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For distribution to relevant parties within your firm

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Discipline

Discipline Penalties Imposed on William Gerard Armstrong – Violation of Regulation 1300.1 (c)

Person Disciplined The Ontario District Council of the Investment Dealers Association of Canada has imposed discipline penalties on William Gerard Armstrong, at the relevant time a Registered Representative of C.M. Oliver & Company Limited, (now Canaccord Capital Corporation), a Member of the Association.

By-laws, Regulations, Policies Violated By oral decision dated October 31, 2001, the Ontario District Council found Mr. Armstrong to have failed to use due diligence to ensure that the recommendations made for a client account were appropriate for the client and in keeping with the client's stated investment objectives, contrary to IDA Regulation 1300.1(c).

Penalty Assessed The discipline penalties assessed against Mr. Armstrong were

- a fine in the amount of \$8,000;
- disgorgement of net commissions earned in the amount of \$834.74; and
- costs in the amount of \$6,500, plus disbursement in the amount of \$557.01

The above amounts are payable to the Association within one (1) month of the date of the District Council's decision.

In addition, the following conditions of re-approval/registration in any capacity will apply to Mr. Armstrong:

- that he file with the Association monthly supervision reports for a period of six (6) months following any such re-approval; and
- that there be a prohibition on Mr. Armstrong's re-approval in any capacity until such time as the fine, disgorgement and the Association's costs of investigation and prosecution of this matter

are paid in full.

Summary
of Facts

The client, a construction company, opened an account at C.M. Oliver & Company Limited in February 1997. The client's investment objectives were recorded as being 70% capital preservation and 30% moderate growth. The purpose of the account was to provide security for the client company's performance bond and for some of its day-to-day operating expenses. At the time that the account was opened, investments in the account were composed of treasury bills ("T-bills"), bankers acceptances, and commercial paper. The maturity dates of the treasury bills were generally staggered so that at all times there would be T-bills close to maturity in the event funds were required by the client.

In June 1997, Mr. Armstrong recommended that the client invest in an energy income trust in order to get a better rate of return than T-bills. Based on Mr. Armstrong's advice, the client believed that the amount of "interest" that the company would receive from the energy income trust would fluctuate based on how well the underlying commodities did, but that the principal would be secure.

The units in the energy income trust were bought by way of instalment receipt. The game plan developed by Mr. Armstrong was to sell units (at least enough to pay for the second instalment) in the energy income trust before the second instalment came due. The value of the units in the income trust dropped after the client purchased it, and the client was not able to sell its units at an attractive price prior to the second instalment coming due. As a result, the second instalment was removed from the client's account on March 13, 1998. Later in March 1998, the client required funds to cover operating expenses in the business. After selling some of its treasury bills, the client was required to sell units of the energy income trust. After the distributions received on the units were added back in, the client realized a loss of \$22,070 on the units it sold.

The investment in the energy income trust units was not suitable for the client, as it put its capital at risk. Consequently, it was found by the District Council that Mr. Armstrong had violated IDA Regulation 1300.1(c) by recommending the investment.

In determining the appropriate penalty, the District Council took into account Mr. Armstrong's previous record of regulatory misconduct for which he was disciplined in April 1999. In addition, District Council took into consideration that Mr. Armstrong did not respond to the Notice of Hearing and Particulars and did not attend the hearing.

Mr. Armstrong left the industry in September 1999 and has not been registered in any capacity since.

Kenneth A. Nason
Association Secretary