funds regardless of the systems in place.

Please refer to Bulletin # 3167 for the discipline penalties relating to Winnie W.S. Tang.

Kenneth A. Nason
Association Secretary