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For distribution to relevant parties within your firm

BULLETIN #3143
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Discipline

Discipline Penalties Imposed on Gerrardo (Jerry) Salvatore – Violation of Regulation 1300.1(c)

Person Disciplined The Ontario District Council of the Investment Dealers Association (“the Association”) has imposed discipline penalties on Gerrardo (Jerry) Salvatore, at the material times a Registered Representative (Options) at the Niagara Falls branch office of RBC Dominion Securities Inc., a Member of the Association.

By-laws, Regulations, Policies Violated On April 22, 2003, the Ontario District Council considered, reviewed and accepted a Settlement Agreement negotiated between Mr. Salvatore and Association Staff.

Pursuant to the Settlement Agreement, Mr. Salvatore acknowledged that during January 1998 he failed to exercise due diligence to ensure that recommendations made for the transfer of a client account, W.O. were appropriate for the client and in keeping with her investment objectives, contrary to Association Regulation 1300.1(c)(now Regulation 1300.1(d)).

Penalty Assessed The discipline penalties assessed against Mr. Salvatore is a global fine in the amount of \$15,000.00 inclusive of the Association’s costs, which is payable in full upon the acceptance of the Settlement Agreement by the District Council.

Summary of Facts Mr. Salvatore, at all times material was employed as a Registered Representative (Options) with RBC Dominion Securities Inc. (“RBC DS”) in its branch office in Niagara Falls, Ontario. He was employed as a registered representative by RBC DS and its predecessor firms from 1984 until December 14, 2001, when he left voluntarily.

O, M and M’s wife were all clients of Mr. Salvatore. O had been friends with M since approximately 1974. They had invested together in the real estate market in the 1980’s and had previously had a joint investment account together.

In 1991, M began to trade options in his personal account. He was a sophisticated and knowledgeable investor who researched and studied the market. He made unsolicited trades in both his own personal account and his wife’s account (“M’s wife’s account), as he had trading authorization for her account also.

In August 1996, O expressed a desire to trade options and implement the options strategies similar to her friend M. Mr. Salvatore expressed the concern that it was unsuitable for the complainant to be investing in such risky options strategies on her own. The complainant requested that M be given Power of Attorney over her investment account to alleviate any such concerns. Such Power of Attorney was provided on August 13, 1996.

On August 23, 1996, after some initial losses in the complainant's account, Mr. Salvatore and his Branch Manager, Mr. Turpin, met with O and were satisfied that she had the requisite knowledge and understanding of options and their risks and an understanding of the power she was conveying to M in regard to her asserts.

On January 2, 1998, before leaving for Florida, O signed a letter addressed to RBC DS ("transfer letter"), authorizing the transfer of her account. The transfer letter was deficient. While O's name and account number were identified in the transfer letter, the receiving account was identified by account number only. The owner of the receiving account was not identified.

The transfer letter was drafted by Mr. Salvatore and was witnessed by Mr. Turpin.

O believed that M was the owner of the receiving account. It was, however, M's wife's account, over which M had trading authorization. Mr. Salvatore admits that it was his decision to select M's wife's account as the receiving account, as it was the most actively traded account by M. Approximately \$58,000.00 was transferred from O's account into M's wife's account in January 1998.

In February 1998, all positions in M's wife's account were closed and a cheque for the balance of the account (including the funds that had been transferred from the complainant's account) was forwarded to M's wife.

In January 1998, Mr. Salvatore ought to have known that the transfer letter was deficient, by not including the name of the owner of the receiving account.

In January, 1998, Mr. Salvatore ought to have been aware of the implications that the authorization to transfer all assets from the complainant's account to another account would have on the complainant's claim to her assets and Mr. Salvatore did not ensure that the complainant was aware and /or understood:

- i) that she was authorizing a transfer of her assets to M's wife's account;
and
- ii) that she did not have a beneficial interest in the receiving account.

Mr. Salvatore currently is employed as a Registered Representative (Options) at Scotia Capital Inc.