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 # 3348

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Discipline

Discipline Penalties Imposed on George Otto Pappas; Violations of Regulations 1300.1(a), 1300.1(c), 1300.4, 1300.5, By-law 29.1 and By-law 19.5.

Person Disciplined

A Hearing Panel appointed pursuant to IDA By-law 20 has imposed discipline penalties on George Otto Pappas, at all material times a Registered Representative with the Vancouver Branch Office of Yorkton Securities Inc., a Member of the IDA.

By-laws, Regulations, Policies Violated

On, September 24, 2004, in Vancouver, B.C., a Hearing Panel considered, reviewed and accepted a Settlement Agreement negotiated between the Respondent and Staff of the IDA.

Pursuant to the Settlement Agreement, the Respondent admitted that he:

- **(i)** failed to learn the essential facts; personal and financial circumstances, of three clients, and inaccurately completed the New Client Application Form for the accounts of these clients, contrary to Regulation 1300.1(a);
- **(ii)** recommended securities and engaged in an aggressive short-term trading strategy for two client accounts, which was unsuitable given these clients' investment objectives and risk factors contrary to Regulation 1300.1(c);
- **(iii)** exercised discretion with respect to trades in two client accounts, without the prior written authorization of the client and without approval of the Member firm, contrary to Regulations 1300.4 and 1300.5;
- **(iv)** endorsed his signature, as witness to the execution of the signatures of two clients, on account opening documentation when the Respondent was not actually in the presence of the clients at the time that they signed the documentation, contrary to By-law 29.1;
- **(v)** entered into an agreement to compensate a family group of clients, contrary to By-law 29.1.

Penalty Assessed

Penalties

The discipline penalty assessed against the Respondent is a permanent prohibition on registration in any capacity with the Association.

Summary of Facts

Facts –

At all material times, the Respondent was an employee of Yorkton Securities Inc. ("Yorkton") and a resident of the City of Vancouver, in the Province of British Columbia.

In September and October 2001, the Association received public complaints regarding the handling of client investment accounts by the Respondent.

On or about October 10, 2001, the Association received a Uniform Termination Notice ("UTN") from Yorkton, providing notification that the Respondent's employment had been terminated due to receipt by Yorkton of multiple client complaints, including a complaint submitted by the M. Family.

The Respondent's clients, C. T. and R.T., were retirement age, conservative investors with minimal investment knowledge and only modest financial resources. Upon opening accounts with the Respondent, C.T. completed all sections of the NCAF with the exception of the investment objectives and risk factors sections, which were completed by the Respondent. Although, C.T. and R.T. had indicated they wanted only conservative investments, the NCAF was completed to reflect investment objectives of 100% short term and risk factors of 100%.

The Respondent effected high-risk short-term trading strategies in NASDAQ listed technology stocks, traded on margin as well as in one instance engaged in the short-selling in the C.T. and R.T. account. This high risk trading led to C.T. and R.T. losing their entire investment of $25,000 (CDN).

C.T. and R.T. did not have an appreciation of the nature and risks associated with speculative trading. They accepted the Respondent's trade recommendations, when requested, and otherwise acquiesced to the Respondent using his discretion to trade in their account. C.T. and R.T. did not understand that the Respondent was required to seek their specific instructions in respect of all trades in their account.

The Respondent's clients, T.C. and J.C., had held investment accounts with the Respondent since 1995; moving their accounts with the Respondent from Investors Group, to Wood Gundy, to National Bank and then to Yorkton.

T.C. and J.C. were not knowledgeable investors. They accepted moderate risk investments and were willing to place a small portion (25%) of their accounts in high-risk securities. They had a collective annual income of approximately $85,000 and total net worth of approximately $230,000.

The monies held in J.C.'s accounts were originally from a severance package and pension that J.C. had received after 25 years of service with a previous employer.

To open the investment accounts at Yorkton, the Respondent sent blank NCAFs, with 'sign here' post-it notes affixed to the documents, to J.C. and T.C. at their residential address in Edmonton**,** Alberta. J.C. and T.C. had been advised by the Respondent to only sign and then return the NCAFs to the Respondent in Vancouver, and that he would fill in the balance of the information on the NCAFs.

The Respondent recorded the investment objectives and risk factors for J.C.'s accounts without her consultation or approval of the recorded information. The investment objectives and risk factors recorded by the Respondent on J.C.'s NCAF were not an accurate reflection of J.C.'s true investment profile. Further, the Respondent endorsed his signature as witness to the signatures of T.C. and J.C. on the NCAFs when he had not actually witnessed T.C.'s and J.C.'s execution of those documents.

T.C. and J.C. relied on the Respondent's investment advice, explicitly and implicitly. While their investments were with the Respondent at National Bank, they held mostly mutual funds and a some low to moderate risk equities. Upon transfer to Yorkton, the mutual fund holdings were sold out of J.C.'s account and the Respondent commenced a high-risk strategy of short-term trading in the account, notwithstanding J.C.'s personal and financial circumstances had not changed. J.C.'s accounts were RRSP and Lock-in RRSP type accounts. Due to the high-risk short-term trading strategy employed by the Respondent, losses were incurred to J.C.'s accounts in an approximate amount of $110,000.00.

J.C. did not provide the Respondent with specific trade instructions for trades conducted in her accounts, rather she relied upon the Respondent to conduct trades and assumed that the trading would be in accordance with the investment objectives and risk tolerance designations for the accounts.

During the period, March 2000 to September 2001, the Respondent and T.C. and J.C were in contact by telephone less than 15 times. During the same time frame, the Respondent affected 135 trades in J.C.'s RRSP account and 45 trades in J.C.'s Locked-In account. The Respondent conducted a total of 180 trades in J.C.'s two accounts over a period of 19 months.

The Respondent admitted to the execution of a "Payment Agreement" between himself and the M. Family, agreeing to reimburse the sum of at least $400,000 for losses to the accounts of the M. Family. The M. Family held several investment accounts with the Respondent, at the material time. The Respondent did not provide any compensation to the M. Family pursuant to the described "Payment Agreement".

On April 6, 2004, the Pacific District Council made a finding that the Respondent was in breach of Association By-law 19.5, and ordered, *inter alia*, that the determination of sanction relating to the breach of Association By-law 19.5 would be adjourned to the date of the within referenced hearing.

The Respondent suffers from a debilitating ailment that renders him incapable of active employment. The medical condition of the Respondent is not expected to improve and may be indefinite, as supported by medical opinion. A medical letter was tendered at the hearing in support of the Respondent's medical condition.

The Respondent offered to surrender his membership with the Association, and not seek re-approval of registration with the Association.

The B.C. District Council in accepting the terms of the Settlement Agreement emphasized the unusual circumstances of the case and indicated that in the absence of the unusual circumstances presented monetary sanctions for the contraventions as agreed would have been appropriate. For precedent purposes, the Hearing panel set out their recommended sanctions for the cited contraventions when presented in future matters without unusual circumstances.

See, the Decision of the Hearing Panel and Settlement Agreement relating to this matter for further details.

Kenneth A. Nason
Association Secretary