INVESTMENT DEALERS ASSOCIATION OF CANADA

bulletin

ASSOCIATION CANADIENNE DES COURTIERS EN VALEURS MOBILIÈRES

Contact:

For distribution to relevant parties within your firm

Diana Iannetta
Enforcement Counsel
(416) 943-5781
diannetta@ida.ca

BULLETIN #3596
January 3, 2007

Discipline

Discipline Penalties Imposed on Anthony Zarkadoulas; Violation of By-law 29.1

Person Disciplined

A Hearing Panel appointed pursuant to IDA By-law 20 has imposed discipline penalties on Anthony Zarkadoulas, at all material times a Registered Representative with the Thornhill branch of CIBC Investor Services Inc., a Member of the IDA.

By-laws, Regulations, Policies Violated

Following a Settlement Approval hearing held on December 12, 2006 in Toronto, Ontario, a Hearing Panel accepted the Settlement Agreement.

Pursuant to the Settlement Agreement, Mr. Zarkadoulas admitted he engaged in conduct unbecoming contrary to Association By-law 29.1 in that:

1. During the period September to October 2005 or thereabouts, he transferred certain funds from the account of one client to cover losses of another client; and
2. During the period March to April 2006 or thereabouts, he provided inaccurate, false or misleading information to the Association's Registration Department and Investigative Staff regarding the circumstances of his termination of employment.

Penalty Assessed

The discipline penalties assessed as against Mr. Zarkadoulas are:

1. He is prohibited from re-approval by the Association in any capacity for a period of five years from the date of acceptance of the Settlement Agreement, and thereafter until the fines, costs and interest thereon are paid in full; and
2. A fine in the amount of $50,000.

Mr. Zarkadoulas will also pay the IDA's investigation and prosecution costs in the amount of $16,600.

Summary of Facts

At all material times, the Respondent was registered with the Association as a Registered Representative (RR) and employed with CIBC Investor Services Inc. ("CIBC-IS").

The Unauthorized Transfer of Funds

On or about September 16, 2005, one of the Respondent's clients, Mr. R, transferred $85,000 from his CIBC bank account to his CIBC-IS dealer account.

On or about September 19, 2005, after discussing investment options with Mr. R, the Respondent purchased $85,000 of the CIBC Diversified Income Fund in Mr. R's CIBC-IS dealer account.

Shortly after the initial purchase of the CIBC Diversified Income Fund, the fund declined in value and, on instructions from Mr. R the investment was liquidated on or about October 4, 2005 at a market value of $80,444.60.

The Respondent was also the registered representative for accounts maintained by another client, Mr. S. The Respondent had the authorization of Mr. S. to transfer $100,000 from Mr. S.'s CIBC line of credit account to Mr. S's CIBC –IS dealer account on or about October 6, 2005. However, the Respondent instead transferred a further $3,650 without authorization, from Mr. S's line of credit account on that date. The sum of $100,000 was transferred to Mr. S's CIBC-IS dealer account and $3,600 was transferred to Mr. R's CIBC-IS dealer account. The remaining $50 was transferred into a CIBC operating account as a banking fee, which was later returned to Mr. S.

Additionally, a commission switching fee in the sum of $1,608.89 was charged to Mr. R as a result of the early redemption of the CIBC Diversified Income Fund units (the "ERF"). The Respondent requested CIBC-IS to waive the ERF charge, but as of October 13, 2005, no such decision had been made.

On or about October 13, 2005 the Respondent transferred without authorization a further $2,565 from Mr. S's CIBC line of credit account to Mr. R's CIBC-IS dealer account.

Subsequent to the $2,565 transfer, CIBC-IS did, in fact, reimburse Mr. R for the ERF by making a deposit into his bank account. The Respondent then, without authorization, transferred the reimbursement of the ERF from Mr. R's bank account to Mr. S's line of credit account.

These circumstances were discovered when a co-worker reported what she considered to be unusual activity to her manager. As a result, an internal investigation was commenced and ultimately led to the termination of the Respondent's employment with CIBC-IS. The internal investigation revealed that the Respondent manually executed the above-noted transfers, using his unique teller number and operator identification number.

The Respondent did not personally receive any direct financial benefit from the unauthorized transfers. CIBC has reimbursed Mr. S. for the withdrawal from his line of credit account.

<u>Misleading Information on NRD Submission</u>

On or about February 22, 2006, CIBC-IS terminated the Respondent's employment with cause. On or about February 27, 2006, CIBC-IS submitted a Notice of Termination to the Association's National Registration Database ("NRD") which indicates that the Respondent was dismissed for cause and that he had conducted unauthorized transactions between two unrelated client accounts.

The Respondent obtained employment with RBC-DS in the latter part of March 2006.

On or about March 30, 2006, RBC-DS made a submission on behalf of the Respondent to NRD (the "March 30 Submission"). The information for completing the March 30 Submission was supplied to RBC-DS by the Respondent.

The March 30 Submission indicates that the Respondent had never been terminated following allegations made by a sponsoring firm that he had violated investment related statutes, regulations, rules or industry standards of conduct.

The March 30 submission is misleading in that it indicates the Respondent was not terminated following allegations by a sponsoring firm that he had violated investment related statutes, regulations, rules or industry standards of conduct.

The Association's Registration Department requested clarification of this answer on the March 30 Submission. In response to these queries, RBC-DS, on behalf of the Respondent, submitted a revised Transfer of Registration dated April 12, 2006, (the "April 12 Submission"). The information for completing the April 12 Submission was supplied to RBC-DS by the Respondent.

The April 12 Submission indicates that the Respondent had "submitted a resignation", but that his "previous employer had indicated [he] had been terminated". It also indicates that, in fact, the Respondent had been terminated for violating investment-related statutes, regulations, rules or industry standards of conduct. Specifically, the April 12

Submission states:

"[R]eason or cause cited by previous employer was due to unauthorized transfer between unrelated accounts … specifically, the transfer involved a client's corporate and personal accounts where signing authority was not on file or updated."

The April 12 Submission is misleading. It indicates that the Respondent had submitted a resignation prior to being terminated from CIBC-IS. Further, although it indicates that the termination of employment was due to an unauthorized transfer between unrelated client accounts, it suggests that the specific reason for the termination was that the "transfer involved a client's corporate and personal accounts where signing authority was not on file or updated".

Further, when initially interviewed by Association Investigative Staff on April 17, 2006, the Respondent indicated that his termination from CIBC-IS was a result of not having proper documented authorization on file to deal with a client over the phone.

In a second interview with Association Investigative Staff on May 8, 2006, the Respondent initially indicated that the circumstances described above were as a result of "inputting errors in the account numbers". When confronted with the identity of Mr. S and the transactions in Mr. S's accounts and after being provided with a further opportunity to explain the circumstances giving rise to these transactions, the Respondent did acknowledge the circumstances outlined above.

*The Hearing Panel's written reasons will be posted on the Association's website when they become available.

Kenneth A. Nason
Association Secretary