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For distribution to relevant parties within your firm

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Discipline

Discipline Penalties Imposed on Dosithe Charles Richard – Violation of By-law 29.1

Person Disciplined The New Brunswick District Council (“District Council”) of the Investment Dealers Association (“the Association”) has imposed discipline penalties on Dosithe Charles Richard, at the material times a Registered Representative at the Moncton office of Dundee Securities Corporation, a Member of the Association.

By-laws,
Regulations, Policies
Violated On February 10, 2004, a Settlement Agreement negotiated between Mr. Richard and Association Staff was presented to District Council for their consideration and review. District Council accepted the Settlement Agreement on March 1, 2004.

Pursuant to the Settlement Agreement, Mr. Richard acknowledged that he engaged in conduct unbecoming contrary to By-law 29.1 in that he:

- (i) misappropriated client funds of approximately \$82,000;
- (ii) used some of the misappropriated funds to compensate other client losses;
- (iii) misled a client to believe that the misappropriated funds provided to her represented income from her investment account that in fact was never opened; and
- (iv) forged three sell ticket orders in order to facilitate the misappropriation of funds.

Penalty Assessed The discipline penalties assessed against Mr. Richard are a permanent prohibition from approval to act in any registered capacity and a fine in the amount of \$150,000. In addition, Mr. Richard is required to pay \$15,000 towards the Association’s costs of this matter.

Summary
of Facts In August 1990, Mr. Richard became co-agent, along with his partner, of a trust. The trust was created by an elderly couple, V.B. and F.B., who appointed their five children as trustees to manage their financial affairs during their senior years.

As agents of the trust, Mr. Richard and his partner were to provide financial management services that included opening a brokerage account in the name of the trust where all of the trust funds were to be held and fully invested. Income generated from this trust account was to pay for the couple's various living expenses.

In order to facilitate the management of the trust, two chequing accounts were opened at Central Guarantee Trust Company (later becoming Toronto Dominion Bank) and the Bank of Montreal ("TD account" and "BOM account", respectively). Mr. Richard and his partner had signing authority over both bank accounts. Income from the trust account would be transferred to these bank accounts in order to facilitate the disbursement of monies to V.B. and F.B.

Between August 1997 and August 1999, a period of time when Mr. Richard was not registered with the Association, Mr. Richard misappropriated funds from both the TD and BOM accounts to pay another client, M.R., a monthly income of \$1344. Upon being registered with the Association on August 27, 1999, Mr. Richard continued to misappropriate funds from the TD account to pay M.R. a monthly income until September 2000. M.R. was misled to believe that this income was generated in her own investment account that was supposed to have been opened by Mr. Richard back in January 1994. However, Mr. Richard never opened an account for M.R. and instead misappropriated the funds provided to him that were supposed to have been used to open the account.

Similarly, between March 1998 and January 2001, Mr. Richard misappropriated funds from the TD account in order to pay a monthly income to his mother and cover losses incurred in her account. There were also instances where Mr. Richard issued cheques drawn off the TD account directly payable to him.

Mr. Richard estimates that he misappropriated a total of somewhere between \$150,000 and \$170,000 from the TD account. Of this total amount, Mr. Richard misappropriated approximately \$82,000 while he was registered with the Association and therefore subject to its jurisdiction.

While acting as agent for the trust, Mr. Richard also forged six Order Request Forms to redeem various mutual funds totaling \$226,057.10 (net of Deferred Sales Charges) that were held in the trust account without the trustees' knowledge. Three of these forms were prepared and processed while Mr. Richard was registered with the Association. Two of these forms were prepared in order to facilitate the misappropriation of funds from the TD account.

On January 23, 2002, Mr. Richard, in the presence of counsel, disclosed the misappropriation and related misconduct to this partner, who in turn reported the matter to Dundee Securities Corporation. Mr. Richard was terminated the following day.

Mr. Richard has not been registered in any capacity with the Association since his termination from Dundee Securities Corporation.