

Contact:
Barbara G. Lohmann
Enforcement Counsel
(604) 331-4795 blohmann@ida.ca

For distribution to relevant parties within your firm

BULLETIN # 3358

December 2, 2004

Discipline Discipline Penalties Imposed on Warren Neil Gee - Violation of By-Law 29.1.

Person Disciplined	A Hearing Panel appointed pursuant to IDA By-law 20 has imposed discipline penalties on Warren Neil Gee, at all material times a Registered Representative with the Vancouver, BC office of CIBC Investor Services (“CIBC”), a Member of the IDA.
By-laws, Regulations, Policies Violated	<p>In a penalty hearing held on November 10, 2004 in Vancouver, BC, Warren Neil Gee admitted that he had violated Association By-law 29.1</p> <p>Pursuant to an Agreed Statement of Facts, Mr. Gee admitted that, on or about February 25, 2003, he forged the signature of a client on a document, without the knowledge or prior authorization of the client, contrary to Association By-law 29.1</p>
Penalty Assessed	The penalties assessed against Mr. Gee by the hearing panel include a \$5,000 fine, a condition of re-approval in any registered capacity that Mr. Gee successfully re-write and pass the examination based on the <i>Conduct and Practices Handbook Course</i> administered by the Canadian Securities Institute. Further, as a condition of re-approval in any capacity, Mr. Gee must be subject to close supervision for a period of one year from the commencement of his employment. In addition, Mr. Gee is required to pay \$2,500 towards the Association’s costs of the investigation of this matter.
Summary of Facts	<p>The Agreed Statement of Facts outlines the following facts. In the fall of 2002, CF, a client of Mr. Gee’s, began to transfer some of his RRSP accounts from another firm to Mr. Gee at CIBC. A portion of CF’s holdings at the other firm was held in a locked in RSP under an Alberta Locked-In Agreement. Accordingly, CF was required to sign a Locked-In Amending Agreement (“Agreement”) in order to transfer his RSP to CIBC.</p> <p>Mr. Gee was confused about which form of Agreement CF was required to sign. On November 25, 2002, Mr. Gee sent CF both a British Columbia Agreement and a Federal Agreement to sign. CF signed both these Agreements and returned them to Mr. Gee. On December 16, 2002, Mr. Gee sent CF yet another British Columbia</p>

Agreement to sign. CF's wife, with the knowledge and consent of CF, signed CF's name on that document and returned it to Mr. Gee.

Mr. Gee realized that the three agreements that he had already sent to CF were not the correct Agreements and the pending transfer in of CF's monies could not be effected without the correct Agreement signed by CF. The correct Agreement was an Alberta Agreement.

In order not to appear like an incompetent professional, as a matter of convenience and in order not to delay the transfer in of CF's RSP monies, Mr. Gee, on or about February 25, 2003, signed CF's name to an Alberta Agreement without the knowledge or prior authorization of CF.

Mr. Gee realized his error and within a day or two of his signing CF's name to the Alberta Agreement, forwarded another Alberta Agreement to CF for his signature.

During a routine file review, CIBC identified the signature discrepancy on the February 25, 2003 Alberta Agreement. When interviewed by CIBC in this regard, Mr. Gee admitted that he had forged CF's name to the February 25, 2003 Alberta Agreement. Mr. Gee also admitted his actions to the Association.

As a result of this incident, CIBC terminated Mr. Gee's employment for cause on September 19, 2003. Mr. Gee, however, had provided CIBC with a letter of resignation one month prior to his dismissal.

There was no negative impact to CF as a result of Mr. Gee's conduct, nor did Mr. Gee benefit in any way as a result of this conduct.

Mr. Gee, prior to this matter, had no disciplinary history.

The hearing panel, in its reasons with respect to penalty, discussed the fact that the Association's Disciplinary Sanction Guidelines recommend a minimum fine of \$25,000 for forgery. The panel stated that forgery is inconsistent with the high standards of ethics and conduct, and it is unbecoming or detrimental to the public interest. Forgery is reprehensible and cannot be condoned. Nothing in their decision is intended to qualify this view in any way.

While the Guidelines suggest a minimum fine for specific offences, which is a baseline for those offences, the Preamble provides that a panel nevertheless has discretion to impose a lesser or greater penalty where the circumstances justify this.

In concluding that a \$25,000 fine was not appropriate in this case, the panel considered that Mr. Gee made several attempts to get things right before resorting to forgery. The nature of the Agreement suggests that this is not the kind of form that a registered representative would ordinarily be familiar with. Further, Mr. Gee neither sought nor obtained any advantage (except possibly avoiding being thought an "incompetent professional") through forging his client's signature on the Agreement. Mr. Gee's client suffered no detriment from the forgery. The client had clearly indicated his wish, intention and willingness to sign a document that accomplished what the forged document intended to accomplish. Finally, Mr. Gee moved quickly to repair what he had done, although he did not move quickly to inform his employer what he had done.

The panel also stated that the premise of the \$25,000 minimum fine provided for in the Guidelines is that forgery demonstrates a “lack of honesty”, is deceptive and frequently destructive of trust and confidence. Mr. Gee clearly wanted to complete the transfer of his client’s locked-in RSP on a timely basis and administrative confusion involved in the selection of the appropriate form had already delayed the transfer by almost 3 months. He chose a bad solution to the problem. While the panel did not agree that Mr. Gee’s actions were dishonest, the panel did find that it represented an appalling lack of judgment.

Finally, the panel found that Mr. Gee had suffered heavily for his lapse of judgment. He was fired by his employer, and so far, he has been unable to find employment in the securities industry.

Kenneth A. Nason
Association Secretary