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Discipline

Discipline Penalties Imposed on Ronald H. Kong – Violations 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 Ronald H. Kong (the “Respondent”), at all material times an employee of Merrill Lynch Canada Inc. (“MLC”) a Member of the Association.

By-laws,
Regulations,
Policies Violated On March 31, 2004, the Ontario District Council considered, reviewed, and accepted the agreed penalty sanctions, and other terms, of a Settlement Agreement negotiated between the Respondent and Association staff.

Pursuant to the Settlement Agreement, the Respondent admitted the following:

- (1) that between November 1999 and December 2000, he dealt in securities outside of the normal business of his firm, MLC, a member of the Investment Dealers Association of Canada, in particular by recommending and implementing offshore securities purchases for Mr. AY of Toronto, and
- (2) that between February 2000 and December 2000, he dealt in securities outside of the normal business of his firm, MLC, a member of the Investment Dealers Association of Canada, in particular by recommending and implementing offshore securities purchases for Mr. PS of Fergus, Ontario.

Penalty
Assessed

The discipline penalties assessed against the Respondent are:

- (1) a fine in respect of each offence of \$10,000, for a total of \$20,000;
- (2) a suspension from approval in any capacity with the Association for a period of one year;
- (3) the imposition, as a pre-condition to any future approval of the Respondent for registration with the Association in any capacity, of a requirement for the payment of any amounts owing to the Association by reason of these proceedings and still unpaid;
- (4) the imposition, as a pre-condition to any future approval of the Respondent for registration with the Association in any capacity, of a requirement for a successful re-write by the Respondent of the Conduct and Professional Handbook examination; and
- (5) the imposition of a requirement that any future employment of the Respondent in any registered capacity with the Association be subject to one year of close supervision by the employer, with quarterly supervision reports to be filed with the Association by the employer.

The respondent is also required to pay \$15,000 towards the Association's costs of the investigation and proceedings in this matter.

Summary of Facts

At the material times (1999 and 2000), the Respondent was employed as a retail broker at MLC. In addition, without the knowledge and consent of MLC, the Respondent engaged (with others) in setting up and implementing offshore investment programs through an online brokerage service which was registered in the British Virgin Islands.

In 1999, the Respondent met AY of Toronto and assisted him to set up an offshore investment program. Over the next year AY provided the Respondent with amounts in excess of \$100,000 for investment in various instruments and vehicles recommended by the Respondent. For the most part the investments would not have been in compliance with the Ontario Securities Act.

In 2000, the Respondent met PS, an individual who already had offshore investments. Those investments were transferred to an account with the offshore, online brokerage suggested by the Respondent, and the Respondent actually carried out trading in that account on behalf of PS. Further, PS opened an account at MLC, with the Respondent as his advisor, and deposited the assets from his Registered Pension Plan into it on the basis that they too would be transferred to his offshore account. That was not legally possible, and did not occur.

The Respondent has no previous disciplinary history with the Association.

See Settlement Agreement for complete statement of facts relied upon in the decision.

Kenneth A. Nason
Association Secretary