

Contact:

Andrew P. Werbowski
Enforcement Counsel
(416) 943-5789

For distribution to relevant parties within your firm

BULLETIN # 3280

May 10, 2004

Discipline

Discipline Penalties imposed on Mark Spowart – 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 Mark Spowart, at all material times a registered representative employed by RBC Dominion Securities Inc., a Member of the Association.

By-laws, Regulations, Policies Violated On April 28, 2004 the Ontario District Council considered, reviewed and accepted a Settlement Agreement negotiated between Mr. Spowart and Association staff.

Pursuant to the Settlement Agreement, Mr. Spowart admitted that in or about August 2002, he:

- forged the signature of 7 clients on various letters of authorization regarding securities transfers and also guaranteed the signature of 20 clients without witnessing or properly authenticating those signatures, thereby engaging in conduct unbecoming a registrant or detrimental to the public interest, contrary to Association By-law 29.1; and
- effected one unauthorized transaction in a client account thereby engaging in conduct unbecoming a registrant or detrimental to the public interest, contrary to Association By-law 29.1.

Penalty Assessed The discipline penalty assessed against Mr. Spowart is:

- a) a fine in the amount of \$25,000, such fine to include net disgorgement of commissions;
- b) a prohibition on receiving registration approval with any Member Firm of the Association for a period of three years; and
- c) close supervision for a period of one year upon any subsequent registration approval with a Member Firm of the Association;

In addition, Mr. Spowart is required to pay costs of the Association in the sum of \$12,554.75.

Summary
of Facts

Mr. Spowart was, at all material times employed by RBC Dominion Securities Inc. ("RBC") at its Brantford branch office. He worked at RBC until October, 2002, when his resignation was solicited.

In July, 2001, Mr. Spowart took over responsibility for a number of client accounts from another RBC registered representative in addition to his responsibilities as the manager and supervisor of five other registered representatives. These clients were all members of a corporate Group RSP Plan (the "Group RSP Plan") which maintained accounts at a mutual fund company.

In August, 2002, M. Spowart reviewed the accounts in the Group RSP Plan, concluded that the portfolios were too widely diversified and telephoned approximately 25 to 30 clients to solicit a consolidation of their holdings. A number of clients were unreachable and for clients with a message service, Mr. Spowart advised that if he did not hear back from them within a specified time period, he would proceed with the transaction as proposed.

The mutual fund company required that any requested changes to a client portfolio be made in writing and that the client signature be guaranteed. Accordingly, Mr. Spowart prepared letters of authorization with the transaction details for those clients who had provided verbal authorization and those that had not responded to his telephone message. In total, the Respondent delivered 23 letters of authorization to his clients.

In response to these 23 letters of authorization:

- 4 were signed by the clients and returned to Mr. Spowart;
- 7 were acknowledged by Mr. Spowart as having been forged;
- 10 signatures do not appear to be similar to specimen signatures for the clients, but Mr. Spowart cannot recall if he forged those signatures; and
- 2 signatures appear to be somewhat similar to specimen signatures for the clients, but Mr. Spowart cannot recall if he forged those signatures.

Of the 23 letters of authorization submitted to the mutual fund company:

- 1 was not signature guaranteed;
- 2 were signature guaranteed by Mr. Spowart's assistant (these two being letters of authorization that were not forged);
- 20 were signature guaranteed by Mr. Spowart.

Mr. Spowart did not witness any of the clients physically sign the letter of authorization, nor did he have specimen signatures to properly authenticate those signatures.

Ms. P.S., a client of Mr. Spowart's contacted the mutual fund company to advise that the transactions in her account were unauthorized. The mutual fund company reversed the transactions in P.S.'s account and contacted RBC compliance personnel.

RBC conducted an internal investigation into Mr. Spowart's conduct and, on or about October 3, 2002 he submitted his resignation. A UTN dated October 7, 2002 was provided to the Association by RBC and indicates that RBC solicited the termination because of the circumstances described above.

The trades effected in the 19 client accounts for which the clients did not sign the letters of authorization produced approximately \$7,000.00 in net commission earnings for Mr. Spowart.

Mr. Spowart is no longer in the securities industry.

Kenneth A. Nason
Association Secretary