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 Robert Arthur Binnington – Violations of By-law 29.1

Person Disciplined	The Ontario District Council of the Investment Dealers Association ("the Association") has imposed discipline penalties on Robert Binnington, at the material times employed, either as a Registered Representative or Registered Representative Options, at the Hamilton office of CIBC World Markets Inc. or its predecessor, CIBC World Gundy Securities Inc. (both hereinafter referred to as 'CIBC")
By-laws, Regulations, Policies Violated	On June 30, 2004, the Ontario District Council considered, reviewed and accepted a Settlement Agreement negotiated between Mr. Binnington and Association Staff.

Pursuant to the Settlement Agreement, Mr. Binnington acknowledged that:

(1) Between November 1998 and July 2002, inclusive, he misappropriated a total of approximately US$1.2 million and CDN$410,000 from three clients;

(2) Between January 1999 and December 2002, inclusive, he issued fictitious monthly account statements to the same three clients;

(3) For the years 1999, 2000, 2001 and 2002, he created fictitious tax documents for one client;

(4) In May 2001, he compensated one of three clients he misappropriated from, $2 million, an amount in excess of the funds misappropriated.

(5) Between October 1999 and August 2002, he compensated or undertook to compensate two other clients for losses incurred in their accounts.

Penalty Assessed	The discipline penalties assessed against Mr. Binnington are:

(1) a permanent prohibition from approval by the Association to act in any registered capacity with any Member of the Association; and

(2) a fine in the amount of $435,000.

In addition, Mr. Binnington is required to pay $10,000.00 towards the Association's costs of this matter.

Summary of Facts

Staff's investigation was initiated upon receipt of a Uniform Termination Notice ("UTN") from CIBC dated February 3, 2003. According to the UTN, Mr. Binnington was dismissed for cause on January 28, 2003 as a result of engaging in discretionary trading in several client accounts, providing personal funds to clients, and entering into a personal guarantee with a client. Following the discovery of these transgressions, CIBC conducted their own internal investigation, which revealed additional misconduct.

Clients JR and LR

JR and LR were long-standing financial planning and tax clients of Mr. Binnington. In late 1998, JR and LR sold their home in Aurora, Ontario and moved to Chicago, Illinois.

Despite relocating to the United States, JR and LR kept their existing CIBC accounts with Mr. Binnington. Their house sale proceeds of $212,109.02 were provided to him to be deposited into LR's CIBC account. However, instead of depositing these funds as indicated to the clients, on November 2, 1998, Mr. Binnington deposited the funds into an offshore account.

According to Mr. Binnington, it was his intention to essentially park the clients' funds in the offshore account until he could resolve some issues including the tax consequences relating to the clients' non-resident status in Canada. He also admitted that he wanted to make some extra money for both the client and himself by trading with their funds

During the next two years, Mr. Binnington provided the clients with fictitious monthly statements for LR's account that led the clients to mistakenly believe that the house sale proceeds were deposited in LR's CIBC account.

On November 2, 2000, Mr. Binnington satisfied the clients' request for funds by directly depositing $109,803.57 of his own personal monies into the clients' bank account.

Mr. Binnington also created fictitious tax documents for the taxation years 1999, 2000, 2001 and 2002, which the clients relied upon in preparing their income tax returns.

Client B. Barbados

In February 2000, B. Barbados, a long-standing client of Mr. Binnington, wished to open an account at CIBC in the name of B. Barbados and provided Mr. Binnington with US$1,200,000 as an initial deposit. Instead of opening the account as requested, on or about February 15, 2000, Mr. Binnington used the funds to open a margin account under a different corporate name, BBD.

Mr. Binnington's intention for setting up the BBD account was two-fold: (1) to trade on behalf B. Barbados; and (2) to generate trading profits, through the use of margin, that was to be used to compensate other clients, including JR and LR, for investment losses.

Between February 2000 and May 2001, inclusive, Mr. Binnington provided the client with fictitious monthly statements for the account of B. Barbados that led the client to mistakenly believe that such an account was opened and that trading was being executed in the account.

In May 2001, Mr. Binnington disclosed to the client, but not to CIBC, that he had been improperly utilizing the client's funds. Mr. Binnington then provided the client with personal funds in the amount of $2,000,000, which was used to open a new account at CIBC in the name of B. Barbados as originally intended by the client. These funds represented in excess of the original US$1, 200,000 deposit and the related profits generated in the BBD account on behalf of the client.

It was agreed by both Mr. Binnington and the client that they would not disclose these series of events to CIBC.

Client LS

LS was a long-standing financial planning and tax client of Mr. Binnington that pre-dated his employment at CIBC and included Mr. Binnington having a general Power of Authority over her financial affairs. Upon LS selling her home in Mississauga and moving to Florida, the client used her house sale proceeds and opened a corporate account at CIBC in the name of L. Productions on October 18, 1999.

LS arranged to have all her Canadian financial documents including the CIBC account statements mailed to a PO Box number located in Burlington, Ontario. Both the client and Mr. Binnington were signatories for this PO Box. It was Mr. Binnington's personal responsibility to mail all of the client's Canadian documents to her in Florida.

Between October 1999 and August 2002, Mr. Binnington removed the monthly account statements of L. Productions in the PO Box and replaced them with fictitious account statements. He then couriered these account statements, along with the other financial documents, to the client.

Between December 1, 1999 and July 2002, inclusive, Mr. Binnington misappropriated $197,912.80 from the L. Productions account.

Between May 2001 and July 2002, inclusive, Mr. Binnington also made several personal deposits into the L. Productions account totalling $140,000 in order to offset the trading losses in the account. Around this same period of time, Mr. Binnington also provided the client with approximately $153,000 of his own personal monies to satisfy her requests for funds.

Client KG

In April 1998, KG opened both a RRSP account and a margin account at CIBC with Mr. Binnington. In June 1998, at the suggestion of Mr. Binnington, KG obtained a $100,000 personal line of credit, which was to be used to invest in his margin account.

During 2000 and early 2001, the client regularly expressed concern over the investments held in the margin account. Initially, in the spring of 2000, Mr. Binnington verbally agreed to compensate the client for any future losses incurred in the account. As the market continued to decline in the year 2000, the client complained to Mr. Binnington and ultimately threatened to speak with management. In order to prevent the client from going to management, Mr. Binnington entered into a written agreement with the client in September 2001, that guaranteed a certain month-end balance in the account for a seven month period from September 2001 to March 2002.

Between December 2000 and June 2002, inclusive, pursuant to the both the verbal and written agreements entered into with the client, Mr. Binnington deposited a total of $197,500 of his own money into KG's margin account.

Despite the deposits made by Mr. Binnington, by the end of 2001, the account experienced significant losses. With such losses, the client became concerned about his ability to pay back the $100,000 borrowed from his personal line of credit. As a result, in January 2002, Mr. Binnington entered into a second written agreement, in which Mr. Binnington assumed full personal responsibility of the client's outstanding balance for his personal line of credit on the condition that the lender would consent to the transfer of the line. The lender never accepted the agreement and therefore, the agreement was never put into effect.

In January 2003, Mr. Binnington approached his branch manager and admitted that he provided personal funds to KG to compensate him for losses and personally guaranteed the value of KG's account. He also advised his branch manager that he entered into a verbal agreement with KG to exercise discretion in trading in his account.

It was these admissions that ultimately led to an internal CIBC investigation as previously noted and the discovery of the other regulatory violations.

Mr. Binnington has not been employed in the securities industry since his termination from CIBC.

Kenneth A. Nason
Association Secretary