

Contact:
Lorne Herlin
Enforcement Counsel
(604) 331-4752, lherlin@ida.ca

For distribution to relevant parties within your firm
BULLETIN # 3518
February 27, 2006

Discipline

Discipline Penalties Imposed on Zygmunt Janiewicz; Violation of By-law 29.1, Regulation 1300.1(c), Regulation 1300.4 and Regulation 1300.5.

Person Disciplined A Hearing Panel of the Investment Dealers Association of Canada (Association) appointed pursuant to Association By-law 20 has imposed discipline penalties on Zygmunt Janiewicz (Janiewicz), at all material times a registered representative (RR) and a registered options representative (ROR) at the Kelowna office of Global Securities Corporation (Global), a Member of the Association.

By-laws, Regulations, Policies Violated In a written decision released on February 3, 2006, a Hearing Panel found that between January 2000 and May 2000, while employed as a RR and a ROR at Global, Janiewicz committed the following violations:

- i) he failed to use due diligence to ensure that the recommendations he made and the transactions he placed for the account of a client were appropriate for that client and in keeping with that client's investment objectives, contrary to Association Regulation 1300.1(c) and/or Association By-law 29.1 (as they were in effect at the time); and
- ii) he effected discretionary transactions in the account of a client without the client's authorization and without the account having been designated and approved by his employer as a discretionary account, contrary to Association Regulations 1300.4 and 1300.5 and/or Association By-law 29.1 (as they were in effect at the time).

Penalty Assessed The following penalties were assessed against Janiewicz

- a fine of \$50,000;
- a payment of \$8,345 USD, constituting repayment of the commissions earned by him in the unsuitable trades;
- a suspension from approval in any registered capacity with the Association for a period of 6 months;

Summary
of Facts

- the requirement that his re-approval in any registered capacity with the Association be subject to the condition that he successfully complete a 12 month period of close supervision by his Member firm; and
- the requirement that he rewrite and pass the exam following completion of *Conduct and Practices Handbook Course* offered by the Canadian Securities Institute.

Background

This matter relates to the period from January 2000 to May 2000.

Janiewicz entered the securities industry as a RR in January 1996 and became a ROR in July 1997. He commenced his employment with Global on December 2, 1997 and continued working for Global until October 3, 2000. Since October 24, 2000, Janiewicz has not been employed in the investment industry.

In March 1999, AN opened a US dollar margin account and a Canadian dollar long account at Global. Janiewicz was the Registered Representative who signed the New Account Form (NAF) for both these accounts and was the Registered Representative of record on both of these accounts.

AN's NAF for the US Margin Account indicated that:

- she was a 41 year old housewife;
- she had no investment experience with options, preferred shares, commodities/futures, or speculative investments;
- she had moderate experience with common shares, bonds, money market, new issues, and mutual funds;
- her investment objectives were 50% income and 50% growth; and
- her estimated total net worth was \$500,000 comprised of \$200,000 of liquid assets and \$300,000 of fixed assets.

At the time of opening these accounts with Global, she transferred approximately \$182,174 in assets from an account at another Member firm of the Association. She also advised Janiewicz that she was a single mother of two children, that she wanted her portfolio to be managed in a conservative manner, and that she relied upon her investments to provide her with income.

First Violation: Unsuitable Investments

From the period from January 2000 to May 2000, Janiewicz effected approximately 65 transaction in AN's US Margin Account, 64 of which involved the buying or selling of put options. AN did not own any of the securities underlying these put options. The trading in these options generated approximately \$16,690 USD in trading commissions of which Janiewicz received half.

By November 30, 2000, a period of less than 11 months, these trades in AN's US Margin Account had generated losses amounting to approximately \$42,100 USD.

AN did not understand option trading and did not appreciate the risk factors involved.

The 65 transactions effected in AN's account by Janiewicz were not suitable for AN given AN's investment objectives, financial situation, and investment experience.

Second Violation: Discretionary Trading

Although AN had some discussions with Janiewicz regarding her accounts at Global and received her monthly statements and transaction confirmation slips during this 11 month period, Janiewicz used his discretion with respect to the type of security, quantity, price, and/or timing of the transactions for approximately 41 of the 65 transactions. Janiewicz exercised his discretion without AN's authorization and without the US Margin Account having been accepted and approved as discretionary by Global.

Global reimbursed AN the amount that she lost as a result of the trading in the US Margin Account.

Kenneth A. Nason
Association Secretary