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Discipline

Discipline Penalties Imposed on Credifinance Securities Limited; Violation of By-law 19.5 – Failure to Co-operate with IDA

Member Disciplined A Hearing Panel of the Investment Dealers Association of Canada, (IDA) appointed pursuant to By-law 20 has imposed discipline penalties on Credifinance Securities Limited (Credifinance), a Member of the IDA.

By-laws, Regulations, Policies Violated By written decision dated October 25, 2006, (Liability Decision) the Hearing Panel concluded that Credifinance failed to co-operate with the IDA during the course of an investigation into the conduct of three registrants at Credifinance, contrary to By-law 19.5.

Penalty Assessed By written decision dated November 27, 2006, (Penalty Decision) the Hearing Panel ordered that Credifinance pay a fine in the amount of \$50,000 and also pay the costs of the IDA's investigation and prosecution of this matter in the amount of \$15,000.

Summary of Facts In the Liability Decision, the Hearing Panel found that Credifinance failed to respond within the time requested by IDA investigators to two written requests made by the IDA during November 2005.

The first request was to provide answers to undertakings given by various individuals at Credifinance during their interviews which had taken place during September and October 2005. The Panel found that Credifinance failed to do anything to fulfill the undertakings until weeks after they were made, and only when called upon to do so. This failure was made worse by the firm's failure to initiate any contact with the IDA, before or after the deadline fixed for responses

to the undertakings, to explain any difficulties in the fulfillment of those undertakings.

The second request involved, amongst other things, production of the backs of certain cheques requested by the investigator. The Panel found that although Credifinance knew where the cheques were located and that the IDA was entitled to request them, it made no effort at any time to obtain these documents nor did it communicate with the IDA prior to the expiry of the deadline given for a response to this request.

While the Hearing Panel found that Credifinance did not fulfill the obligations imposed by By-law 19.5 with respect to these two requests, it held that Credifinance's conduct in respect of approximately thirteen other requests, while not perfect, was beyond reasonable censure.

In its Penalty Decision, dated November 27, 2006, the Panel ordered that Credifinance pay a fine in the amount of \$50,000 and \$15,000 in costs.

In considering the appropriate penalty, the Hearing Panel identified a unique feature of this case. On April 25, 2006 the Hearing Panel considered a preliminary motion and ordered that certain paragraphs of the original Notice of Hearing be struck as they contained implications or innuendos of suspicious and questionable conduct on the part of Credifinance and three individuals not named in the charge. The Hearing Panel decided on November 27, 2006 that these paragraphs must have caused unjustified harm to Credifinance and as such were in the nature of a penalty. Accordingly, the Hearing Panel decided that an appropriate penalty was a fine of \$50,000.

In the Penalty Decision, the Hearing Panel concluded that the purpose of a penalty is to protect the integrity of the self regulatory system and to ensure that its operations are carried out effectively; a penalty must be designed to carry out that purpose by deterring the offender from repetition of the uncooperative conduct and by deterring others.

The Panel took into account that Credifinance has no history of disciplinary action by the IDA and that it is a firm of twelve people. The Panel concluded that a penalty necessary to act as a specific deterrent to Credifinance need not be as substantial as would be necessary to deter a large firm.

The full text of both the liability and penalty decisions of the Hearing Panel is available on the IDA's website (www.ida.ca).

Kenneth A. Nason
Association Secretary