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Contact:
Natalija Popovic
Enforcement Counsel
(416) 943-5878

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BULLETIN # 2705
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Discipline

Discipline Penalty Imposed on Burns Fry Ltd. (now BMO Nesbitt Burns Inc.) – Violation of Regulation 1300.2

Person Disciplined	The Ontario District Council of the Investment Dealers Association of Canada has imposed a discipline penalty on Burns Fry Ltd. , (now BMO Nesbitt Burns Inc.), a Member of the Association.
By-laws, Regulations, Policies Violated	On March 24, 2000, the Ontario District Council considered, reviewed and accepted a settlement agreement that had been negotiated by Association Enforcement Division staff with BMO Nesbitt Burns Inc. (“Nesbitt Burns”). Pursuant to the settlement agreement, Nesbitt Burns admitted that during the period between August 3, 1992 to July 31, 1996, there was a failure by Nesbitt Burns or by its predecessor company, Burns Fry Ltd. (“Burns Fry”), to establish and maintain adequate procedures for the supervision of a client’s RRIF account, contrary to Regulation 1300.2.
Penalty Assessed	The discipline penalty assessed against Nesbitt Burns is a fine in the amount of \$25,000.00. In addition, Nesbitt Burns is required to pay \$5,000.00 toward the Association’s costs of investigation of this matter.
Summary of Facts	<p>On or about July 2, 1992, Mr. Mark Fridgant began working as a Registered Representative in the Toronto office of Burns Fry. At all material times, Mr. Fridgant was employed with Burns Fry or with Nesbitt Burns following the amalgamation of Burns Fry with Nesbitt Thompson Inc. on or about October 1, 1994.</p> <p>The complainant in this matter had been a client of Mr. Fridgant for over six (6) years prior to transferring his RRIF account to Burns Fry to continue to be handled by Mr. Fridgant. Between August 3, 1992, to the time the account was closed on July 31, 1996, Mr. Fridgant effected 17 purchase transactions and 22 sales transactions in the complainant’s RRIF account involving various mutual funds, always on a Deferred Sales Charge (“DSC”) basis. As all of the DSC mutual fund units were held for</p>

less than one (1) year, the complainant was charged a total of \$26,595.44 in redemption fees. On approximately 16 occasions, the purchase of mutual fund units either created or increased the debit balance in the RRIF account, thereby creating a potential tax liability for the complainant.

Burns Fry, or its successor company Nesbitt Burns, failed to identify or thereafter rectify the debit balances that were created and carried in the complainant's RRIF account through the purchase of DSC mutual funds. It thereby failed to establish and maintain adequate procedures for the supervision of the complainant's RRIF account, contrary to Regulation 1300.2.

Mr. Fridgant ceased to be employed with Nesbitt Burns in May of 1997. Mr. Fridgant is currently employed as a Registered Representative at Canaccord Capital Corporation, a Member of the Association.

Natalija Popovic
Enforcement Counsel