INVESTMENT DEALERS ASSOCIATION OF CANADA

bulletin

ASSOCIATION CANADIENNE DES COURTIERS EN VALEURS MOBILIÈRES

Contact:
Alice Abbott
Enforcement Counsel
(416) 943-6996

For distribution to relevant parties within your firm

BULLETIN #2902
November 6, 2001

Discipline

Discipline Penalties Imposed on Glen Percy Cooke – Violation of Regulations 1300.1(a) and 1300.1(c)

Person Disciplined	The Ontario District Council of the Investment Dealers Association of Canada has approved a settlement agreement imposing discipline penalties on Glen Percy Cooke, at the relevant times Registered Representative with Essex Capital Management, a former Member of the Association.
By-laws, Regulations, Policies Violated	On October 31, 2001 the District Council reviewed and accepted a settlement agreement negotiated with the Association's Enforcement Department Staff. In the settlement agreement, Mr. Cooke acknowledged that he: 1. on two occasions, failed to use due diligence to learn the essential facts of an order, contrary to IDA Regulation 1300.1(a); and 2. on two occasions, recommended a security which was not appropriate for the client's needs or in keeping with the client's investment objectives, contrary to IDA Regulation 1300.1(c).
Penalty Assessed	The discipline penalties assessed against Mr. Cooke are a fine of $12,500, payable within one year; rewriting and passing the examination based on the *Conduct and Practices Handbook for Securities Industry Professionals,* administered by the Canadian Securities Institute, within six months, and disgorgement of commissions in the amount of $875, payable within one year.
Summary of Facts	Mr. Cooke was employed as a Registered Representative (RR) with Essex Capital Management (Essex), formerly a Member of the Association. Essex was expelled from Association membership as a result of the creation and implementation of a scheme to defraud investors through the sale of "Corporate Investment Certificates". The CIC product, sold through Nelbar, a company related to Essex, was used to facilitate a scheme whereby interest and redemptions were funded by subsequent CIC investors.

Mr. Cooke promoted the CIC as an income product with a defined return, and advised his clients it carried no risk.

The facts known by the Mr. Cooke in relation to the CIC product were that it provided debt financing to emerging and expanding companies; and that retail clients' funds were loaned to these companies at a high rate of interest to compensate for the risk. Mr. Cooke did not know how the investors' funds were secured. He did not know whether the retail investor gained equity in the overall investment. He did not know the method by which retail investors' funds were injected into the borrowing companies. He did not know and never sought information on what happened to the investors' money after it was given to Nelbar. Nevertheless, he advised his clients that provisions were in place which negated the investment risk in the CIC.

Mr. Cooke did not know the specific companies or ventures financed by Nelbar CIC purchasors and did not make sufficient inquiries. He did not know if Nelbar was an Association member. He did not know if Nelbar CIC purchasors would benefit from the security of dealing with an Association member. He did not know if Nelbar CIC purchasers would be eligible for Canadian Investor Protection Fund coverage.

Mr. Cooke recommended the CIC to two of his clients, TC and JH. They followed his recommendation and lost their entire investments of $15,000 and $50,000 respectively.

In accepting the penalties, the District Council specifically noted that disgorgement ought to be an element of all settlement agreements where the RR has derived a monetary benefit from the impugned transactions. In this case, there was no evidence of the amount of commission collected in the materials filed with the District Council. Accordingly, the District Council asked the RR if he would provide sworn evidence regarding the commissions he collected on the transactions. The RR did so and the District Council accepted his sworn testimony as indicative of the amount of commission to be disgorged.

Kenneth A. Nason
Association Secretary