



INVESTMENT DEALERS  
ASSOCIATION OF CANADA

# bulletin



ASSOCIATION CANADIENNE DES  
COURTIERS EN VALEURS MOBILIÈRES

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**BULLETIN # 3187**  
August 20, 2003

## Discipline Discipline Penalties Imposed on Stuart Gordon Smith – Violation of By-Law 29.1

**Person Disciplined** The Ontario District Council of the Investment Dealers Association of Canada (the “Association”) has imposed discipline penalties on Stuart Gordon Smith, at the relevant time a Managing Director and Head Trader in the Equity Capital Department of CIBC World Markets Inc. (“CIBC”), a Member of the Association.

**By-laws, Regulations, Policies Violated** On July 17, 2003, the Ontario District Council considered, reviewed and accepted a Settlement Agreement negotiated between Mr. Smith and staff of the Enforcement Department of the Association.

Pursuant to the Settlement Agreement, Mr. Smith admitted that between January 2002 and April 2002, he failed to observe high standards of ethics and conduct in the transaction of his business by purchasing and/or transferring security positions to an average price account, contrary to the purpose of the account, and misrepresenting the nature of the transactions to his Member firm, and hence engaged in business conduct or practice which was unbecoming or detrimental to the public interest, contrary to Association By-law 29.1

**Penalty Assessed** The discipline penalties assessed against Mr. Smith were:

- A fine in the amount of \$25,000;
- As a condition of Mr. Smith’s re-approval in any capacity with a Member of the Association, that he not be permitted to handle retail client accounts and that his business activities be restricted to trading in the proprietary accounts of the Member firm;
- As a condition of his re-approval in any capacity with a Member of the Association, Mr. Smith file with the Association monthly reports for a period of one year from the effective date of his re-approval, signed by the Ultimate Designated Person of the Member firm (or his or her designate) confirming that Mr. Smith is adhering to all Association By-laws, Regulations, Policies and Rulings, all internal policies of the Member firm

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and the Registrant's Standard of Conduct as set out in the *Conduct and Practices Course* administered by the Canadian Securities Institute;

- As a condition of Mr. Smith's re-approval in any capacity with a Member of the Association, the submission of a written report addressed to the Association's Senior Vice-President, Member Regulation from a duly qualified psychiatrist certifying that Mr. Smith is fit to return to his former occupation as an institutional trader;
- Costs in the amount of \$7,500.00; and
- A prohibition on Mr. Smith's re-approval in any capacity with any Member of the Association until such time as the fine and costs assessed are paid in full;

Summary  
of Facts

Mr. Smith worked for CIBC from March 1992 to June 2002 as an Institutional Trader. At the material time, Mr. Smith was employed as a Managing Director, Registered Representative – Options and Head Trader in the Equity Capital Department

In May 2002, CIBC became concerned about certain positions that existed in an average price account for which the Respondent was ultimately responsible. Between January and March 2002, Mr. Smith had accumulated positions in BCE and Nortel Networks in the average price account. CIBC's internal policy indicated that average price accounts were to be used solely for the purpose of building or disposing of client positions. It was also firm policy that an average price account was not to be used to hold firm owned proprietary positions, and any positions in an average price account were not to be held for longer than five days. The positions in BCE and Nortel were held for longer than 5 business days, and in some cases, up to two months. Confronted by his supervisors about the positions held in the average price account, Mr. Smith originally maintained that the positions represented client orders and/or were the result of various common trading problems. However, Mr. Smith ultimately admitted to his managers that he had misled them. In fact, the shares in BCE and Nortel were not connected to specific client orders and had been "parked" in the average price account to conceal the positions and the accumulative losses from CIBC. Ultimately, the shares in the average price account were sold and CIBC incurred a loss in excess of \$4,300,000.

In June 2002, Mr. Smith was asked to resign from CIBC. Upon his resignation Mr. Smith forfeited approximately \$2,000,000 in deferred salary and commissions. He has not worked in the securities industry since that time.

According to evidence provided to Staff, at the material time Mr. Smith was suffering from considerable stress, and was under the care of his family physician and other doctors.

In determining the penalty imposed, the Ontario District Council took into account a number of factors, including Mr. Smith's medical condition.

Kenneth A. Nason  
Association Secretary