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*For distribution to relevant parties within your firm*

**BULLETIN # 3001**  
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## Discipline

### Discipline Penalties Imposed on Lino D'Souza – Violation of Regulations 1300.1(a), 1300.1(c), 1300.4 and By-law 29.1

Person Disciplined	The Ontario District Council of the Investment Dealers Association of Canada has imposed discipline penalties on Lino D'Souza, at the relevant times a Registered Representative with Nesbitt Burns, Inc., a member of the Association.
By-laws, Regulations, Policies Violated	<p>On April 22<sup>nd</sup>, 2002 the District Council reviewed and accepted a settlement agreement negotiated with counsel for the Association's Enforcement Department. In the settlement agreement, Mr. D'Souza acknowledged that he:</p> <ol style="list-style-type: none"> <li>engaged in business conduct or practice that is unbecoming or detrimental to the public interest by failing to cooperate with the Association by failing to attend and give information as requested by Association staff in the course of an investigation, contrary to IDA By-law 29.1;</li> <li>engaged in business conduct or practice that is unbecoming by trading in accounts of two separate clients without their knowledge or consent, contrary to IDA By-law 29.1;</li> <li>engaged in conduct unbecoming by arranging to change the mailing address on record with the Member of two clients to an address unknown to those clients, without the knowledge and consent of the clients, contrary to IDA By-law 29.1;</li> <li>engaged in conduct unbecoming by falsely purporting to witness signatures on a Joint Account Agreement, an Option Trading Agreement, a Margin Agreement and a trading Authorization (giving power of attorney over the account) , contrary to IDA By-law 29.1;</li> </ol>

5. failed to use due diligence to learn the essential facts relative to four separate clients, contrary to IDA Regulation 1300.1(a);
6. failed to use due diligence to ensure that recommendations made for four separate clients were appropriate for their situation and investment objectives, contrary to Regulation 1300.1(c); and
7. made trades in the accounts of two clients without the clients fully understanding the nature of the transactions and therefore exercised his own discretion in executing trades in those accounts without the written authorization of the clients and without the accounts having been accepted by the Member as discretionary accounts, contrary to Regulation 1300.4.

Penalty  
Assessed

The discipline penalties assessed against Mr. D'Souza are a ten year suspension of his approval in any capacity with any Member Firm of the Association, effective April 1, 1997 and payment of the Association's costs in an amount of \$25,000.00.

Summary  
of Facts

At all relevant times, Mr. D'Souza was employed as a Registered Representative with Nesbitt Burns, Inc.

The Association began investigating the conduct of the respondent after several written complaints had been received. Despite a number of oral and written attempts to arrange for an interview of the Respondent, he failed to attend.

The Respondent opened a brokerage account for a client in December of 1993. The client was relatively unsophisticated and had never traded in options prior to his involvement with the Respondent. Despite the client's relative lack of sophistication, the Respondent embarked on a trading strategy involving complicated options straddles. The Respondent failed to complete the account opening documentation correctly in that the client's net worth, income, personal circumstances and investment experience were overstated. The investment recommendations were unsuitable for this client and were discretionary in that confirmation of the trades took place after the fact and the client, in any event, had no appreciation of the transactions in question.

The Respondent also opened an account for a relative of the client in April 1994. The relative resided in Qatar. The Respondent allowed the client to sign the account opening documentation instead of the relative and purported to witness the "signature" of the relative. The Respondent also permitted the client to sign a power of attorney in favour of the client over the relative's account and similarly purported to "witness" the signature of the relative on the Power of Attorney. The relative's net worth, annual income and investment experience were overstated. The Respondent engaged in the same complicated options trading strategy, which was similarly unsuitable for the relative. The transactions were discretionary in that confirmation of the trades took place after the fact and neither the client, nor the relative, had any appreciation of the transactions in question.

The Respondent opened an account for a third individual in April of 1994. Her past investment experience was significantly overstated on the account opening documentation as was the fact that she had an annual income (when in fact she was not working). The Respondent engaged in the same complicated options strategy despite the fact that the risks of that strategy were never disclosed to the client and would never have been approved by her. The Respondent did not receive approval from the client in relation to any of the trading activity. The Respondent also changed the mailing address for the account so that statements were not received. The client did not request that the account statements be delivered to the address specified.

The Respondent opened an account for a fourth individual in August of 1996. He mortgaged his condominium property in order to do so. The respondent was aware that income was required to meet the monthly mortgage payments on the condominium as the client had no other source of income. The client's annual income, net worth and past investment experience were significantly overstated on the account opening documentation as was the fact that he was "self-employed". The Respondent engaged in the same complicated options strategy despite the fact that the risks of that strategy were never disclosed to the client and would never have been approved by him. The Respondent did not receive approval from the client in relation to any of the trading activity. The Respondent also changed the mailing address for the account so that statements were not received. The client did not request that the account statements be delivered to the address specified.

Kenneth A. Nason  
*Association Secretary*