



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 #3430
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Discipline

Discipline Penalties Imposed on Doreen Dempsey; Violations of Regulation 1300.1. (p) and (q).

Person Disciplined	A Hearing Panel of the Investment Dealers Association of Canada (the “Association”) appointed pursuant to Association By-law 20 has imposed discipline penalties on Doreen Dempsey, at all material times a Registered Representative (“RR”) working at the Moncton Office of Merrill Lynch Canada Inc. (“Merrill Lynch”), a member of the Association.
By-laws, Regulations, Policies Violated	After a Settlement Hearing on April 25, 2005 in Moncton, New Brunswick, a Hearing Panel considered, reviewed, and accepted a Settlement Agreement negotiated between Ms. Dempsey and Staff of the Enforcement Department of the Association. Pursuant to the Settlement Agreement, Ms. Dempsey admitted that between October 1999 and April 2000 she acted contrary to Association Regulations 1300.1. (p) and (q) [then 1300.1. (c) and (d)] by recommending and processing transactions in the accounts of clients, MAP, RC, PC, RC-BS&MS, SA, SA&MB and HJ, without first using due diligence to ensure that the recommendations or transactions were suitable for those clients based on their financial situation, investment knowledge, investment objectives and risk tolerance.
Penalty Assessed	<p>The penalties imposed and costs assessed against Ms. Dempsey are:</p> <ol style="list-style-type: none">a global fine in the amount of \$35,000 (thirty-five thousand dollars) plus a requirement to pay \$5,000.00 (five thousand dollars) towards the Association’s costs of this matter;her continued approval in any registered capacity shall be subject to the condition that she successfully complete a 1 year period of close supervision by her Member firm;her continued approval in any registered capacity shall be subject to the condition that she re-write and pass the examination based on the <i>Conduct & Practices Handbook Course</i> within 6 months; andher continued approval in any registered capacity shall be subject to the condition that the above fine and costs are paid in full.

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Summary
of Facts

Ms. Dempsey

Ms. Dempsey was a RR at the Moncton Branch of Merrill Lynch from 1993 to 2001 when Merrill Lynch was purchased by CIBC World Markets Inc. Ms. Dempsey continued to work as a RR at the same branch after 2001 and continues to be employed in the same capacity as of the date of this bulletin.

MAP

MAP was born in December 1943. Throughout the Relevant Period she lived by herself in Moncton. Throughout the Relevant Period MAP's family status was 'Divorced'.

In 1996 MAP was earning an annual salary of approximately \$40,000 when the company she worked for went through a down-sizing process. As a result of the down-sizing, MAP lost her job and when she turned 55 in December 1998 she received a buy-out in the amount of \$64,000 (the "Buy-Out"). Prior to receiving the Buy-Out, MAP's only other investment experience was through an account worth approximately \$13,000 and through a RSP loan and related account at a bank worth approximately \$5,000.

On February 19, 1999 MAP opened a RIF account at Merrill Lynch ("MAP's RIF Account").

On December 6, 1999, in MAP's RIF Account, Ms. Dempsey recommended and processed an order for the sale of \$32,201 worth of units of the Mackenzie Industrial Income Fund and to use those proceeds to purchase \$31,801 worth of units in the AIM RSP Global Technology Fund, on December 8, 1999.

On December 10, 1999, in MAP's RIF Account, Ms. Dempsey recommended and processed an order to sell approximately \$13,485.25 worth of units of provincial government bonds and to use those proceeds to purchase \$13,485 worth of units in the CI Global Technology RSP Fund.

The above noted transactions resulted in the income oriented securities in MAP's RIF Account being reduced to 0% of the account holdings and the growth oriented mutual funds being increased to 100% when the Investment Objectives for the account indicated 50% Income, 50% Capital Gains and 20% Speculation.

PC and RC

PC and RC were husband and wife. PC was a church minister who was born in March 1937. RC was a homemaker who was born in April 1941. In May 1995 PC and RC opened a Canadian Margin account (the "C Margin Account") at Merrill Lynch. In February 1995, RC opened an RSP account ("RC's RSP Account") at Merrill Lynch.

