INVESTMENT DEALERS ASSOCIATION OF CANADA

bulletin

ASSOCIATION CANADIENNE DES COURTIERS EN VALEURS MOBILIÈRES

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For distribution to relevant parties within your firm

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Discipline

Failure to Supervise by Branch Manager, Richard Mills – Violation of Regulation 1300.2 and Policy 2

Person Disciplined	The Ontario District Council of the Investment Dealers Association of Canada has decided that discipline penalties ought to be imposed on **Richard Mills**, at the relevant time the Branch Manager with a Toronto Branch of Burns Fry Limited ("Burns Fry"), (now Nesbitt Burns Inc.,) a Member of the Association.
By-laws, Regulations, Policies Violated	By written decision dated the 13th of September, 2000, the District Council found that Mr. Mills had contravened Association Regulation 1300.2 by failing to fulfil his supervisory responsibilities with respect to two client accounts handled by Duncan Roy, a registered representative in his branch. A Notice of Hearing was issued on November 8, 1999 and the hearing was held over seven days in January and February, 2000, concluding on February 3rd, 2000. After a penalty hearing held on February 23rd, 2001 and by further decision dated the 2nd day of April, 2001, the District Council imposed penalties on Mr. Mills.
Penalty Assessed	Mr. Mills shall pay to the Association: (a) a fine in the amount of $50,000, and (b) costs in the amount of $35,000 by no later than May 4, 2001. Also, as a condition of his continued approval, Mr. Mills shall rewrite and pass the Partners, Directors and Officers Examination administered by the Canadian Securities Institute by no later than October 31, 2001. While the District Council found that supervisory failures like Mr. Mills' would ordinarily result in a suspension of some nature, it held that because of Mr. Mills' genuine attempts to supervise Mr. Roy's conduct and because the failure is unlikely to be repeated, there is no need for a suspension in this particular case.

Summary of Facts

The first client, a 63 year old businessman approaching retirement, had investment objectives in his personal account of 60% Long Term Growth, 20% Short-Term Trading and 20% Venture. The investment objectives in his company account were 25% Income, 65% Long Term Growth, 5% Short-Term Trading and 5% Venture. The client's annual income was shown as over $200,000 and his net worth was reflected as in excess of 3 million dollars. The New Account Application Forms (NAAFs) were signed by Mr. Roy and approved by Mr. Mills. The account codes used internally by Burns Fry for supervisory purposes were shown as "M" for medium risk in the personal account and "C" for conservative in the company account, which contained roughly 90% of the invested assets.

Although the codes were updated from "M" and "C" to "R" for risky, the percentages for the stated investment objectives for each account were not changed and the new coding did not correspond with the coding procedures required by Burns Fry's internal manual.

The trading in both accounts demonstrated a number of the characteristics identified in Policy II and the Burns Fry Manual as specific areas of concern. The trading and account profiles were inconsistent with the accounts' codes for part of the period and were inconsistent with the stated investment objectives throughout the period, suggesting a lack of suitability and inappropriate, high risk trading strategies. There were also indications of excessive trade activity or churning. In addition, the quality of the holdings in the accounts was downgraded after they were moved to Burns Fry. Finally, the accounts reflected undue concentration.

Mr. Mills was aware of the trading activity in these accounts. His response to all of these activities was to talk to Mr. Roy. He discussed them with Mr. Roy and concluded that the trading was appropriate for the client and indeed, was the kind of trading the client desired. He never obtained the NAAFs for the accounts, he did not review the update forms, and he did not consider contacting the client. The District Council found that in the circumstances of this case, he should have done more. There were too many indications of a need for further investigation for him to have relied solely on discussions with Mr. Roy.

With respect to the second client, the stated investment objectives for this 62 year old investor varied during the period from December 1993 when he opened the accounts to March 1997, when the accounts were closed. However, the objectives never allowed for more than 20% venture or short term trading and at some points, were as low as 10% aggressive trading. While all the trades in his accounts were authorized, nearly all the stocks traded were resource stocks or other stocks high on the risk spectrum and therefore not in line with the client's stated investment objectives. Mr. Mills had at least two opportunities to notice that the trading was not in accordance with the client's stated objectives: when the account was first opened and the NAAF was approved showing an initial trade in 100% speculative resource securities and, in March 1995, commissions generated in the account required a branch manager review and if properly done, should have disclosed the high concentration of speculative securities in the account.

Mr. Mills is currently a Vice-President and Director of Nesbitt Burns Inc. and its National Sales Manager.

For disciplinary action in relation to Duncan Roy, please see Association Bulletin #2631 dated September 28, 1999.

Susanne M. Barrett
Association Secretary