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For distribution to relevant parties within your firm

BULLETIN # 3070
November 11, 2002

Discipline

Discipline Penalties Imposed on Anthony Addolorato Colalillo - Violations of Regulation 1300.1(c) and By-law 29.1

Person Disciplined

The Ontario District Council of the Investment Dealers Association of Canada ("the Association") has imposed discipline penalties on Anthony Addolorato Colalillo, at the relevant time a registered representative with Nesbitt Burns Inc. (now BMO Nesbitt Burns Inc.), a Member of the Association.

By-laws, Regulations, Policies Violated

On November 5, 2002, the Ontario District Council considered, reviewed, and accepted a Settlement Agreement negotiated between Mr. Colalillo and Staff of the Enforcement Department of the Association.

Pursuant to the Settlement Agreement, Mr. Colalillo admitted to the following conduct:

1. That between January 1995 and May 1997 inclusive, while a Registered Representative of a Member of the Association, he failed to use due diligence to ensure that the recommendations made for the client account of J.S. were appropriate for the client and in keeping with the client's investment objectives, contrary to Regulation 1300.1(c).

2. That between February 1995 and April 1997, inclusive, while a Registered Representative of a Member of the Association, he failed to use due diligence to ensure that the recommendations made for the client accounts of A.T. and A.T. were appropriate for the clients and in keeping with the clients' investment objectives, contrary to Regulation 1300.1(c).

3. That on or about July 31, 1996, while a Registered Representative of a Member of the Association, he failed to exercise due diligence in the solicitation and transfer of securities between the accounts of unrelated clients resulting in a monetary loss to his client A.T., and therefore engaged in business conduct or practice which is unbecoming a registered representative contrary to By-Law 29.1

Penalty Assessed

The discipline penalty assessed against Mr. Colalillo is as follows:

1. a fine in the amount of $20,000 payable to the Association within 30 days of the effective date of the Settlement Agreement;

2. concurrently, as a condition of his re-approval in any capacity with a Member of the Association, re-writing and passing the Canadian Securities Course and the examination based on the Conduct and Practices Handbook for security industry professionals, administered by the Canadian Securities Institute;

3. concurrently, as a condition of his re-approval in any capacity with a Member of the Association, filing with the Association monthly supervision reports for a period of 12 months following any re-approval:

4. concurrently, a prohibition on his re-approval on any capacity until such as the fine and costs are paid in full; and

5. concurrently, as a condition of continued approval that in the event that he fails to comply with any of these discipline penalties within the time prescribed, the Ontario District Council may upon application by the Senior Vice President, Member Regulation and without further notice to the Respondent, suspend his approval until the penalties are complied with.

Further, Mr. Colalillo is required to pay the Association's costs of the investigation and prosecution of this matter in the amount of $5,000.

Summary of Facts

Mr. Colalillo was at all material times a registered representative with Nesbitt Burns Inc. (now BMO Nesbitt Burns Inc.) ("Nesbitt"), at its Mississauga, Ontario branch. He worked with Nesbitt from May 1993 to August 27, 1997.

In October 1998, the Association initiated investigations into written complaints submitted by two of Mr. Colalillo's clients relating to the handling of their respective accounts. The complaints mainly related to Mr. Colalillo's recommendation to his clients to purchase, accumulate, and hold shares in Tee-Com Electronics Inc. ("Tee-Com"). Tee-Com manufactured and distributed home satellite systems through an international network of distributors and dealers. Tee-Com reported operating revenue from 1990 to 1996. Nesbitt's Research Department initiated coverage of Tee-Com March 1995. Nesbitt's Research Department never gave Tee-Com an above average rating and from January 1996 onwards, gave it a "least recommended" rating, advising investors to reduce their positions. In June 1996, Tee-Com completed a $107 million issue of convertible debentures, through the Bank of Montreal. However, in May 1997, the Bank of Montreal demanded repayment of the debt and subsequently an interim receiver was appointed. Soon thereafter, the shares in Tee-Com became worthless.

Despite knowing that Tee-Com was not a recommended security, even in the opinion of Nesbitt's Research Department, Mr. Colalillo continued to indicate to J.S., and to A.T. and his wife that Tee-Com was a quality security and discouraged them from selling it.

J.S.'s stated investment objectives were 25% preservation, 25% income, 25% moderate growth and 25% aggressive speculative. At no time between January 1995 and August 1997 did the J.S. margin account hold any securities that met the capital preservation or income objectives of the client. Furthermore, between April 1996 and December 1996, the J.S. margin account was entirely concentrated in aggressive, high-risk securities, and between December 1996 and August 1997, was primarily concentrated in holdings in Tee-Com. The client was a relatively unsophisticated investor. From October 31, 1995 to June 30, 1997, J.S. lost $57,017 as a result of Mr. Colalillo's unsuitable investment recommendations.

With respect to the client accounts of A.T. and his wife, the stated investment objectives of their accounts were 10% preservation of capital, 10% income, 40% moderate growth and 40% aggressive trading. Between August 1993 and June 1997, A.T.'s accounts did not hold any securities that met the preservation, income or moderate growth objectives. Rather, between October 1993 and April 1997, Mr. Colalillo solicited a large number of transactions for A.T.'s accounts involving Tee-Com securities. From February 1995 to June 1996, Tee-Com ranged from 49 to 90% of the net equity value of A.T.'s joint account that he held with his wife, and over 50% of the net equity value of A.T.'s personal margin account. Throughout this period, the accounts were concentrated in Tee-Com and did not conform to the clients' stated investment objectives. From 1993 to June 1998, A.T. and his wife had a total net loss in their accounts of $111,000.

In addition to the suitability concerns, the Association's investigation also disclosed that in late July 1996, Mr. Colalillo approached A.T. and asked him to participate in a transaction that involved the transfer of shares from two other Nesbitt clients, both of whom were U.S. residents. Mr. Colalillo explained that the U.S. clients wanted to sell their shares in Tee-Com and asked A.T. to facilitate the transfer. To complete the transfer of the Tee-Com shares from the U.S. clients to A.T., Mr. Colalillo solicited the sale on the open market of the shares in Tee-Com that A.T. had already held, as well as some shares in other companies that A.T. held in his account. The cash from the transactions were then transferred to the accounts of the other two clients. The Respondent represented to A.T. that these transactions would result in a "wash"; in fact, A.T. paid $107,442 for securities that had an actual fair market value of $93,926, a difference of $13,516. The transactions also resulted in A.T. taking on an increased exposure to Tee-Com, which decreased the quality of the account. Mr. Colalillo subsequently admitted that the transactions in question were not in the best interests of A.T., and that the transfers amounted to conduct unbecoming a registered representative.

From August 1997 to the present, Mr. Colalillo has not been employed in any capacity with a Member firm.

Kenneth A. Nason
Association Secretary