On February 1, 2000, Ms. Dempsey, in the C Margin Account, recommended and processed an order switching \$73,801.81 worth of units out of the Mackenzie Industrial Income Fund into the Mackenzie Universal Select Managers Fund. Subsequently, on February 17, 2000 Ms. Dempsey, in the C Margin Account, recommended and processed an order switching an additional \$10,467.45 worth of units out of the Mackenzie Industrial Income Fund into the Mackenzie Universal Select Managers Fund.

The switches resulted in the income oriented securities in the C Margin Account being reduced to approximately 11% - 13% of the account holdings and the growth oriented securities being increased to approximately 87% when the NAAF indicated the Investment Objectives for the account were 50% Income and 50% Capital Gains.

On October 19, 1999, in the RC RSP Account, Ms. Dempsey recommended and processed an order switching \$18,860.09 worth of units out of the AIM Canada Income Class Fund into the AIM RSP Global Theme Class Fund.

On February 2, 2000, in the RC RSP Account, Ms. Dempsey recommended and processed an order to sell a province of British Columbia bond maturing in the year 2022 for \$3,161.19 and to use those proceeds to purchase \$3,161.00 worth of units out of the AIM RSP Global Technology Fund.

On March 8, 2000, in the RC RSP Account, Ms. Dempsey recommended and processed an order to sell a Nova Scotia Power bond maturing in the year 2024 for \$1,965.00 and to use those proceeds and the cash balance in the account to purchase \$2,852.00 worth of units out of the AIM RSP Global Technology Fund.

The transactions resulted in the income oriented securities in the RC RSP Account being reduced to 0% of the account holdings and the growth oriented securities being increased to 100% when the Investment Objectives for the account were 50% Income and 50% Long Term Growth.

C&S Joint Margin Account

In September 1997 RC and her brother BS, and their mother MS opened a Joint Canadian Margin account (the "C&S Joint Margin Account").

On February 1, 2000, in the C&S Joint Margin Account, Ms. Dempsey recommended and processed an order switching \$70,754.94 worth of units out of the Mackenzie Industrial Income Fund into the Mackenzie Universal World Science and Technology Fund.

The switches resulted in the income oriented securities in the C&S Joint Margin Account being reduced to virtually 0% of the account holdings except for the \$3.99 held in cash and the equity oriented mutual funds being increased to 99.9% when the Investment Objectives for the account were 50% Income, 50% Capital Gains, 20% Speculation.

SA

SA was a divorced woman who resided on her own. She was born in 1937. In 1988 she opened an account ("SA's Cash Account"). Ms. Dempsey assumed that account, in May 1994 after another RR left the firm.

When Ms. Dempsey assumed SA's Cash Account, SA's objective for the account was to ensure the security of principal. SA preferred to have just the principal rather than any risky investments.

On December 7, 1999, in SA's Cash Account, Ms. Dempsey recommended and processed an order switching \$60,949.83 worth of units out of the Mackenzie Industrial Income Fund into the Mackenzie Universal Select Managers Fund.

The switch resulted in the income oriented securities in SA's Cash Account being reduced to approximately 50% of the account holdings and the growth oriented mutual funds being increased to approximately 50% when the Investment objectives for the account indicated 90% Income and 10% Growth.

SA was also named on a Joint Cash Account ("SA & MB's Joint Account") with her widow mother, MB who was born in 1907. On October 27, 1999, in SA & MB's Joint Account, Ms. Dempsey recommended and processed an order switching \$45,540.31 worth of units out of the Mackenzie Industrial Income Fund into the Mackenzie Universal Select Managers Fund.

The switch resulted in the income oriented securities in SA & MB's Joint Account being reduced to approximately 55% of the account holdings and the growth oriented securities being increased to approximately 45% when the Investment objectives for the account were 90% Income and 10% Growth.

