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For distribution to relevant parties within your firm

BULLETIN #3528

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Discipline

Discipline Penalties Imposed on Kara Lee Cubbon; Violation of By-law 29.1

Person Disciplined A Hearing Panel appointed pursuant to IDA By-law 20 has imposed discipline penalties on Kara Lee Cubbon, at all material times a Registered Representative with National Bank Financial Inc., a Member of the IDA.

By-laws, Regulations, On March 29, 2006, a Hearing Panel considered, reviewed and accepted a Settlement Agreement negotiated between the Respondent and Staff of the IDA.

Policies Violated Pursuant to the Settlement Agreement, the Respondent admitted the following facts:

1. During the period from March 2000 to November 2000, inclusive, Cubbon engaged in conduct unbecoming contrary to Association By-Law 29.1 in that she did;
 - (a) Participate in, facilitate and/or solicit participation in two distributions of Fatpower Inc. to at least 43 clients, such transactions being (i) conducted in contravention of the existing policies of the firm, and (ii) conducted in a manner which may have been in contravention of the prospectus exemption requirements set out in s. 107(1)(d) of the Alberta *Securities Act*; and
 - (b) Participate in, facilitate and/or solicit participation in one distribution of Entrex Technology Corp. to at least 4 clients, such transactions being (i) conducted in contravention of the existing policies of the firm, and (ii) conducted in a manner which may have been in contravention of the prospectus exemption requirements set out in s. 107(1)(d) of the Alberta *Securities Act*; and
 - (c) Participate in, facilitate and/or solicit participation in one distribution of mBase.com Inc. to at least 5 clients, such transactions being (i) conducted in contravention of the existing policies of the firm, and (ii) conducted in a manner which may have been in contravention of the prospectus exemption requirements set out in s. 107(1)(d) of the Alberta *Securities Act*.

All of which was conduct that was in breach of the standards of conduct prescribed in Standard D of the Conduct and Practices Handbook and is therefore conduct unbecoming an Investment Advisor and is in breach of Association By-Law 29.1.

2. During the period from March 2000 to November 2000, inclusive, Cubbon engaged in conduct unbecoming contrary to Association By-Law 29.1 in that she did;
- (a) Engage in personal financial dealings with two clients, her fiancé C.C., and A.R. by participating, facilitating and/or soliciting trades in securities to the benefit of C.C. and A.R. without the consent of her firm, all of which is in breach of her firm's policies and Standard C of the Conduct and Practices Handbook and is therefore in breach of Association By-Law 29.1.

Penalty
Assessed

- (i) Fine in the amount of \$22,500.00;
- (ii) As a condition of continued approval in any capacity with the Association, re-writing and passing the *Conduct and Practices Handbook* examination, within twelve (12) months of the date of acceptance of this Settlement Agreement; and
- (iii) Be subject to a six (6) month period of close supervision.
- (iv) The Respondent shall pay a contribution towards the Association's costs of this proceeding in the amount of \$10,000.00.

Summary
of Facts

At all material times, Cubbon was employed at the Calgary office of National Bank Financial Ltd. ("National") as an Investment Advisor.

The Branch Manager hired Cubbon as a Sales Assistant/Branch Administrator in September 1999. Cubbon gradually took over his book of business as he was planning on retiring. The Branch Manager and Cubbon executed a Relay Loan agreement in December 2000 and on March 1, 2001 Cubbon became the Investment Advisor of record on all of his client accounts. Cubbon effectively acted as the Investment Advisor for several of his clients but all transactions on client accounts were recorded under his Investment Advisor code until March 1, 2001.

Prior to engaging in the trades described below, Cubbon approached her Branch Manager for direction on how to proceed with the distribution of the private placements. He directed her to contact head office. Cubbon called the Manager of Credit for National. He advised her on the proper process to transfer funds between client accounts but did not comment on compliance issues or direct Cubbon to call compliance.

Cubbon did not specifically ask, and none of her Branch Manager, the Manager of Credit or any of the registered employees referred to below, informed Cubbon at any time during any of the distributions that the transactions contravened National policies, the Association By-Laws, the standards as set out in the Conduct and Practices Handbook or Alberta securities laws

Fatpower Inc.

Environmental Applications- Research Technologies for Hydrogen Inc. (later known as Fatpower Inc. and herein referred to as "Fatpower") was a private company incorporated under Alberta's *Business Corporation Act*.

On August 31, 2000, Fatpower completed a private placement for 400,000 common shares at \$1.00 per share. The private placement was issued in Alberta pursuant to the prospectus exemption as set out in s. 107(1)(d) of the *Alberta Securities Act*. At the relevant time, section 107(1)(d) provided a prospectus exemption for a distribution where each purchaser, as *principal*, invests a minimum of \$97,000 in the issue.

