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For distribution to relevant parties within your firm

BULLETIN #3308
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Discipline

Discipline Penalties imposed on Richard Scott Latta – Violations of By-law 29.1 and Regulation 1300.1 (c)

Person Disciplined The Nova Scotia District Council of the Investment Dealers Association of Canada has imposed discipline penalties on Richard Scott Latta, at the relevant time a Registered Representative Options with the Halifax office of National Bank Financial, a Member of the Association.

By-laws, Regulations, Policies Violated Following a hearing held on June 2nd and 3rd, 2004, the District Council found that Mr. Latta:

- (a) provided false information to KH, CFP and his client CP, as to the value of CP's accounts, thereby engaging in conduct unbecoming or detrimental to the public interest, contrary to By-law 29.1;
- (b) failed to ensure that the use of margin in CP's accounts was appropriate for her and in keeping with her investment objectives and personal circumstances, contrary to Regulation 1300.1(c); and
- (c) represented CP in the province of British Columbia without being duly registered to do so, contrary to By-law 29.1.

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

- a prohibition on re-applying for approval for a period of one year, effective as of June 24, 2004;
- a fine of \$35,000, corresponding to the above sub-sections:
 - (a) \$15,000
 - (b) \$15,000
 - (c) \$5,000
- costs of \$10,000;
- successfully re-write the Conduct and Practices Handbook exam, followed by a twelve month period of strict supervision; and
- a prohibition from re-approval with any Member until the fine and costs are paid in full.

Background:

Mr. Latta commenced his employment at National Bank Financial (“NBF”) in July 1999. He was approved as a Registered Representative Options (“RRO”) at NBF’s Halifax office from January 27, 2000 to September 21, 2001.

The Association commenced an investigation into Mr. Latta’s conduct while he was employed at NBF. CP had complained to NBF about the handling of her account by Mr. Latta. Mr. Latta resigned from NBF on September 21, 2001. A Uniform Termination Notice (“UTN”) was provided to the Association by NBF on October 10, 2001. The UTN noted that there were unresolved client complaints.

Client CP’s Cash and RRSP account:

Mr. Latta opened a Canadian and U.S. cash account and an RRSP account for client CP in November 1999. CP was then 35 years old and a claims clerk in the Canadian military. She had a high school education with one year of college. CP’s total net worth was estimated at \$500,000 due to an inheritance.

CP’s cash and RRSP New Account Application Form dated November 26, 1999 (“Cash and RRSP NAAF”) indicated that her investment objectives were 50% short term capital gains and 50% medium term capital gains. Her risk factors were indicated as 20% low, 60% medium and 20% high. It also indicated that CP’s investment knowledge was “good”, although in fact, this was not an accurate depiction of CP’s investment knowledge at the time. CP’s actual investment knowledge was limited to fair.

Margin account:

Mr. Latta opened a Canadian and U.S. margin account for CP on January 7, 2000 (the “margin account NAAF”). CP’s investment objectives and risk factors were the same as set out on her Cash and RRSP NAAF. CP did not fully understand what a margin account involved when the account was opened. In addition, over time she became concerned about her account as she did not understand the meaning of the negative signs on her account statements.

By April 2000, CP’s accounts consisted of the Canadian and U.S. margin accounts and her RRSP account. From April 2000 to August 2001, the debit balance in CP’s margin accounts was over \$214,000 every month, and was at almost \$400,000 by May of 2001. The margin, as a percentage of the account value, increased greatly in less than 2 years. The margin debit balance as at March 31, 2000 was some \$55,000 and was almost \$400,000 as at March 31, 2001.

In the spring of 2001, CP advised Mr. Latta that she was concerned about the high level of margin in her account. In August and September 2001 there were a number of sell outs in her U.S. margin account. As of September 26, 2001, the cumulative loss in CP’s accounts (realized, unrealized and/or estimated) was over \$340,000.

The District Council found that as CP’s investment knowledge was fair at best, the resulting debit position of almost \$400,000 by May 2001 raised a grave concern that CP was not receiving investment advice that was appropriate in the circumstances. The

evidence supported the allegation that CP never fully understood the use of margin in her accounts and was never kept fully informed by Mr. Latta as her debit balance increased over time.

False Information:

In September 2001, CP's husband contacted KH, an employee of a financial institution, to discuss obtaining a mortgage so that he and CP could purchase a rental property in Victoria, B.C.

KH was provided with portfolio evaluations and a document entitled client summary of CP's account. The documents did not include the U.S. account balance, which was in a large debit position. As the account position was unclear from the documentation, KH telephoned Mr. Latta to ask for clarification.

Mr. Latta told KH that CP held 10,000 shares in Service World and that those shares had a value of \$40,000., but that they were not reflected on the portfolio evaluations. Mr. Latta advised KH that CP's portfolio was worth approximately \$215,000. Mr. Latta also told CP and her husband during the same time frame that her portfolio was worth approximately \$250,000.

This information was false, as CP had never owned shares in Service World. In addition, CP's U.S. margin account had a substantial debit balance of over \$100,000. U.S. At that time, the actual value of CP's accounts was approximately \$68,000.

Ultimately, the correct value of CP's portfolio was discovered when her husband spoke with representatives of NBF. CP and her husband then cancelled their application to purchase the rental property.

Registration issue:

From November 1999 to September 2001, CP resided in Victoria, British Columbia. She met Mr. Latta once when opening her accounts in Halifax, when she was visiting her fiancé. All of the NBF documentation shows her address as Victoria, B.C. Her monthly account statements were sent to Victoria and CP had continued to live in Victoria, other than when serving at sea, or on temporary postings.

At the time Mr. Latta was acting as a Registered Representative for CP, he was registered to conduct business in Nova Scotia. Mr. Latta was not registered at any time to conduct business in British Columbia.

District Council Decision:

Mr. Latta did not appear at the hearing although an envelope was delivered to the hearing which contained a copy of a "Response to Allegations" from Mr. Latta. After argument on the issue, the District Council decided to receive the Response and to give it whatever weight it considered was appropriate in the circumstances. The District Council decided to hear the evidence put forward by the Association's investigator, rather than proceed by way of By-law 20.16.

Following the hearing on June 2nd, the District Council determined that Mr. Latta had violated the By-laws and Regulations set out above. After hearing penalty submissions by Enforcement Counsel of the Association, the District Council reserved its decision on penalty. In a decision dated June 24th, 2004, the District Council assessed the above penalties against Mr. Latta.

Mr. Latta has not been registered with the Association since September 21, 2001.

Kenneth A. Nason
Association Secretary