

Contact:
Leigh Ann Gillies
Enforcement Counsel
416-943-5891

For distribution to relevant parties within your firm

BULLETIN #3313
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Discipline

Discipline Penalties Imposed on John Patrick O'Malley – Violations of By-law 29.1

Person Disciplined	The Ontario District Council has imposed penalties on John Patrick O'Malley, at the relevant time a Registered Representative at TD Securities Inc.
By-laws, Regulations, Policies Violated	On July 19, 2004, the Ontario District Council concluded a discipline proceeding concerning allegations made by Association Staff that Mr. O'Malley engaged in conduct unbecoming or detrimental to the public interest, contrary to By-law 29.1, by contravening an order of District Council to pay a \$10,000 fine in connection with Mr. O'Malley's failure to cooperate with the Association.
Penalty Assessed	The discipline penalty assessed against Mr. O'Malley is a permanent prohibition on his ability to seek registration approval with the Association in any capacity.
Summary of Facts	<p>On July 30, 2003 before a panel of the Ontario District Council, Mr. O'Malley admitted to having contravened By-19.5 in failing to attend for an interview (see Bulletin 3183). At his penalty hearing held October 24, 2003 the District Council imposed a fine of \$10,000 for the 19.5 violation, payable within six months (see Bulletin #3207).</p> <p>Shortly thereafter Mr. O'Malley indicated to Staff that he could not afford to pay the fine within the time period prescribed. However, he did not respond to various Association Staff requests to provide personal financial information to substantiate his claim of economic hardship. Mr. O'Malley was informed that if he would not provide evidence in support of his inability to pay, a new payment schedule would not be negotiated and the full amount of \$10,000 would remain due and payable within six months. Staff further informed Mr. O'Malley that, in this event, the Association would seek a permanent prohibition on his ability to seek registration in any capacity if he failed to make full payment within the six month limit.</p>

Mr. O'Malley did not provide any substantiating evidence of financial difficulty nor, other than a \$100 payment made in November 2003, did he pay his fine.

After the six-month time period for payment had expired, Staff prepared a Notice of Hearing and Particulars alleging Mr. O'Malley's violation of the Order to pay the fine and By-law 29.1. This Notice, as well as correspondence from Staff, advised Mr. O'Malley of the time period within which he could submit a Reply to the allegations.

Mr. O'Malley did not submit a Reply, nor did he attend the discipline hearing which was held July 19, 2004, nor did anyone appear on his behalf. Consequently, Staff requested District Council to accept as having been proven the facts alleged and conclusions drawn by the Association in the Notice pursuant to the Panel's authority under By-law 20.16. This was done and, as a result, the District Council found Mr. O'Malley had violated By-law 29.1. The penalty imposed was a permanent prohibition against Mr. O'Malley's registration in any capacity with the Association.

Mr. O'Malley has not been an approved person with the Association since his employment with TD Securities was terminated in February 2002.

Kenneth A. Nason
Association Secretary