



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

Discipline Penalties Imposed on William Gerard Armstrong - Violations of Regulation 1300.4, 1300.1(c) and By-law 19.5

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 & Co. Ltd. (now Canaccord Capital Corporation), a Member of the Association.
By-laws, Regulations, Policies Violated	By written endorsement dated January 21 st , 2003, the Ontario District Council found Mr. Armstrong to have: <ul style="list-style-type: none">a) engaged in discretionary trading, contrary to Association Regulation 1300.4;b) 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 investment objectives, contrary to Association Regulation 1300.1(c); andc) failed or refused to comply with requests from the Association to attend and give information in relation to the investigation of a client complaint, contrary to Association By-law 19.5.

Penalty
Assessed

The discipline penalties assessed against Mr. Armstrong were:

- a fine in the amount of \$15,000 for discretionary trading;
- a fine in the amount of \$15,000 for unsuitable investment recommendations;
- a fine in the amount of \$50,000 for failing to cooperate with Association staff during the course of the investigation into his misconduct;
- disgorgement of profits and commissions in the amount of \$5,200;
- the costs of the Association investigation and prosecution of this matter fixed at \$20,000; and
- a permanent ban from serving as an employee of a Member firm in any capacity.

Summary of
the Facts

The complainants were a middle aged married couple. They were unsophisticated investors. In January 1997, they opened accounts at the Waterloo, Ontario branch of C.M. Oliver & Co. Ltd. Their investment objectives were recorded as being 50% capital preservation and 50% moderate growth. The Association's investigation focused on Mr. Armstrong's management of the husband's RRSP account.

While Mr. Armstrong was the Registered Representative responsible for this account, the complainants agreed that Mr. Armstrong would handle all investment decisions. However, the account was never designated as a managed or discretionary account, and Mr. Armstrong was never authorized by his firm to open discretionary or managed accounts. From February 1997 to September 1999, Mr. Armstrong essentially managed the account as a discretionary trading account. He did not contact his client or obtain his approval for making any trades in the account. Furthermore, Mr. Armstrong managed the RRSP account and conducted transactions in that account in such a way as to cause it to not conform to the client's stated investment objectives. Rather, between June 1997 and September 1999, the moderate growth portion of the account varied from 88% to 100% of the net assets, and speculative investments in the account during the same time period ranged from 0% to just under 10.5% of the net assets. Between February 1997 and September 1999, the client deposited \$75,454.10 in cash and securities into his RRSP account. By the end of September 1999, the total net loss in the account was \$45,591.12 or just over 60% of the net value invested.

Upon commencement of the Association's investigation into this complaint, Mr. Armstrong was personally served with a letter from Association staff compelling him to attend an interview. Mr. Armstrong ignored the letter and did not contact the Association to offer an explanation for his non-attendance or to reschedule the interview.

Mr. Armstrong did not provide a Reply upon being served with the Notice of Hearing and Particulars. Furthermore, Mr. Armstrong did not appear at the disciplinary hearing held before the Ontario District Council on January 21, 2003.

Upon receiving both oral and written submissions from counsel for the Association, the Ontario District Council accepted the facts and conclusions set out in the Notice of Hearing as proven.

In determining the penalty imposed, the Ontario District Council took into account Mr. Armstrong's pre-existing record of regulatory misconduct, given that he had been previously disciplined by the Ontario District Council on April 8th, 1999, and again on October 31st, 2001 for similar violations of the Association's By-laws and Regulations.

Mr. Armstrong left the industry in September 1999, and has not been registered in any capacity with a Member firm since that time.

Kenneth A. Nason
Association Secretary