C.C., a National client and future husband of Cubbon, invested \$300,000 in this issue. The Investment Advisor of record on C.C.'s account was her Branch Manager.

Upon subscribing to this financing, C.C. entered into separate purchase and sale agreements with approximately eleven individuals in which he sold a portion of his Fatpower subscription to each individual for amounts below the required \$97,000 exemption threshold.

Four of the eleven individuals were registered employees of National including Cubbon and the Branch Manager who invested \$15,000 and \$40,000, respectively. The remaining seven individuals were National clients.

On November 15, 2000, Fatpower completed a private placement for 1,374,601 common shares at \$1.50 per share. The private placement was issued in Alberta pursuant to the prospectus exemption as set out in s. 107(1)(d) of the *Alberta Securities Act*. At the relevant time, section 107(1)(d) provided a prospectus exemption for a distribution where each purchaser, *as principal*, invests a minimum of \$97,000 in the issue.

One of the subscribers to the financing was A.R., who purchased 232,267 common shares. Cubbon referred A.R. to National and an account was opened on October 2, 2000.

Upon subscribing to this financing, A.R. entered into separate purchase and sale agreements with approximately thirty individuals in which he sold a portion of his Fatpower subscription to each individual for amounts below the required \$97,000 exemption threshold.

All of the participants were either clients, employees of National or the spouse of an employee.

Many of the National clients who participated in these Fatpower distributions had opened accounts at National specifically to accommodate the transfer of funds to either C.C. or A.R..

Cubbon facilitated both Fatpower distributions and acted as the contact person for the individual investors. She drafted the purchase and sale agreements and letters of authorization. She also arranged for the execution of the purchase and sale agreements and the transfer of funds between the individual investors and either C.C. or A.R..

Many of the individual investors had heard of the financings from third parties including C.C. and the issuer, and were directed to Cubbon who would administer the details of the transaction. However, there were at least seven individual investors, including six National employees, who indicated that it was Cubbon who brought the financings to their attention and solicited their participation.

Cubbon failed to obtain the proper, or any, approval from the Head of Compliance at National, as required by the National policy manual for these trades in securities.

Cubbon failed to exercise sufficient and reasonable due diligence to determine whether the method of distribution from C.C. and A.R. to the individual investors was in compliance with applicable securities law.

mBASE.com Inc.

mBase.com Inc. ("mBase") was an Alberta corporation listed on the CDNX.

On March 21, 2000, mBase completed a Special Warrants offering for total proceeds of approximately \$2,143,757.70. The private placement was issued in Alberta pursuant to the prospectus exemption as set out in s. 107(1)(d) of the *Alberta Securities Act*. At the relevant time, section 107(1)(d) provided a prospectus exemption for a distribution where each purchaser, *as principal*, invests a minimum of \$97,000 in the issue.

On March 15, 2000, C.C. subscribed for Special Warrants in the amount of \$97,000. In turn, C.C. entered into purchase and sale agreements with four National clients in which he sold a portion of his mBase subscription to each individual client for amounts below the required \$97,000 exemption threshold.

Cubbon facilitated this distribution in a similar manner to her involvement in the Fatpower distributions as described above.

While the shares were deposited in National accounts, Cubbon failed to obtain the proper, or any, approval from the Head of Compliance at National, as required by the National policy manual for these trades in securities.

Cubbon failed to exercise sufficient and reasonable due diligence to determine whether the method of distribution from C.C. to the individual investors was in compliance with applicable securities law as required by the National policy manual.

Entrex Technology Corp.

Entrex Technology Corp. (“Entrex”), was an Alberta corporation listed on the CDNX.

On Sept 29, 2000, Entrex completed a \$1,810,000 brokered private placement Special Warrants financing. The private placement was issued in Alberta pursuant to the prospectus exemption as set out in s. 107(1)(d) of the *Alberta Securities Act*. At the relevant time, section 107(1)(d) provided a prospectus exemption for a distribution where each purchaser, *as principal*, invests a minimum of \$97,000 in the issue.

On September 18, 2000, C.C. subscribed to \$100,000 of Special Warrants. Two days later, on September 20, 2000, C.C. entered into purchase and sale agreements with six National clients and Cubbon for amounts below the required \$97,000 exemption threshold. Cubbon invested \$7,500.

Cubbon facilitated this distribution in a similar manner to her involvement in the Fatpower distributions as described above.

While the shares were deposited in National accounts, Cubbon failed to obtain the proper, or any, approval from the Head of Compliance at National, as required by the National policy manual for these trades in securities.

Cubbon failed to exercise sufficient and reasonable due diligence to determine whether the method of distribution from C.C. to the individual investors was in compliance with applicable securities laws.

Cubbon is currently employed with the member firm ScotiaCapital Inc.

Kenneth A. Nason
Association Secretary