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Discipline

Motion by Louis-Philippe Séguin Dismissed

Nature of
proceeding

A Hearing Panel appointed pursuant to IDA By-law 20 has heard a motion filed by Louis-Philippe Séguin. Mr. Séguin was, until his resignation on December 30, 2005, a Registered Representative for Jones, Gable & Company Limited, a Member firm of the Association.

A notice of hearing was published on March 21, 2007. The notice contained allegations that Mr. Séguin violated Association By-law 19.5 by refusing to attend and give information before the persons conducting the investigation on or about March 22, 2006.

In his motion, Mr. Séguin asked the Hearing Panel to conclude that Association By-law 20.7 does not apply to him pursuant to Article 1435 C.c.Q., that he was not subject to the jurisdiction of the IDA under the meaning of By-law 19.5, that the contract that bound him to the IDA does not govern his conduct after his resignation, and that the Hearing Panel does not have jurisdiction to decide whether or not his conduct constituted a failure to comply with any provisions.

Decision of the
Hearing Panel

The motion was heard on May 23 and 25, 2007. In its decision, rendered June 29, 2007, the Hearing Panel dismissed the motion and upheld the IDA's jurisdiction to proceed in the matter of the complaint dated December 8, 2006.

Summary of
Conclusions

In signing the Uniform Application for Registration/Approval for individuals, Mr. Séguin became party to a contract with the IDA on December 16, 2002. Contrary to Mr. Séguin's contentions, the Hearing Panel has concluded that this contract was not one of adhesion under the meaning of article 1379 of the C.c.Q. Indeed, while the Uniform Application for Registration/Approval for

individuals and, more particularly, the *Certificate and Agreement of Applicant and Sponsoring Firm*, by which Mr. Séguin undertook to know and to comply with the Association by-laws and their amendments, were essential stipulations that could not be freely discussed by him, they were not imposed by the IDA or written by it, on its behalf, or on its instructions. Rather, the essential stipulations were imposed by the State, which dictated the wording of the legislation and the regulations. The Uniform Application for Registration/Approval for individuals is one of the elements prescribed by the lawmaker and the government as part of the framework for the mandatory registration with the Securities Commission of persons working in this field.

Moreover, there is nothing affecting the IDA jurisdiction to stipulate the rule of By-law 20.7, compelling a person to submit to an order to appear and to provide information to investigators, even after his or her employment has been terminated and for a period of five years. Indeed, we are not in the presence of a contract of adhesion and the Respondent had undertaken in December 2002 to keep informed of any changes in the Association by-laws, and to comply with them, including the rule of By-law 20.7, which took effect in 2004.

In addressing its request for information to the Respondent in January 2006, the IDA was within the five-year period set forth in By-law 20.7, and was exercising a power provided under By-law 19.5, which the Hearing Panel recognizes.

Finally, the Hearing Panel dismissed Mr. Séguin's alternative ground. Contrary to the Respondent's contentions, By-law 20.33 (1) confers on the Hearing Panel the jurisdiction to impose penalties for the conduct of a person other than an "Approved Person", notably a "person under the jurisdiction of the Association." According to the Hearing Panel, when one talks about an "Approved Person", it is obviously a "person under the jurisdiction of the Association", as Mr. Séguin is. It would be illogical for a Hearing Panel to have the power to find a person guilty of failing to conform with an Association by-law, but be prevented from imposing one or another of the penalties provided in By-law 20.33 (2).

Mr. Séguin filed an application for review of the Hearing Panel's decision before the Bureau de décision et de révision en valeurs mobilières on July 30, 2007.

Kenneth A. Nason
Association Secretary