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**BULLETIN #3334**  
September 24, 2004

## Discipline

### Discipline Penalties Imposed on Thomas J. Hunt; Violations of By-law 29.1

Person Disciplined      The Quebec District Council (“District Council”) of the Investment Dealers Association of Canada (“the Association”) has imposed discipline penalties on Thomas J. Hunt (“Hunt”), at all material times a Registered Representative of Assante Capital Management Ltd. (“Assante”), a Member of the Association.

By-laws, Regulations, Policies Violated      Following a disciplinary hearing held on August 17, 2004, the District Council found that Hunt violated By-law 29.1 by (i) misappropriating \$ 194, 158.63 from a client account in Switzerland; (ii) giving trading instructions for a client account held in a Swiss financial institution without the knowledge or consent of his employer; and (iii) arranging a private placement and an investment in a hedge fund for a client, which was conducted off-book, and without the knowledge or consent of his employer.

Penalty Assessed      The discipline penalties assessed against Hunt are as follows:

- A permanent prohibition on approval in any capacity;
- A fine in the amount of \$ 280,000;
- The disgorgement of ill-gotten gains in the amount of \$ 194, 158.63; and
- Payment of the Association’s costs in the amount of \$45, 554.

Summary of Facts      Hunt was a trusted financial advisor to BPC. On February 3, 1992, BPC died. Pursuant to BPC’s Last Will and Testament (“the Will”), Hunt and DC, one of BPC’s three sons, were named as co-executors of BPC’s Will. The Will also provided that Hunt’s consent was required for any decisions relating to BPC’s Estate (“the Estate”).

The sole beneficiaries of the Estate were BPC’s surviving spouse and his three sons. Hunt had no beneficial interest in the Estate.

The Estate's assets included a holding company called B Holdings Ltd. The purpose of this company was to hold securities belonging to the Estate. Hunt was a director and officer of B Holdings Ltd. However, at no time was Hunt a shareholder of B Holdings Ltd. B Holdings Ltd. had trading and investment accounts with Assante and Royal Trust.

The Estate's assets also included a trading account held with a Swiss affiliate of the Royal Bank of Canada ("the Swiss Account"). Both DC and Hunt had trading authorization and access to funds in the Swiss Account. However, Hunt had no beneficial interest in the Swiss Account but purported to be entitled to a management fee for managing it.

While Hunt was employed with Assante, he was also the registered representative for accounts belonging to DC, DC's family and B Holdings Ltd.

#### **Misappropriation of Funds from the Swiss Account**

Between January 12, 1999, and May 17, 2002, Hunt caused monies to be transferred to him from the Swiss Account on 105 occasions. In total, Hunt withdrew \$ 335, 560.83 from the Swiss Account over this time period.

DC was not aware of any of these withdrawals. Although Hunt was entitled to receive reasonable remuneration as co-executor of the Will, the monies withdrawn from the Swiss Account were not part of the remuneration that Hunt disclosed to the beneficiaries.

#### **Failure to Disclose Outside Investment Advisement Work**

Although Hunt disclosed to his employer that he was an Estate Executor and that he was an officer and director of B Holdings Ltd., he failed to disclose that:

- (i) his role as co-executor of the Estate was primarily to provide investment advice to the Estate;
- (ii) as co-executor of the Estate he was responsible for giving trading instructions for the Swiss Account which was for the benefit of certain clients of Assante, namely DC and his family; and
- (iii) as co-executor of the Estate he was responsible for giving investment advice to B Holdings Ltd. and arranging investments for B Holdings Ltd. that were conducted off the books and records of Assante, and for which he had received advisory and finder's fees.

In regard to (iii) above, the following two investments, which were arranged by Hunt, were conducted off-book and were not disclosed to Assante:

- (a) On January 29, 2002, Hunt helped arrange a private placement for the purchase of shares in Executive Aircraft Solutions Inc. by B Holdings Ltd. in the amount of U.S. \$ 500,000; and
- (b) On November 21, 2000, and July 16, 2001, Hunt arranged for B Holdings Ltd. to purchase shares in Univest, a Bahamian hedge fund. The two purchases totaled \$ 300,000.

Kenneth A. Nason  
*Association Secretary*