

Contact:

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**BULLETIN #3338**

October 5, 2004

## Discipline

### **Discipline Penalties Imposed on BRIAN ROBERT STRONG – Violation of Regulation 1300.1(c) and By-law 29.1**

Person Disciplined	The Alberta District Council of the Investment Dealers Association of Canada (the “Association”) has imposed discipline penalties on Brian Robert Strong (the “Respondent”), at all material times a Registered Representative with the Calgary branch office of Research Capital Corporation (“Research”), a Member of the Association.
By-laws, Regulations, Policies Violated	On July 27, 2004, the Alberta District Council considered, reviewed and varied, by adding an additional penalty sanction of supervision, and accepted all other agreed penalty sanctions, a Settlement Agreement negotiated between the Respondent and Association Staff.

Pursuant to the Settlement Agreement, the Respondent admitted:

- (a) Contravention of Association By-law 29.1, in that the Respondent made an offer to compensate a client for account losses and thereby breached his duty to observe high standards of ethics and conduct in the transaction of business and engaged in business conduct unbecoming or detrimental to the public interest.
- (b) Contravention of Association Regulation 1300.1(c), in that for the period of operation of two (2) client accounts the Respondent failed to ensure that trade recommendations and use of margin were appropriate for the clients and in keeping with the clients’ true and/or stated investment objectives.
- (c) Contravention of Association By-law 29.1, in that the Respondent advanced a personal loan to two clients, a husband and wife, in circumstances of undermargin and/or trade restricted accounts and account losses, and thereby breached his duty to observe high standards of ethics and conduct in the transaction of business and engaged in business conduct unbecoming or detrimental to the public interest.

Penalty  
Assessed

The discipline penalties assessed against the Respondent are:

- (a) a global fine of \$25,000;
- (b) as a condition of continued approval in any capacity and prior to resuming employment as a Registered Representative with any Member of the Association, re-writing and passing the *Canadian Securities Course and the Conduct and Practices Handbook* examination, administered by the Canadian Securities Industry;
- (c) upon resuming employment as a Registered Representative with any member of the Association, that the Respondent be subject to a three (3) month period of supervision; to include monthly meetings between the Respondent and the Member firm's Branch Manager or Compliance Officer to review the Respondent's client accounts; and
- (d) as a condition of approval, that in the event the Respondent fails to comply with any of these disciplinary penalties as prescribed, the District Council may upon application by the Senior Vice President Member Regulation and without further notice to the Respondent suspend approval of the Respondent until the penalties are complied with.

Mr. Strong is also required to pay \$4500.00 towards the Association's costs of the investigation of this matter.

Summary of  
Facts

At all relevant times, the Respondent was an employee of Research and a resident of the City of Calgary, in the Province of Alberta. The Respondent has been on a leave of absence from Research since October 2003 to the present.

#### **A. B.I. ACCOUNT**

B.I. maintained margin and RRSP accounts with the Respondent. In May 1998, the Respondent undertook trading, including short-sell transactions, which resulted in losses to the margin account.

In November, 2000, B.I. communicated with the Respondent by telephone regarding losses incurred to the margin account. B.I. audio-taped a November 6, 2000, conversation with the Respondent wherein the Respondent offered to provide B.I. with a personal cheque to cover the amount of the account losses to date. The Respondent did not provide a personal cheque to B.I. The Respondent and B.I. had no further communications after November 6, 2000.

The Respondent admitted to the Association that he offered B.I. a personal cheque to cover the account losses.

Summary of  
Facts (cont'd)

**B. H.B. AND C.C. ACCOUNTS**

H.B. and C.C. were semi-retired, had minimal investment experience, limited financial resources and both suffered serious physical ailments.

The Respondent had previously acted as the real estate agent for H.B. and C.C., and was aware that H.B. received approximately \$240,000 from the sale of estate property. The Respondent was aware that H.B. and C.C. would need to access principal monies from their investment accounts to supplement their income.

In August 1997, H.B. and C.C. opened separate cash and RRSP accounts (the "accounts") with Research. The Respondent was the registered representative with respect to these accounts. The NCAFs for the accounts were signed by the Respondent on August 14, 1997. The personal, financial and investment objectives and risk tolerance information on the NCAFs for H.B.'s and C.C.'s accounts were identical.

The investment objectives for the accounts were 25% income, 25% short-term capital gains, and 50% med-term capital gains. The risk tolerance designation for each account was recorded as 30% low-risk, 50% med-risk, and 20% high-risk.

The account NCAFs were completed by the Respondent. The account NCAFs were not completed in the presence of H.B. and C.C., and they did not review the completed account NCAFs until the Association investigation in this matter. The total asset amount recorded on the NCAFs was overstated by \$90,000.

The Respondent advised H.B. and C.C. that margin trading and short-selling would provide expanded opportunities to profit from the market. The Respondent did not explain the risks with margin trading or short-selling, such that H.B. and C.C. fully understood those risks.

During the period October 1997 to December 1998, H.B.'s margin account was overly invested in one equity, ATI Technologies Inc. Further, H.B.'s margin account had a debit position that ranged from \$3,000 to \$215,000.00 for an account that ranged in market value from \$15,000.00 to \$286,000.00 for the period February 1998 to January 2002.

C.C.'s margin account had a debit position that ranged from \$5,000.00 to \$147,000.00 for an account that ranged in market value from \$8,000.00 to \$218,000.00 for the period February 1998 to January 2002.

During the period of the operation of the H.B. and C.C. accounts at Research, losses in the respective amounts of \$75,644.49 and \$55,322.89 were incurred.

The Respondent admitted that the level of margin trading in the accounts of both H.B. and C.C. was unsuitable given the clients' personal and financial circumstances.

On December 1, 1998, the NCAFs for both H.B.'s and C.C.'s accounts were updated. The account(s) investment objectives were changed to 50% short-term capital gains and 50% med-term capital gains. Also, the risk tolerance designation for the accounts was changed to 100% high-risk. The updated account NCAFs were completed by the Respondent's assistant. The updated account NCAFs were not completed in the

presence of H.B. and C.C. and they did not review the completed updated account NCAFs until the Association's investigation in this matter. The Respondent signed and approved the updated NCAFs on December 1, 1998.

H.B.'s and C.C.'s investment objectives did not change between August 1997 and December 1998, and they did not agree to a risk tolerance designation of 100% high risk. The Respondent admitted that the trading in the H.B. and C.C. accounts after December 1, 1998, was not suitable for these clients, notwithstanding the employed trading strategy was consistent with the investment objectives and risk tolerances recorded on the client's updated account NCAFs.

The Respondent provided H.B. and C.C. with personal financial assistance, during a period when their accounts were either undermargin or subject to trade restrictions, and they had no other source of funds. The Respondent's personal financial assistance to H.B. and C.C. was inappropriate and conduct unbecoming a Registered Representative of the Association.

See the Settlement Agreement dated July 27, 2004 for a complete summary of the facts relied upon for the decision.

Kenneth A. Nason  
Association Secretary