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Discipline

Discipline Penalties Imposed on Donald Geoffrey Anderson Behan and Scott Grafton Barnum – Violation of By-law 18.6

Person Disciplined	The Ontario District Council of the Investment Dealers Association of Canada has imposed discipline penalties on Donald Geoffrey Anderson Behan and Scott Grafton Barnum , at the relevant time Registered Representatives of Nesbitt Burns Inc., a Member of the Association.
By-laws, Regulations, Policies Violated	On September 24, 1998, the District Council conducted a penalty hearing following the admissions by Mr. Behan and Mr. Barnum that they had contravened Association By-law 18.6 by accepting, directly or indirectly, remuneration from a person other than the Member in connection with the sale or placement of securities on behalf of the Member. Mr. Behan facilitated two private placement transactions for which he received remuneration in the form of preferred shares equivalent to \$10,000. Mr. Barnum became partners with Mr. Behan and participated with him in a second private placement transaction wherein Mr. Barnum received remuneration in the form of preferred shares equivalent to \$5,000. The District Council found that Mr. Behan and Mr. Barnum had contravened Association Bylaw 18.6.
Penalty Assessed	The discipline penalty assessed against Mr. Behan is a fine in the amount of \$10,000. The discipline penalty assessed against Mr. Barnum is a fine in the amount of \$5,000. In addition, both Mr. Behan and Mr. Barnum are required to re-write and pass the CPH exam within 3 months. They are to be under the close supervision of the Member for a period of 6 months and their promotions to Vice-President status shall remain suspended for 6 months. Further, Mr. Behan is required to contribute \$3,000 and Mr. Barnum is required to contribute \$2,000 toward the Association's costs of investigation of this matter.
Summary	The District Council found that in 1993, Mr. Behan facilitated the private

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placement of shares on behalf of 2 clients and received a commission of \$5,000 worth of convertible preferred shares from the issuer. In 1995, Mr. Behan, now joined by his partner, Mr. Barnum, facilitated a second private placement of shares on behalf of 7 clients and

jointly received a commission of \$10,000 worth of convertible preferred shares from the issuer. In both instances, the commissions were not paid to them directly, but rather to offshore personal holding companies owned or controlled by them and set up solely to receive the commissions.

In determining the appropriate penalty, the District Council took into account the internal disciplinary measures already imposed by the Member on Mr. Behan and Mr. Barnum. They were required to forfeit to the Member all of the convertible preferred shares that they had received as commissions; they were additionally fined by the Member (\$10,000 for Mr. Behan and \$5,000 for Mr. Barnum); and their promotions to Vice-President status were suspended pending the Association's investigation and the final resolution of this matter. Further, the District Council took into account their admissions of guilt, their full co-operation with the investigations conducted by the Member and the Association and the fact that this was the first regulatory infraction for both Mr. Behan and Mr. Barnum.

The District Council noted that the amount of the fines imposed in this case could well have been much higher had there not been any internal disciplinary measures imposed by the Member.

Lyn M. Gilchrist
Association Secretary