



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

BULLETIN # 3418

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Discipline

Discipline Penalties Imposed on Gregory Bruce MacKay; Violations of By-law 29.1

Person Disciplined A Hearing Panel appointed pursuant to IDA By-law 20 has imposed discipline penalties on Gregory Bruce MacKay, at all material times a Registered Representative and Assistant Branch Manager with the Winnipeg Branch Office of BMO Nesbitt Burns Inc., a Member of the IDA.

By-laws, Regulations, Policies Violated Following a disciplinary hearing held on, Tuesday, April 12, 2005 in Winnipeg, Manitoba, a Hearing Panel found that Gregory Bruce MacKay violated By-law 29.1.

Penalty Assessed The Hearing Panel imposed the following penalties on Mr. MacKay:

1. Permanent prohibition from acting in any registered capacity with the Association;
2. Fine of \$100,000; and
3. Costs in the amount of \$8,361.92.

Summary of Facts Facts:

By Comset Memorandum dated March 20, 2003, BMO Nesbitt Burns (“Nesbitt”) advised the Investment Dealers Association of Canada (the “Association”) that it had begun an internal investigation into the conduct of Gregory Bruce MacKay (the Respondent), a former registered representative in their Winnipeg branch office. The subject of the Nesbitt investigation was an allegation that the Respondent had misappropriated funds while employed at Nesbitt.

Nesbitt interviewed the Respondent on April 3, 2003, at which time the Respondent admitted to the following:

- He opened a corporate account in the name of Maples Minor Hockey (the "Hockey Account") at a local bank branch of Bank of Montreal;
- He fabricated a company using the name Manitoba MultiMedia Habitat ("Habitat");
- During a period of approximately four (4) years, he wrote invoices for expenses from Manitoba Hydro Bond Campaign account and the Winnipeg Social Club account (internal suspense accounts) purportedly incurred by Habitat and prepared cheques using only the initials 'MMH' as the payable party and then deposited those cheques to the Hockey Account; and
- He used the funds deposited to the Hockey Account for personal bad debt purposes.

Nesbitt provided Association Staff with their investigative findings, including copies of twenty (20) cheques totaling \$138,373.34 made payable to 'MMH' which Nesbitt confirmed the Respondent had deposited to the Hockey Account.

The Respondent admitted to the same conduct when interviewed by Association Staff, with the exception that he advised one of the twenty cheques was legitimate, as representing a \$5,000 bonus to him.

Nesbitt confirmed that no client accounts were affected by the Respondents conduct, as all of the misappropriated funds were drawn from internal Nesbitt suspense accounts (#095-30090 and #555-0317).

On August 19th, 2003, the Respondent attended to the Winnipeg Police Service, upon his own volition, and provided a statement that he had misappropriated funds from Nesbitt. The Respondent was formally charged with defrauding Nesbitt of monies exceeding five thousand dollars contrary to the Provisions of the Criminal Code of Canada. (the "criminal charge").

On September 30, 2004, the criminal proceedings were held and the Respondent entered a guilty plea to the criminal charge and was given a conditional sentence of "Two (2) Years less a day" to be served within the community.

The Respondent was not in attendance at the hearing of this matter. However, it was established to the satisfaction of the Hearing Panel that the Respondent had been properly served with the Notice of Hearing.

Information was provided to the Hearing Panel that the Respondent had entered into an agreement with Nesbitt to repay the misappropriated funds and that the agreement was being honoured by the Respondent. Also, it was noted by the Hearing Panel that the Respondent has no previous disciplinary history or criminal record.

Notwithstanding the identification of mitigating factors, the Hearing Panel determined that the conduct of misappropriation of funds was a very serious infraction and demonstrated a “total disregard of any ethical standards” on the part of the Respondent. Further, the Hearing determined that the gravity of the violation necessitated a permanent prohibition from registration, as well as, a significant fine.

For greater detail, see the written Reasons for Decision also posted to the IDA website.

Kenneth A. Nason
Association Secretary