HJ

HJ was born in 1921. She was a widow whose husband passed away in 1993. She had poor investment knowledge. Prior to becoming a client of Ms. Dempsey, HJ and her husband invested primarily in GICs. Shortly after her husband's death a number of those GICs were coming due and a friend of HJ's recommended Ms. Dempsey's services. As the GICs came due the monies were invested through Ms. Dempsey.

In October, 1994 HJ opened a Margin account ("HJ's Margin Account") and a RIF account ("HJ's RIF Account") at Merrill Lynch. HJ's expectation for both accounts was to earn interest in the accounts without taking away from the principal amount invested.

On September 9, 1999, in HJ's Margin Account, Ms. Dempsey recommended and processed an order switching \$100,000.00 worth of units out of the Mackenzie Industrial Income Fund into the Mackenzie Universal Select Managers Fund.

On September 13, 1999, in HJ's Margin Account, Ms. Dempsey recommended and processed an order to use \$5,000 from the \$6,623.88 cash balance in the account to purchase \$5,000 worth of units in the AIM Global Theme Class Fund.

On September 30, 1999, in HJ's Margin Account, Ms. Dempsey recommended and processed an order to use all of the \$3,527.57 cash balance in the account and to incur a \$1,472.43 debit in the account to purchase \$5,000 worth of units in the AIM Global Technology Fund.

On October 29, 1999, in HJ's Margin Account, Ms. Dempsey recommended and processed an order switching \$47,080.91 worth of units out of the AIM Canada Income Class Fund into the AIM Global Technology Fund.

On November 30, 1999, in HJ's Margin Account, Ms. Dempsey recommended and processed an order switching \$70,808.32 worth of units out of the Mackenzie Industrial Income Class Fund into the Mackenzie Universal World Science and Technology Fund.

The transactions resulted in the income oriented securities in HJ's Margin Account being reduced to less than 1% of the account holdings and the growth oriented mutual funds being increased to more than 99% when the Investment objectives for the account indicated 75% Income and 25% Growth.

On November 15, 1999, in HJ's RIF Account, Ms. Dempsey recommended and processed an order to sell \$10,623.59 worth of units of the Mackenzie Industrial Income Fund and to use the proceeds to, on November 18, 1999 purchase \$10,623.00 worth of units in the Mackenzie Universal Select Managers Fund.

The transactions resulted in the income oriented securities in HJ's RIF Account being reduced to approximately 2% of the account holdings and consisting only of the \$293.09 cash balance and the growth oriented mutual funds being increased to approximately 98% when the investment objectives for the account indicated 100% Income.

Losses in Client Accounts

As a result of the foregoing transactions, the value of all of the clients' accounts, except SA&MB's Joint Account, declined in value.

From January 1, 2000 to June 30, 2002 MAP's RIF Account had a rate of return of -70% and the value of the account declined by \$38,589.53.

From January 1, 2000 to August 31, 2001 the C Margin Account had a rate of return of -48% and the value of the account declined by \$97,627.93 and RC's RSP Account had a rate of return of -29% and the value of the account declined by \$20,040.39. The C&S Joint Margin Account had a rate of return of -31% and the value of the account declined by \$39,060.42.

From January 1, 2000 to December 31, 2001 SA's Cash Account had a rate of return of -7% and the value of the account declined by \$10,592.69. SA&MB's Joint Account had a rate of return of 4.3% and the value of the account increased by \$6,693.50.

From January 1, 2000 to May 31, 2001 HJ's Margin Account had a rate of return of -28% and the value of the account declined by \$44,114.80 and HJ's RIF Account had a rate of return of -27% and the value of the account declined by \$3,643.09.

Mitigating Factor

Ms. Dempsey did not earn commissions on the mutual fund switches set out herein and therefore was not motivated by personal financial gain when making those recommendations. Therefore a suspension, which would otherwise have been required, was not required in this case.

Reasons

Written reasons for the acceptance of the Settlement Agreement by the Hearing Panel will be posted on the Association's website in due course.

Kenneth A. Nason
Association Secretary