



INVESTMENT DEALERS
ASSOCIATION OF CANADA

bulletin



ASSOCIATION CANADIENNE DES
COURTIERS EN VALEURS MOBILIÈRES

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For distribution to relevant parties within your firm

BULLETIN #3274

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Discipline

Discipline Penalties Imposed on Rene Arthur Girard – Violations of By-law 29.1, Regulation 1300.4 and Regulation 1300.1 (a)

Person Disciplined	The Pacific District Council of the Investment Dealers Association of Canada (the “Association”) has imposed discipline penalties on Rene Arthur Girard, at all material times a registered representative with HSBC Securities (Canada) Inc. (“HSBC”), a Member of the Association.
By-laws, Regulations, Policies Violated	<p>After a hearing that was held on February 25, 2004, a panel of the Pacific District Council found that Mr. Girard, at all material times, registered in British Columbia, engaged in business for a client who at all material times was a resident of Saskatchewan, when he was not registered to do business in Saskatchewan, contrary to Association By-law 29.1. Also with respect to the same client, Mr. Girard knowingly and intentionally recorded a false address on the New Client Application Form for the client in order to circumvent statutory requirements, contrary to Association By-law 29.1.</p> <p>The panel found further that Mr. Girard exercised discretion in the accounts of two clients contrary to Association Regulation 1300.4.</p> <p>Finally, the panel found that Mr. Girard failed to update the New Client Application Forms for two clients contrary to Association Regulation 1300.1 (a).</p>
Penalty Assessed	The penalties assessed against Mr. Girard include a fine of \$2,500 for the unregistered trading, \$15,000 for recording a false address on the NCAF of a client, \$2,500 for the two failures to update client NCAFS, and \$10,000 (\$5,000 each) for the discretionary trading in two client accounts (a total fine of \$30,000). The penalty also included a prohibition against re-approval in any registered capacity for six weeks from March 30, 2004, twelve months of strict supervision as a condition of re-approval in any registered capacity, a condition of re-approval in any registered capacity that Mr. Girard successfully re-write and pass the examination based on the <i>Conduct & Practices Handbook Course</i> administered by the Canadian Securities Institute, and a prohibition against re-approval in any registered capacity until such time as the fine and costs herein are paid in full. In addition, Mr. Girard is required to pay \$20,000.00 towards the Association’s costs of the investigation of this matter.

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Summary
of Facts

Although duly served with the Notice of Hearing and Particulars in this matter, Mr. Girard did not attend the hearing, nor did he file a reply. The panel exercised its discretion pursuant to Association By-law 20.16 and accepted the facts alleged and the conclusions drawn in the Notice of Hearing as having been proven by the Association.

Mr. Girard was, at the material times, duly registered in British Columbia. However, from February 1999 to May 2000, he conducted trading for a client who was resident in the province of Saskatchewan notwithstanding that he was not registered to do so in Saskatchewan. The panel found that this was a clear breach of the Saskatchewan *Securities Act* and Association By-law 29.1.

In order to conduct business for this client resident in Saskatchewan, Mr. Girard knowingly and intentionally recorded a false address on the client's New Client Application Form in order to circumvent statutory registration requirements. The panel viewed this as a serious violation of Association By-law 29.1. Fortunately, the client continued to receive all statements and confirmation slips, and the client was aware that her actual address was not the address on her account forms with HSBC.

With respect to two other clients, Mr. Girard exercised discretion in effecting trades in their accounts. The panel found that this was not a case of "fraudulent" discretionary trading, in that Mr. Girard had obtained verbal approval of the clients to the discretionary trading, and the clients received their statements. However, the panel viewed these transgressions as serious in that Mr. Girard knew that the policy of HSBC, which was clearly set forth in the firm's Policy Manual which governed his conduct, did not permit discretionary accounts. Notwithstanding this, Mr. Girard intentionally entered into an arrangement with these clients, which he knew was in violation of HSBC's policy.

Mr. Girard failed to update the Client Application Forms for two clients. The panel found that, on the particular facts of this case, while this is serious and every effort should be made to comply, there was not significant harm done, although the potential was there. One of the clients sold their business and home when they retired, depositing the sale proceeds of \$400,000 into their account. The panel was at a loss to understand how Mr. Girard failed to update the NCAF upon the receipt of the \$400,000. While the client's investment objectives remained the same, their risk factors changed slightly.

With respect to the second client, the client changed their investment objectives as they were willing to "play or gamble a little" with a portion of their monies. While the trading in the account reflected this new strategy, Mr. Girard failed to update the client's NCAF to reflect this change.

Mr. Girard has not been employed by a Member Firm since November 4, 2002.

Kenneth A. Nason
Association Secretary