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Discipline

Discipline Penalties Imposed on Gary Stewart Brookes – Violation of By-law 29.1 and Regulations 1300.1(a) and 1300.2, and Policy 2.

Person Disciplined	The Pacific District Council of the Investment Dealers Association of Canada has imposed discipline penalties on Gary Stewart Brookes, at the relevant time a Branch Manager in the Vancouver, B.C. branch office of Nesbitt Burns Inc. (now BMO Nesbitt Burns Inc.), a Member of the Association.
By-laws, Regulations, Policies Violated	On September 7, 2000, the District Council reviewed, considered and accepted a Settlement Agreement that had been negotiated with the Association's Enforcement Division staff. Pursuant to the Settlement Agreement, Mr. Brookes admitted that he failed to use due diligence to ensure that the Member, Nesbitt Burns Inc., learned the essential facts relative to a customer, contrary to Association By-law 29.1, Regulations 1300.1(a) and 1300.2, and Policy 2.
Penalty Assessed	The discipline penalty assessed against Mr. Brookes is a formal reprimand by the Association. In addition, Mr. Brookes is required to pay \$500.00 towards the Association's costs of investigation of this matter. In accepting the recommendation of staff of the Enforcement Division in favour of this settlement, the Pacific District Council wished to stress that it was doing so because the contravention of the Association's By-laws and Rules occurred in 1995 before the guidelines and penalties in existence today had been established and published. If this conduct were to occur today, the District Council would expect the negotiated penalty would be considerably higher.
Summary of Facts	James Donald Wooster was a registered representative at the Vancouver, B.C. branch offices of Burns Fry Limited and Nesbitt Burns Inc., at the relevant time. From November 1992 to September 1995, Mr. Wooster was responsible for the cash and RRIF accounts of a retired woman on a fixed,

limited income, with limited or no investment knowledge, whose initial investment objectives comprised 50% income and 50% long term growth. Over this period, Mr. Wooster recommended trades in speculative securities for the accounts which, by the end of July 1995, resulted in 100% of the funds in the cash account being invested in speculative securities. Mr. Wooster also failed to recommend the purchase of any primarily income-generating securities for the cash account, and failed to make recommendations for the account consistent with his client's investment objective of long-term growth.

In February, 1995, the client signed a form sent to her by Mr. Wooster that purported to update her investment objectives to 0% capital preservation, 35% income, 50% growth and 15% aggressive trading. In August, 1995, Mr. Wooster, without prior consultation, sent the client a margin agreement and a new client application form that purported to update the client's investment objective to 100% aggressive trading with high risk factors.

The client's actual investment objectives had not changed since she initially opened the account, and the only material change in her relevant circumstances was a decline in her net worth occasioned by the trading losses in her account.

On August 22, 1995, Mr. Brookes signed the updated new client application form without questioning either Mr. Wooster or the client.

In October, 1995, Nesbitt Burns Inc. cancelled the unsuitable transactions in the account. A financial settlement was subsequently made with the client.

For details of the discipline penalties imposed on James Donald Wooster in relation to this matter, please see Bulletin No. 2766, September 22, 2000.

Suzanne M. Barrett
Association Secretary