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Discipline

An IDA Hearing Panel suspends approval of Johanne Pinet for a period of one (1) year and finds her guilty of misappropriation of funds

Person
Disciplined

A Hearing Panel appointed pursuant to IDA By-law 20 has found Johanne Pinet, at all material times an Approved Person at National Bank Financial Inc. in Laval, province of Québec, an IDA Member firm, guilty of misappropriation of funds, contrary to Association By-law 29.1.

By-laws,
Regulations or
Policies Violated

In a written decision dated July 6, 2007, the Hearing Panel ruled that Johanne Pinet had engaged in conduct unbecoming and detrimental to the public interest, contrary to Association By-law 29.1, when she misappropriated funds from a client of National Bank Financial Inc. in the amount of \$1,120, via eight withdrawals from this client's account.

It should be noted that this finding of guilt is pursuant to the guilty plea entered by Johanne Pinet relative to the violations alleged at the start of the hearing.

Penalties
Assessed

In determining the penalty, the Hearing Panel observed that the misconduct was serious and that the penalty should reflect this, and that the simple fact of wilfully transferring a sum, no matter how small, from the account of a third party to one's own account, without that person's consent, constitutes a misappropriation of funds.

The Hearing Panel reiterated that such actions cannot be tolerated. In

regard of certain mitigating circumstances specific to this matter, the Hearing Panel imposed the following penalties:

- suspension of approval for a period of one (1) year;
- payment of the Association's costs, in the amount of \$4,000;
- a deadline of 24 months to pay the Association's costs.

As regards the mitigating circumstances, the Hearing Panel took into account the evidence that Johanne Pinet never had any intention of not returning the money, which she used to pay outstanding personal debts. Ms. Pinet returned the money to the account of the client in question, her half-brother, before anyone asked her to. Also, Ms. Pinet has no disciplinary history and cooperated fully with the investigator, to whom she admitted all of the facts.

The Hearing Panel also took into consideration that Ms. Pinet lost her job as a result of this violation, which led to the loss of her house. Her income being minimal, imposing a hefty fine on her would be equivalent to imposing a permanent bar from approval.

Summary of Facts

At the material time, namely in fall 2005, Johanne Pinet was an associate investment advisor at National Bank Financial Inc. and she was registered with the Association as an investment representative;

Between October 18 and November 18, 2005, Johanne Pinet effected unauthorized fund transfers in the account of a client of National Bank Financial Inc., by using the access afforded her as an associate investment advisor, all without the knowledge of the client and without the knowledge of her employer;

More precisely, Johanne Pinet effected eight (8) withdrawals from this client's account, on different days, for a total amount of \$1,120, depositing the withdrawn amounts to her personal account at the National Bank of Canada;

By her own written admission, submitted to the Association on January 18, 2006, she indicated that during the month of October 2005, while she was awaiting receipt of a semi-annual bonus from her employer, she decided to *borrow* the funds in question, long enough to settle her own financial difficulties;

She indicated that her intention was to reimburse the account with the bonus that she was expecting;

According to the facts revealed by the investigation and Johanne Pinet's admissions, the client never authorized such withdrawals and never gave his prior or subsequent consent to such withdrawals;

Johanne Pinet was dismissed by her employer in December 2005, by reason of these events.

Kenneth A. Nason
Association Secretary