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For distribution to relevant parties within your firm

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Discipline

Discipline Penalties Imposed on Jerry Russell Johnson – Violation of By-law 29.1 and Regulation 200.1(i)(3)

Person Disciplined The Alberta District Council of the Investment Dealers Association of Canada (the “Association”) has imposed discipline penalties against Jerry Russell Johnson, at all material times a Registered Representative Futures Contract/Futures Contract Options employed by ScotiaMcLeod Inc., a Member of the Association.

By-laws, Regulations, Policies Violated On January 22, 2003, the Alberta District Council considered a Settlement Agreement negotiated between Mr. Johnson and Association staff. On November 14, 2003, the Alberta District Council accepted an amended version of this Settlement Agreement, which it had amended with the consent of Mr. Johnson and the Association.

Pursuant to the Settlement Agreement, Mr. Johnson admitted that he:

- (a) Engaged in conduct unbecoming a registered representative by engaging in personal financial dealings with his clients, and failing to disclose same to the Member Firm or seek its approval, contrary to Association By-law 29.1; and
- (b) Failed to maintain adequate records, namely, a third-party trading authorization, as required by the Association, contrary to Association Regulation 200.1(i)(3).

Penalty Assessed The discipline penalties assessed against Mr. Johnson are as follows:

- (a) a fine in the amount of \$100,000.00;
- (b) as a condition of his continued approval in any capacity with a Member of the Association, filing with the Association monthly supervision reports for a period of 12 months following the effective date of the Settlement Agreement;

- (c) as a condition of his continued approval in any capacity with a Member of the Association, writing and passing the Ethics Module and Case Study, administered by the Canadian Securities Institute within twelve (12) months following the effective date of the Settlement Agreement;
- (d) as a condition of his continued approval in any capacity with a Member of the Association, re-writing and passing the examination based on the *Conduct and Practices Handbook for Securities Industry Professionals*, administered by the Canadian Securities Institute within twelve (12) months following the effective date of the Settlement Agreement.

Finally, Mr. Johnson was ordered to pay the Association's costs in the amount of \$4,250.

Summary
of Facts

The Association received a Uniform Termination Notice (the "UTN") dated August 4, 2000 to advise of the termination of Mr. Johnson from ScotiaMcLeod Inc. (the "Member Firm"). The UTN indicated Mr. Johnson had accepted funds from clients for his personal use, and had executed trades in client accounts upon instructions from a third party, without having proper documentation to do so.

Personal Financial Dealings with Clients:

In or around May of 1999, Mr. and Mrs. A contacted Mr. Johnson after seeing a weekly television show on which he appeared. Soon after their initial contact with Mr. Johnson, Mr. and Mrs. A opened an account with Mr. Johnson at the Member Firm.

In or around February, 2000, Mr. Johnson began requesting that Mr. and Mrs. A lend him money to establish a website. Mr. and Mrs. A agreed to lend Mr. Johnson the sum of \$3,500.

Mr. Johnson entered into a written loan agreement with Mr. A dated March 27, 2000 wherein Mr. and Mrs. A granted a loan to Mr. Johnson in the sum of \$3,588.34. The principal amount was to bear interest at a rate of 30% per annum and was to be repaid in monthly installments of \$250 over a term of 18 months. Mr. Johnson provided Mr. A with 14 post-dated cheques each in the amount of \$250. Mr. A was able to cash two of these cheques, however, the third one was returned due to insufficient funds in Mr. Johnson's account.

In addition to the loan procured from Mr. and Mrs. A, Mr. Johnson entered into loan agreements with 17 other clients on a total of 44 occasions, borrowing a total of over \$340,000. Mr. Johnson has not repaid the sums borrowed from his clients.

Mr. Johnson has admitted that the sums borrowed from his clients were used partially for personal expenditures.

At no time prior to the termination of his employment with the Member Firm did Mr. Johnson disclose his personal dealings with his clients to the Member Firm.

Failure to Maintain Adequate Records:

At the time that Mr. and Mrs. A opened their account with Mr. Johnson, he was promoting a commodity and futures “program” based on the S&P 500 Index. This program was developed by a client of Mr. Johnson, one Mr. B.

Mr. Johnson arranged for Mr. B to contact Mr. and Mrs. A. Thereafter, Mr. B communicated directly with Mr. Johnson to provide instructions with respect to the trading activity to be effected on Mr. and Mrs. A’s account. Mr. Johnson executed these instructions.

At no time did Mr. Johnson receive written authorization from Mr. and Mrs. A with respect to the ability of Mr. B to provide instructions to Mr. Johnson with respect to their account.

Mr. Johnson’s Bankruptcy:

On April 20, 2001, Mr. Johnson filed an Assignment in Bankruptcy. On May 16, 2002, Mr. Johnson was granted a conditional discharge from bankruptcy.

Accordingly, the Association has agreed that the fines and costs agreed to be paid by Mr. Johnson pursuant to the Settlement Agreement will be treated as a claim provable in Mr. Johnson’s bankruptcy, and that proceeds realized from the property of Mr. Johnson will be distributed to the Association in accordance with Part V of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3.

Mr. Johnson and the Association further agreed that in the event that the rights of Mr. Johnson’s creditors are reinstated, the fines and costs agreed to be paid by Mr. Johnson pursuant to the Settlement Agreement shall be paid within one (1) month of the date upon which such rights are reinstated. In the event that the rights of said creditors are so reinstated, and in the further event that Mr. Johnson fails to pay the fines and costs within the time prescribed, the District Council may upon application by the Senior Vice President, Member Regulation and without further notice to the Respondent suspend Mr. Johnson’s approval with the Association until the penalties are complied with.

Mr. Johnson is currently employed as a Registered Futures Contract/Futures Contract Options Representative with Benson Quinn-GMS Inc.

Kenneth A. Nason
Association Secretary