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For distribution to relevant parties within your firm

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Discipline

Discipline Penalties imposed on Derek Jansen – Violations of Association By-law 29.1.

Person Disciplined The Ontario District Council of the Investment Dealers Association of Canada (the "Association") has imposed discipline penalties on Derek Jansen, at the relevant time a Registered Representative employed in Toronto by TD Evergreen, a division of TD Securities Inc. ("TD"), a Member of the Association.

By-laws, Regulations, Policies Violated On July 21, 2004 the Ontario District Council considered and accepted a Settlement Agreement negotiated between Mr. Jansen and Association staff.

Pursuant to the Settlement Agreement, Mr. Jansen admitted that during March 2000 he effected trades in TD's error account, without having client orders, thereby using the firm's capital without its consent, contrary to Association By-law 29.1.

Mr. Jansen also admitted that he effected unauthorized trades in client RB's account during March 2000, contrary to Association By-law 29.1.

Penalty Assessed The discipline penalty assessed against Mr. Jansen is:

- a fine in the amount of \$25,000 and;
- to re-write and pass the examination based on the Conduct and Practices Handbook for Securities Industry Professionals, within 12 months of the effective date of the Settlement Agreement.

Mr. Jansen is also required to pay the Association's costs in the amount of \$5,000.

Summary of Facts

Background:

At all material times Mr. Jansen was a Registered Representative ("RR") at TD Evergreen, a division of TD Securities Inc., a Member of the Association ("TD" or "the Member").

Source of Investigation:

The Investigation was initiated as a result of a Uniform Termination Notice (“UTN”) provided to the Association by TD on May 30, 2000. The UTN indicates that Mr. Jansen executed security purchases without having client orders and that he traded using the firm’s capital. The UTN also provides that the Member received some client complaints of discretionary trading.

Registration history:

Mr. Jansen entered the industry in 1998 and has been registered since then as follows:

- January 22, 1998 to May 15, 2000: RR at TD
- June 21, 2000 to present date: RR at Jones Gable & Company (“Jones Gable”)

Mr. Jansen has no previous disciplinary history and was co-operative with Association staff throughout the course of its investigation.

Trading in the firm’s error account:

When he first began working at the Member, Mr. Jansen had focused on selling new issues, whereby he would be allocated a block of shares to sell to his clients. In early 2000, his practice changed somewhat, in that he was more focused on the secondary market.

In March 2000, Mr. Jansen contacted the Member’s trading desk and placed various orders for securities. He did not have client accounts for these orders. He asked the trading desk to place these positions into TD’s error account. Mr. Jansen would then attempt to find homes for these positions, hoping that the value of the securities would increase. If the price increased, Mr. Jansen would offer the security to clients at his original price, so that the client could make an immediate profit.

Mr. Jansen knew that if the value decreased and the securities were sold, that he would be responsible for any loss. Mr. Jansen assumed that this practice would be acceptable to TD as his previous focus at TD had been on new issues.

TD detected Mr. Jansen’s use of the error account and subsequently terminated him. TD sustained unrealized losses as a result of Mr. Jansen’s trading in the error account.

Unauthorized trading re: client RB:

Client RB opened two accounts with Mr. Jansen in February 2000. She is now in her mid 60’s and is a retired business woman. RB told Mr. Jansen that she would be traveling to Florida in March 2000, and that she wanted to discuss an investment strategy upon her return. Mr. Jansen was to arrange for the transfer of her portfolio to TD.

Mr. Jansen made the arrangements to transfer RB’s portfolio. In March 2000 he effected 11 trades in RB’s RRSP account, without her knowledge or consent. At that time RB was in Florida.

RB has since been compensated by TD. Mr. Jansen did not receive any commission with respect to the trades in RB's account.

Other:

A period of suspension would normally have been sought by the Association, given the unauthorized trading. A suspension was not requested, based on the mitigating factors in these circumstances, including the fact that Mr. Jansen has been under close supervision for the past four years.

Mr. Jansen is currently employed as a Registered Representative with Jones Gable in Toronto.

Kenneth A. Nason
Association Secretary