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For distribution to relevant parties within your firm

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Discipline

Discipline Penalties imposed on Jules Mangin – Violations of By-law 29.1 and Regulation 1300.4

Person Disciplined A Hearing Panel appointed pursuant to Association By-law 20 has imposed discipline penalties on Jules Mangin (the “Respondent”), at all material times employed in Toronto as a Registered Representative Options, Trading Officer (VP), and Alternate Designated Person with CIBC World Markets Inc., a Member of the Association.

By-laws, Regulations, Policies Violated On February 3rd and 4th, 2005, the disciplinary hearing took place. After hearing submissions from counsel for the Association and counsel for the Respondent, and after being advised by the Respondent’s counsel that the Respondent admitted the facts as set out in the Notice of Hearing, the Hearing Panel found that the Respondent had committed the following violations:

Count 1:

Between February 2001 and August 2003, the Respondent, while a Registered Representative of a Member of the Association, engaged in a business conduct or practice unbecoming or detrimental to the public interest, contrary to Association By-law 29.1:

- (a) by depositing a cheque in the amount of \$167, 343.35 (U.S.), which was payable to the Member firm CIBC World Markets Inc., into the account of his client 9051, without the knowledge or consent of the Member firm;
- (b) by agreeing with client 9051 to share in any profits obtained as a result of the Respondent’s trading in 9051’s account;
- (c) by trading in client 9051’s account without sufficient cash to cover the trades (“free riding”);

- (d) by allocating various losing trades in client 9051's account to an inventory account controlled by the Respondent, and;
- (e) by manipulating certain trade tickets, in order to avoid detection by the Member firm.

Count 2:

From June 2001 to August 2003, while a Registered Representative of a Member of the Association, the Respondent effected discretionary trades in client 9051's account, without the account having been designated and approved as a discretionary account, contrary to Association Regulation 1300.4.

Penalty
Assessed

A penalty hearing was held. After hearing submissions from counsel for the Association and counsel for the Respondent, the Hearing Panel imposed the following penalties:

- A permanent ban on registration in any capacity;
- A fine of \$295,000 broken down as follows:
 - Count 1(a): \$100,000
 - Count 1(b): \$80,000
 - Count 1(c): \$25,000
 - Count 1(d): \$50,000
 - Count 1(e): \$25,000
 - Count 2 : \$15,000;
- Disgorgement of the funds misappropriated in the amount of \$207, 137.59 (Canadian); and,
- Payment of \$10,000 towards costs.

Summary
of Facts

Registration:

The Respondent was registered by the Association with CIBC Wood Gundy Inc., now CIBC World Markets Inc. ("CIBC"), from January 27, 1997 to September 9, 2003. His registration capacities at CIBC included Registered Representative Options/ Registered Futures Contract Representative Options, Alternate Designated Person ("ADP") and Trading Officer (VP). The ADP status was dropped in January 2003, but the remaining categories of registration continued. At the relevant time, the Respondent was the trade desk supervisor and did not generally act as a Registered Representative for retail accounts.

Commencement of investigation:

The Association received a Uniform Termination Notice from CIBC dated September 9, 2003 (the "UTN"). The UTN indicates that the Respondent had conspired with a client to share proceeds of certain trading effected by the Respondent in the client's account. The UTN also alleged that the Respondent had improperly re-directed a cheque payable to CIBC into the client's account, intentionally circumvented CIBC's credit procedures to avoid detection, and allocated losing trades to a CIBC inventory account controlled by the Respondent, as well as effecting discretionary trades since the inception of the account.

Opening of 9051's account:

The Respondent and H were acquaintances. The Respondent and H agreed that the Respondent would assist H in opening a corporate brokerage account at CIBC in Toronto. In February 2001, H opened an account in the name of 9051-8390 Quebec Inc. ("9051"), a Quebec corporation. H was the CEO of 9051. The account was #400-11044-15 (the "9051 account"). Although the 9051 account was opened in the institutional account range, it was, for all intents and purposes, a retail account. The Respondent was the Registered Representative for the 9051 account at all times.

Cheque dated January 8, 2001:

The Respondent told the Association that after the 9051 account had been opened, the Respondent approached H with a plan to share in any profits of the trading in the 9051 account. They agreed to split any profits made.

On or about February 9, 2001, the Respondent improperly deposited a cheque dated January 8, 2001, in the amount of \$167,343.35, in U.S. funds, from Knight Execution Services Inc., payable to CIBC, into the 9051 account. No other deposits were made to the 9051 account.

Large sums of money were taken out of the 9051 account within the next few months. In March 2001, \$20,000 was withdrawn. In April 2001 \$124,000 was withdrawn and in June 2001 \$15,000 was withdrawn. The first trades in the 9051 account occurred in June 2001.

Free riding:

While at CIBC, the Respondent intentionally and repeatedly conducted transactions in the 9051 account without sufficient funds in the account to pay for the transactions, in a practice known as "free riding".

Between June 2001 and August 2003, the Respondent traded numerous times in 9051's account. The account typically held approximately \$10,000 (U.S.) to \$50,000 (U.S.) in cash and no securities. Day trades, however, exceeding the cash value of the 9051 account by \$100,000 (U.S.) to sometimes more than \$300,000. (U.S.), were made several times each month.

Allocation of losing trades to an inventory account:

On various occasions during 2001 to 2003, the Respondent allocated certain losing trades to a CIBC institutional inventory account controlled by him, thereby avoiding losses in the 9051 account and consequently generating unusually high profitability in the 9051 account. From November 2002 to July 2003, the 9051 account had a 93% win rate, and had more than 100 Celestica Inc. trades, with a profit of \$108,000 (U.S.), for those trades alone.

Manipulation of trade tickets:

The Respondent admitted to the Association that he often did not indicate the account number on the trade tickets he completed at the time the trades were placed. He would fill in this information after it was determined whether the trade had been profitable or not. If profitable, the trade would be allocated to the 9051 account. If unprofitable, the trade would be allocated to the inventory account. Purchases that were allocated to the inventory account would then be sold, resulting in a loss to the inventory account that was ultimately covered by CIBC.

On occasion, where a trade was not unwound by the end of the day, the Respondent would with-hold the ticket until an offsetting trade was made the next day. He would then submit the original trade for processing. This was done in order to avoid detection by CIBC.

Discretionary trades:

Throughout the operation of the 9051 account, the Respondent made all of the trading decisions without any input from H. At no time was the 9051 account designated and approved as a discretionary account. H was fully aware, however, that the Respondent was trading in the 9051 account. H received trade confirmations and monthly account statements.

Proceeds from the 9051 account:

The total proceeds withdrawn from the 9051 account from February 2001 to August 2003 was approximately \$790,000.

From time to time, cheques were drawn on the 9051 account, and were paid to 9051's bank account at the Royal Bank. H would then either make a payment to the Respondent's CIBC Visa account, deposit funds directly into a chequing account maintained by the Respondent at the Bank of Montreal, or write a cheque to the Respondent, which the Respondent then deposited into his bank account.

The Respondent had indicated to the Association that he received approximately \$200,000 from the 9051 account from 2001 to August 2003.

Other:

The Respondent has no previous disciplinary history. The Respondent had made various admissions to the Association during his interview by Association staff.

The Respondent has not been registered in the industry since his termination from CIBC on September 9, 2003.

Reasons for decision will follow in due course.

Kenneth A. Nason
Association Secretary