INVESTMENT DEALERS ASSOCIATION OF CANADA

# bulletin

ASSOCIATION CANADIENNE DES COURTIERS EN VALEURS MOBILIÈRES

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**BULLETIN #3188**
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## Discipline

# Discipline Penalties Imposed on Robert Peter Gawthrop – Violation of By-law 29.1and By-law 18.15

**Person Disciplined**

The Pacific District Council of the Investment Dealers Association of Canada (the "Association") has imposed discipline penalties on Robert Peter Gawthrop, at all material times a registered representative with Dundee Securities Corporation, ("Dundee"), a Member of the Association.

**By-laws, Regulations, Policies Violated**

At a hearing held on June 25, 2003, Mr. Gawthrop admitted that he:

1. Participated in the sale of shares in a private placement which were not approved for distribution by Dundee without the knowledge or approval of Dundee, contrary to Association By-law 29.1;
2. Accepted, directly or indirectly, remuneration from a person or entity other than Dundee, in respect of placements in securities, contrary to Association By-law 18.15; and
3. Entered into a subscription agreement with respect to the purchase of securities for himself by way of private placement without the knowledge or consent of Dundee, contrary to Dundee's internal control policies, and contrary to Association By-law 29.1.

**Penalty Assessed**

The penalties assessed against Mr. Gawthrop by a panel of the Pacific District Council include a fine of $5,000.00 and disgorgement of commissions in the amount of $7,500.00. The penalty also included a condition of re-approval in any registered capacity that Mr. Gawthrop successfully re-write and pass the examination based on the *Conduct & Practices Handbook Course* administered by the Canadian Securities Institute. In addition, Mr. Gawthrop is required to pay $3,500.00 towards the Association's costs of the investigation of this matter.

**Summary of Facts**

Mr. Gawthrop commenced his employment with Dundee on August 27, 1999 as an investment advisor restricted to mutual funds. On September 15, 2000, while still employed by Dundee, his registration status changed to Investment Advisor restricted to securities.

Mr. Gawthrop also had a personal company, Gawthrop Financial Group ("GFG") through which he processed his office expenses and his insurance related expenses and revenues. Mr. Gawthrop owns 100% of the voting shares of GFG.

On or about May 24, 2001, GFG entered into a Private Placement Agency Agreement with Qwest Emerging Biotech (VCC) Fund Ltd. ("Qwest") wherein GFG agreed to act as a non-exclusive agent for Qwest and to use reasonable efforts to find and introduce subscribers to purchase shares of Qwest by way of a private placement, which placement was exempt from prospectus requirements. In return, GFG would receive a commission of 10% of all monies raised from referrals to Qwest.

Mr. Gawthrop's referrals to Qwest resulted in share subscriptions from nine people totalling in $235,000.00. All but two of the subscribers were existing clients of Dundee. The subscribers paid their monies directly to Qwest.

Mr. Gawthrop did not advise Dundee of his participation in the sale of subscriptions to Qwest, which were not approved for distribution by Dundee, although he was aware that he was required to obtain Dundee's approval to do so.

Mr. Gawthrop indirectly received a total of $23,500.00 in commissions resulting from his referrals to Qwest. These commissions were paid directly from Qwest to GFG.

Dundee's compliance manual provides that employees may invest in private companies or private issuers, but Dundee must be aware of and approve such investments prior to the employee making such investments.

Mr. Gawthrop personally subscribed for the purchase of 50,000 Qwest shares for a total cost of $10,000.00. He did not make Dundee aware nor did he seek Dundee's approval prior to making such investment.

Dundee discovered Mr. Gawthrop's involvement in the Qwest private placement and when questioned by Dundee, he admitted in involvement therein. Dundee then terminated his employment.

In assessing the penalty, the panel considered that Mr. Gawthrop co-operated fully with the Association's investigation into the matter, he admitted his wrongdoing and he and his family have suffered severe hardship. With respect to the disgorgement, the panel considered that, had the transactions been placed through Dundee, the greater part of the $23,500.00 in commissions earned by Mr. Gawthrop would have been returned to him because of the high commission split he received in return for carrying all his own expenses.

Mr. Gawthrop has not been employed by a Member Firm since April 1, 2003.

Kenneth A. Nason
*Association Secretary*