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Contact:
Douglas Walker
Chief Enforcement Counsel
(416) 943-6909

For distribution to relevant parties within your firm

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Discipline

Discipline Penalties Imposed on Edward R. Milewski - Violations of Regulations 1300.1(c), 1300.1(a) and 200.1(i)(3)

Person Disciplined The Ontario District Council of the Investment Dealers Association of Canada has imposed discipline penalties on **Edward Richard Milewski**, at the relevant time a Registered Representative of Midland Walwyn Capital Inc. [now Merrill Lynch Canada Inc.], a Member of the Association.

By-laws, Regulations, Policies Violated By written decision dated July 28, 1999, the District Council has concluded a discipline proceeding concerning allegations made by the Association Enforcement Division staff that Mr. Milewski had contravened Association rules through the following conduct:

1. by failing to use due diligence to ensure that recommendations for the RRSP account of Michael Kuzmanovich were appropriate for the client and in keeping with his investment objectives, contrary to Regulation 1300.1(c) of the Association;
2. by failing to ascertain directly from a client, Nicole Kuzmanovich, her investment objectives with respect to her accounts, contrary to Regulation 1300.1 (a) of the Association; and
3. by failing to make or keep a written authorization or ratification from Nicole Kuzmanovich naming her husband, Michael Kuzmanovich, as a person from whom trading instructions could be accepted with respect to the investment accounts of Nicole Kuzmanovich, contrary to Regulation 200.1(i)(3) of the Association.

The District Council found that Mr. Milewski had contravened the above-noted Association rules.

Penalty Assessed The discipline penalties assessed against Mr. Milewski are a fine of \$15,000.00 in regards to Contravention 1, and a fine of \$5,000.00 in

regards to Contraventions 2 and 3 combined (a total fine of \$20,000 for the three Contraventions). In addition, Mr. Milewski is required to disgorge \$1,650 in commissions derived from the unsuitable and other improper trading, re-write the exam based on the *Conduct and Practices Handbook*, and shall be subject to strict supervision for six (6) months. Finally, Mr. Milewski is also obliged to pay \$1,500.00 toward the Association's costs of investigation of this matter.

Summary
of Facts

Contravention 1: The District Council found that between February and December 1994, the speculative and short-term content of the relevant account of Mr. Kuzmanovich approached or reached 100% of the holdings. The District Council accepted that Mr. Kuzmanovich sought to invest only 30% of his capital in such holdings. The District Council also found that there were no income-producing holdings in the account, although the client's objective was to have 30% of his account capital invested in income-producing holdings. The District Council found that, of the approximate \$96,500 invested by the client, only \$35,000 remained as of December 31, 1994, the loss being due to decreases in the value of the unsuitable holdings.

Contraventions 2 and 3: The District Council found that Mr. Milewski opened accounts and executed trades in the name of Nicole Kuzmanovich based on information and instructions provided by her husband, Michael Kuzmanovich. The District Council confirmed that such conduct represents a failure to exercise due diligence to "know the client". The District Council also found that Mr. Milewski's conduct violated the obligation to obtain a "third party authorization" from a client whenever a broker intends to accept trading instructions from any third party.

Mr. Milewski is currently employed by Yorkton Securities Inc., a Member of the Association, and carries on business as a Registered Representative in Toronto, Ontario.

Lyn M. Gilchrist
Association Secretary