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Contact:
Sylvie Poirier
Enforcement Counsel
(514) 878-2854

For distribution to relevant parties within your firm

BULLETIN #2744
July 14, 2000

Discipline

Discipline Penalties Imposed on Quynh Lam Phan – Violations of Regulation 200.1, Regulation 1300.1 and By-law 29.1

Person Disciplined	The Quebec District Council of the Investment Dealers Association of Canada has imposed discipline penalties on Quynh Lam Phan , at the relevant time a Registered Representative with the Montreal branch of Levesque Securities Inc. (now National Bank Financial Inc.), a Member of the Association.
By-Laws, Regulations, Policies Violated	<p>On July 5, 2000, the Quebec District Council reviewed and accepted a settlement agreement that had been negotiated by the Association Enforcement Division staff with Mr. Phan. Pursuant to the settlement agreement, Mr. Phan admitted that:</p> <ol style="list-style-type: none">1. he permitted a third party to trade in a client account without a duly signed authorization from the client as prescribed by Regulation 200.1 (i)(3) and thereby failed to use due diligence to ensure that the acceptance of this order was within the bounds of good business practice, contrary to Regulation 1300.1(b);2. he failed to use due diligence to ensure that recommendations made for an account were appropriate for the client in keeping with the client's investment objectives by making transactions in the account of the client which were unsuitable given the client's age and stated objectives, contrary to Regulation 1300.1(c);3. he failed in his duty to act with objectivity and independence with a client by assisting her in the drafting of a Will which designated him as an executor and heir, and by continuing to act as the registered representative for the client's account without notifying his employer of his beneficial interest in the client's account due to the terms of the client's Will. The Respondent thereby failed to observe high standards of ethics and conduct in the transaction of his business, contrary to By-law 29.1(i); and

4. he failed to update the New Account Application Form of a client to accurately reflect the material change of his personal interest in the client's account, thereby engaging in conduct unbecoming contrary to By-law 29.1(ii).

Penalties
Assessed

The discipline penalties assessed against Mr. Phan are:

- for violating Regulation 1300.1(b) (violation No. 1) a fine in the amount of \$5,000.00;
- for violating Regulation 1300.1(c) (violation No. 2) a fine in the amount of \$10,000.00 and disgorgement of commissions in the amount of \$4,320.00; and
- for violating By-laws 29.1(i) and 29.1 (ii) (violations No. 3 and No. 4) a fine in the amount of \$10,000.00.

Mr. Phan is also required, as conditions of any future re-approval by the Association, to successfully rewrite the examination based on the *Conduct and Practices Handbook for Securities Industry Professionals*, as administered by the Canadian Securities Institute and to undergo a period of 12 months of strict supervision upon his return to the industry.

Mr. Phan is also required to pay \$3,000.00 towards the Association's costs of investigation of this matter.

Summary
of Facts

In December 1997, Mr. Phan permitted the client's husband to purchase 200 Newbridge Networks Corp. shares in the client's account without having obtained from the client a signed trading authorization authorizing the husband to give trading instructions with respect to the client's account.

From November 1997 to February 1998, Mr. Phan executed six trades in the account of another client which were not suitable given the age of the client and her stated investment objectives.

On approximately March 12, 1998, Mr. Phan assisted the same client, who was then 90 years old, in drafting her Will. Under the terms of this Will, Mr. Phan was designated an executor of the Will and would inherit of 25% of the client's capital, including a property in Florida, and a car. The total value of the client's account was approximately one million dollars. Mr. Phan continued to act as registered representative for the account and did not disclose to his employer the resulting conflict of interest. He never modified the New Account Application Form to indicate that he had a financial interest in this account.

As the result of his misconduct, Mr. Phan's employment with Levesque Securities Inc. was terminated July 16, 1998. He is not currently employed with a Member firm.

Suzanne M. Barrett
Association Secretary