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For distribution to relevant parties within your firm

BULLETIN # 3281

May 10, 2004

Discipline

Discipline Penalties imposed on James Michael Brennan – 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 James Michael Brennan, at all material times a registered representative employed by Assante Capital Management Ltd., a Member of the Association.

By-laws, Regulations, Policies Violated On April 28, 2004 a discipline hearing was held before the Ontario District Council regarding allegations that Mr. Brennan had falsified certain credentials upon application to the Association for registration approval.

The facts of the case were not in dispute and were presented to District Council by way of an Agreed Statement of Facts.

Based on the admissions contained in the Agreed Statement of Facts, the District Council found that Mr. Brennan had committed the following regulatory violations:

1. In or about April 2003, he prepared a false Proof of Passing Form for the Investment Management Techniques Course, and subsequently submitted, or caused the false Form to be submitted, to the Association for purposes of Registration Approval, thereby engaging in conduct unbecoming a registrant or detrimental to the public interest, contrary to Association By-law 29.1.
2. In or about November 2000, he prepared a false Certificate of Course Completion regarding the Conduct and Practices Handbook course and subsequently submitted the false certificate, or caused the false certificate to be submitted, to the Association for purposes of Registration Approval, thereby engaging in conduct unbecoming a registrant or detrimental to the public interest, contrary to Association By-law 29.1.

3. On or about July 21, 1998, he submitted, or caused to be submitted, to the Ontario Securities Commission a Uniform Application for Registration/Approval in which he represented that he had obtained a Baccalaureate in Social Sciences from the University of Ottawa when he knew, or ought to have known that he had not obtained such a degree and thereby engaged in conduct unbecoming a registrant or detrimental to the public interest, contrary to Association By-law 29.1.
4. Between October 2001 and July 2003, he misrepresented to clients that he had been qualified as a Certified Financial Planner and Certified Investment Manager and used the designations “CFP” and “CIM” when he knew or ought to have known that he had not obtained these designations, 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. Brennan is:

- a) a prohibition on receiving registration approval with any Member Firm of the Association for a period of five years;
- b) a fine in the amount of \$5,000; and
- c) a requirement that he re-write all relevant examinations should he seek re-registration in the securities industry.

In addition, Mr. Brennan is required to pay costs of the Association in the sum of \$7,500.00.

Summary
of Facts

Registration History

Mr. Brennan was initially employed in the securities industry with C.M. Oliver Financial Corporation, a securities dealer as defined under the *Ontario Securities Act*, and under the jurisdiction of the Ontario Securities Commission (“OSC”).

On or about October 30, 2000, a Transfer Application for his registration was submitted to the Association as a result of the integration of C.M. Oliver and Assante Capital Management Ltd. (“Assante”). Mr. Brennan remained employed with Assante as a registered representative at its Carling Avenue branch office in Ottawa until May 23, 2003 when his registration approval was suspended by the Association’s registration department.

The Falsification of the Proof of Passing Form for the Investment Management Techniques (“IMT”) Course

When Mr. Brennan submitted his Transfer Application to the Association, the Application was approved subject to the condition that he complete either the Professional Financial Planning (“PFP”) course or the Investment Management Techniques (“IMT”) course by May 1, 2003.

By letter dated April 21, 2003, Assante advised the IDA that Mr. Brennan had completed the IMT course on August 26, 1999 and entered this information onto the Association’s National Registrations Database.

On May 13, 2003, a Registrations Officer with the Association was informed that Mr. Brennan had not completed either the PFP or IMT course. On May 22, 2003 Assante advised the Association that Mr. Brennan had admitted to falsifying the Notice of Course Completion for the IMT course. Mr. Brennan was immediately suspended and his employment was terminated on July 23, 2003.

The Falsification of the Notice of Course Completion for the Conduct and Practices Handbook (“CPH”) Course

On or about November 2000, Mr. Brennan submitted, or caused to be submitted, to the Association a Certificate of Course Completion for the Conduct and Practices Handbook (“CPH”) Course, despite the fact that he had not completed this course.

The Misrepresentation of Qualifications on the Uniform Application for Registration/Approval

On or about July 21, 1998, Mr. Brennan filed a Uniform Application for Registration/Approval with the OSC. On the Uniform Application, he represented that he had obtained a Baccalaureate in Social Science from the University of Ottawa. The Uniform Application was provided to the Association in or about November 17, 2000. Association Staff confirmed with officials from the University of Ottawa that Mr. Brennan had attended, but not received a degree from that institution.

The Misrepresentation of Qualifications on Client Communications and Business Cards

In or about October, 2001, Mr. Brennan prepared a wealth management proposal for a client, M.H. In the wealth management proposal, Mr. Brennan specifically stated that he was a Certified Financial Planner (CFP) and used the CFP and Certified Investment Manager (CIM) designations after his name. The Financial Planning Standards Council (FPSC) confirms that Mr. Brennan had signed up to write the CFP exam in November 2000, but was ineligible to write it, and, therefore, did not obtain the CFP. Mr. Brennan has not obtained the CIM designation.

In addition, Mr. Brennan indicates, on his business cards, that he has obtained both the CFP and CIM designations, despite the fact that he is not so qualified.

Mitigating Circumstances

In the Agreed Statement of Facts, the District Council was advised that Mr. Brennan had been properly licensed to sell mutual funds while at C.M. Oliver and that he had, in fact, taken the appropriate courses to satisfy additional Association registration requirements upon the integration of C.M. Oliver with Assante. In addition, District Council was advised that there were no allegations of negligence regarding Mr. Brennan’s handling of client accounts or improprieties regarding client accounts, nor did he have a prior disciplinary record.

District Council was also advised that Mr. Brennan suffers from severe depression and psychological illness and that he has declared bankruptcy as a result of the termination of his employment. Mr. Brennan cooperated fully with the investigation and acknowledged his regulatory violations.

In light of the mitigating factors, District Council did not accept Staff's submissions that Mr. Brennan be permanently prohibited from receiving registration approval and instead imposed the sanctions set out above.

Mr. Brennan is currently not employed in the Securities industry.

Kenneth A. Nason
Association Secretary