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# bulletin



ASSOCIATION CANADIENNE DES  
COURTIERS EN VALEURS MOBILIÈRES

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*For distribution to relevant parties within your firm*

**BULLETIN # 3367**  
December 22, 2004

## Discipline

### Charge brought against Brian Gruson; Alleged violation of By-law 19.5

Nature of Proceeding

A Hearing Panel appointed pursuant to IDA By-law 20 has held a hearing in the matter of Brian Gruson, with respect to an investigation into his conduct while he was a Registered Representative in Toronto with First Associates Inc., a Member of the Association.

A disciplinary hearing was held on Monday December 13, 2004, in Toronto, Ontario, with respect to an alleged violation of By-law 19.5. The facts were not in dispute.

Mr. Gruson was prepared to attend at an Association interview but failed to do so on the basis that he objected to the presence of a U. S. regulator at the interview. The legal issue that was argued was whether or not a representative of the United States Securities and Exchange Commission (“SEC”) was entitled to attend at and participate in an Association interview of Mr. Gruson, in the course of a properly constituted Association investigation.

Hearing Panel Decision

The Hearing Panel held that the SEC will not be allowed to attend at the Association’s interview. Mr. Gruson is still required to attend at an interview with Association staff. Written reasons will follow in due course.

Mr. Gruson was ordered to attend at an Association interview within 90 days of the date of the order. The Hearing Panel also ordered that if he fails to attend, he will be fined \$50,000, receive a permanent ban on his registration with the Association and will be required to pay \$5,000 in costs.

Summary of Facts

In the spring of 2003, Mr. Gruson (“the Respondent”) had been asked by the SEC to provide information on a voluntary basis with respect to certain trading involving an American company. The Respondent subsequently declined to do so.

In the summer of 2003, the Association had received information that market manipulation of shares of an American company had taken place. It is alleged that a significant amount of the trading to facilitate the market manipulation was conducted through Association registrants, including the Respondent. One of the alleged manipulators was a client of the Respondent and a former insider of the American company. The Respondent at one time held a large number of shares of the American company. The trading in question occurred in both Canada and the United States.

In December 2003, the Respondent was notified that the Association had commenced an investigation into his conduct while he was employed as a Registered Representative with First Associates Inc.

In early 2004, staff of the Association advised the Respondent that he was compelled to attend at an interview. The Association had advised the Respondent that a representative of the SEC would be present and might ask him questions.

In April 2004, the Respondent received a letter of immunity from the SEC. This letter was not acceptable to the Respondent.

In May 2004, counsel for the Respondent advised that he objected to the SEC's presence at the Association's interview. The Respondent had indicated that if the interview were conducted with only Association staff present, that he would attend and answer questions. On May 6, 2004, the Respondent failed to attend the scheduled interview on the basis that the SEC was to be present.

**Allegation:**

The Association had alleged that on May 6, 2004, the Respondent refused to attend at an interview and give information in respect of an investigation being conducted by the Association's Enforcement Department, contrary to By-law 19.5.

At the hearing, the Association argued that the Association's By-laws were broad enough to encompass the attendance of the SEC at an Association interview. The Association argued that the Respondent could not dictate who the Association may bring to an interview to assist in the investigation, as that would hinder the Association's ability to properly investigate complex regulatory misconduct.

**Respondent's position:**

At the hearing, the Respondent argued that the Association By-laws do not expressly allow a representative of the SEC to attend and participate in an Association interview. The Respondent argued that he had concerns as to whether his attendance would constitute an interview by the SEC, and whether the Respondent would be subject to U.S. legal proceedings as a result of attending the interview.

The Respondent is currently employed as a Registered Representative Options with Desjardins Securities Inc.

Kenneth A. Nason  
*Association Secretary*