



INVESTMENT DEALERS  
ASSOCIATION OF CANADA

# bulletin



ASSOCIATION CANADIENNE DES  
COURTIERS EN VALEURS MOBILIÈRES

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*For distribution to relevant parties within your firm*

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## Discipline

### Discipline Penalties Imposed on Andreas Felix Kiedrowski – Violations of By-law 29.1

**Person Disciplined** The Ontario District Council of the Investment Dealers Association (“the Association”) has imposed discipline penalties on Andreas Felix Kiedrowski, at the relevant time an Assistant Branch Manager and Registered Representative at the Mississauga branch office of BMO Nesbitt Burns Inc. (“Nesbitt”), 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. Kiedrowski and Staff of the Enforcement Department of the Association.

Pursuant to the Settlement Agreement, Mr. Kiedrowski admitted that, between January 1995 and May 1997 inclusive, he failed to provide a client with objective or unbiased information regarding his investments in Tee-Comm Electronics Inc., thereby engaged in business conduct or practice unbecoming a registrant or contrary to the public interest, contrary to By-law 29.1.

**Penalty Assessed** The discipline penalties assessed against Mr. Kiedrowski were:

- a fine in the amount of \$25,000;
- a prohibition on approval by the Association to act in any supervisory capacity with any Member of the Association for a period of three (3) years commencing February 28, 2002;
- within three (3) months of the effective date of this agreement, re-write and pass the examination based on the Conduct and Practice Handbook for securities industry professionals administered by the *Canadian Securities Institute*. Evidence of successful completion of the examination must be presented to the Association;
- as a condition of re-approval by the Association in any supervisory capacity with any Member of the Association, re-write and pass the

Branch Manager's examination administered by the *Canadian Securities Institute*. Evidence of successful completion of the examination must be presented to the Association as part of the re-registration process; and

- the costs of the Association's investigation and prosecution of this matter in the amount of \$7,500.

## Summary of Facts

Mr. Kiedrowski was at all material times the Assistant Branch Manager at the Mississauga branch office of BMO Nesbitt Burns Inc. Mr. Kiedrowski had been in the industry since 1980, and he continues to be employed by Nesbitt. He relinquished his managerial duties with Nesbitt in February 2002.

The subject matter of the Settlement Agreement involves Mr. Kiedrowski's recommendation to at least one client to purchase, accumulate and hold shares of Tee-Comm Electronics Inc. ("Tee-Comm"). Tee-Comm was a Canadian based manufacturer and distributor of home satellite systems that was listed on the Toronto Stock Exchange. It was agreed that between January 1996 and May 1997, common shares in Tee-Comm were high risk, aggressive growth securities. The client in question had somewhat conservative investment objectives and limited investment experience. Based on recommendations made by Mr. Kiedrowski, between January 1996 and May 1997, the client's accounts at Nesbitt became highly concentrated in Tee-Comm securities. Consequently, the accounts did not conform to the client's stated investment objectives.

During this time period, Nesbitt's own research department did not give Tee-Comm an above-average rating, and in fact, in January 1996 recommended that its clients reduce its positions in Tee-Comm. In fact, from January 1996 to April 24<sup>th</sup>, 1997, when Nesbitt discontinued its coverage of Tee-Comm stock, its own analyst gave it Nesbitt's "least recommended" rating.

Despite this rating from his firm's own analysts, Mr. Kiedrowski continued to tout the stock to the client and made representations to the client as to Tee-Comm's anticipated good performance and the future price at shares would ultimately reach. He also encouraged the client to continue making further investments in Tee-Comm, despite the fact that the company had some serious shortcomings.

While Mr. Kiedrowski provided the client with positive information regarding Tee-Comm, he did not provide the client with any of the negative research reports from Nesbitt's analysts and did not advise the client that from January 1996 onwards, Tee-Comm was losing money and it was expected to have bleak financial prospectus.

Most notably, in early 1996, the client approached Mr. Kiedrowski to sell his shares in Tee-Comm. At that time, Mr. Kiedrowski advised the client not to sell. Mr. Kiedrowski advised the client that it was his opinion that the price of Tee-Comm shares would rise and that the company's long-term financial picture was good.

As a result of Mr. Kiedrowski's misconduct, the client suffered losses of over \$243,000 in his three accounts at Nesbitt. All of the losses could be attributed to

the unsuitable investments in Tee-Comm securities.

In summary, Mr. Kiedrowski did not provide the client with balanced, objective advice with respect to his investments in Tee-Comm and admitted that his failure to provide his client with objective information amounted to business conduct or practice unbecoming a registrant, or contrary to the public interest, contrary to By-law 29.1.

Mr. Kiedrowski had no prior disciplinary history.

Kenneth A. Nason  
Association Secretary