

Contact:
Kathryn Andrews
Enforcement Counsel
(416) 865-3048

For distribution to relevant parties within your firm

BULLETIN # 3163
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Discipline

Discipline Penalties imposed on Mark Julian Klyman – Violation of Regulation 1300.4

Person Disciplined The Ontario District Council of the Investment Dealers Association of Canada (the "Association") has imposed discipline penalties on Mark Julian Klyman, at all material times a Registered Representative Options with the Ottawa office of Scotia McLeod Inc. (now Scotia Capital Inc.), a Member of the Association.

By-laws, Regulations, Policies Violated On May 13, 2003 the Ontario District Council considered and reviewed a Settlement Agreement negotiated between Mr. Klyman and Association staff, and amended it by reducing the amount of the fine and the costs that were originally negotiated.

Pursuant to the Settlement Agreement, Mr. Klyman admitted that:

- Between August 1999 to October 1999, he exercised discretion in effecting trades for a client in accounts in respect of which the client had not given written authorization and the Member firm had not accepted as discretionary accounts, contrary to Association Regulation 1300.4.

Penalty Assessed The discipline penalty assessed against Mr. Klyman includes:

- a fine in the amount of \$5,000; and
- disgorgement of commission in the amount of \$858.34.

The Settlement Agreement as originally negotiated provided for a fine of \$15,000; disgorgement of commission in the amount of \$858.34 and costs of \$5,000. District Council found that the penalty was excessive and reduced the fine to \$5,000 given their view that the infractions were at the extreme low end of the disciplinary spectrum. District Council also ordered that no costs be paid to the Association. Disgorgement of commission in the amount of \$858.34 was left unchanged.

Summary
of Facts

In 1999, Mr. Klyman was employed as a Registered Representative Options with Scotia McLeod Inc., now Scotia Capital Inc. ("Scotia"). A UTN was provided to the Association by Scotia on February 24, 2000. The UTN indicated that there were complaints of discretionary trading and that Mr. Klyman was placed under close supervision by Scotia in January 2000. Mr. Klyman left Scotia in February 2000.

RL had been a client of Mr. Klyman's since 1995. He had 4 accounts. From August 30, 1999 to October 13, 1999, Mr. Klyman exercised his discretion in effecting 7 trades in two of RL's accounts, without the client's written authorization and without the accounts having been accepted and approved as discretionary accounts by Scotia.

Trade confirmation slips and monthly statements were sent to the client. There were no speculative trades and the client did not experience any losses as a result of the trades.

Mr. Klyman is currently approved as a Registered Representative Options and Officer with TD Waterhouse Canada Inc.

Kenneth A. Nason
Association Secretary