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Kathryn Andrews
Enforcement Counsel
(416) 865-3048

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Discipline

Discipline Penalties imposed on Larry Jay Tobin – Violations of By-law 29.1 and Regulation 1300.1(c)

Person Disciplined

A Hearing Panel appointed pursuant to By-law 20 of the Investment Dealers Association of Canada (the "Association") has imposed discipline penalties on Larry Jay Tobin, at the material time a Registered Representative Options employed in Toronto by TD Securities Inc. ("TD"), a Member of the Association.

By-laws, Regulations, Policies Violated

On April 21, 2006, the Hearing Panel considered, reviewed, and accepted a Settlement Agreement negotiated between staff of the Enforcement Department of the Association and Mr. Tobin.

Pursuant to the Settlement Agreement, Mr. Tobin admitted that during 2003 he engaged in conduct unbecoming, contrary to Association By-law 29.1, by conducting his business consistent with the registration of a Portfolio Manager, without being registered as such, and engaged in discretionary trading in 6 clients' accounts.

Mr. Tobin also admitted that he attempted to correct a trading error in a client's account without first informing the Member firm, contrary to By-law 29.1. Mr. Tobin also admitted that he failed to use due diligence to ensure that recommendations made for a client were appropriate for her and in keeping with her investment objectives, contrary to Regulation 1300.1(c).

Penalty Assessed

The discipline penalties assessed against Mr. Tobin are:

- a fine in the amount of $30,000;
- disgorgement of fees in the amount of $28,000;
- suspension from approval for 6 months;
- strict supervision for 12 months upon any subsequent

registration; and,

- to rewrite and pass the Conduct and Practices Handbook exam.

The 6 month suspension from approval will commence on April 3, 2006.

Mr. Tobin is also required to pay costs of $5,000 towards the Association's costs of the investigation and prosecution.

Summary of Facts

Registration:

Mr. Tobin was approved as a Registered Representative Options in the Toronto office of TD from April 2002 to July 2003.

Investigation:

The investigation arose out of a complaint made to the Association by client SG. The Association also investigated other client complaints made to TD. The Association received a Notice of Termination from TD in July 2003.

Contravention #1:

Not registered as a portfolio manager:

A Portfolio Manager is a partner, director, officer or salesperson of a member who has been designated and approved to manage managed accounts.

Proficiency and Experience Requirements:

The way that an individual may qualify for approval as a Portfolio Manager is either by having within the past 3 years held registration under Canadian securities legislation as a portfolio manager, investment counsel or any equivalent registration category; OR by meeting certain Proficiency and Experience requirements.

Mr. Tobin did not meet the Requirements:

Mr. Tobin had not been designated and approved as a Portfolio Manager. He did not meet the Proficiency requirements. He did not meet the Experience requirements. He had never been an Associate Portfolio Manager. None of his client accounts were managed or discretionary accounts.

The trading strategy:

While at TD, Mr. Tobin was registered as a Registered Representative Options. During January to April 2003, notwithstanding the fact that he was not designated and approved as a

Portfolio Manager, Mr. Tobin effected discretionary trades for six clients-SG, BR, A Inc., BL, RG and HP, as though he were a Portfolio Manager. The Respondent essentially conducted his business by making most of the investment decisions for his clients, as though he were a Portfolio Manager and as though his clients did in fact have managed accounts.

For example, near the beginning of their relationship, Mr. Tobin had asked SG whether she wanted him to effect the same trading for her in the way that he did for his other clients. She accepted this plan and thought that Mr. Tobin would choose the stocks on which to write uncovered calls. They did discuss transactions from time to time. Mr. Tobin had indicated to her that this was the way he functioned with all his clients.

Mr. Tobin did not verify the particulars of the trades in advance with the clients. Although not unsophisticated, the clients thought that this was the usual way of proceeding. The clients did not know that Mr. Tobin was required to verify the particulars of all trades in advance.

Some of the clients had options experience. All of the above client accounts were margin accounts which actively traded uncovered call options. The majority of the clients' non registered assets were invested in this strategy. In trading uncovered calls, there is the possibility of unlimited losses. The level of risk in the clients' accounts was increased due to the trading strategy that was occurring in their accounts.

Contravention #2:

Telus trading error in client SG's accounts:

In the fall of 2002, the Respondent made a trading error in SG's accounts when he sold covered calls on Telus voting shares, rather than on the Telus non- voting shares she held at the time (the "Telus error"). SG was left with a short position in the Telus voting shares. Mr. Tobin proceeded to correct the Telus error by selling the non voting shares and buying voting shares to cover the short position.

The Telus error was not reported to TD until after Mr. Tobin attempted to correct it. Rather than notifying the firm and processing the correction through the firm's error account, he attempted to resolve the Telus error on his own. SG was compensated by TD for a loss of approximately $4,000 related to the Telus error.

Contravention #3:

Suitability issue re: client HP's account:

HP had been a prior client of Mr. Tobin. When he moved to TD in April 2002, HP moved her accounts to TD at the same time.

HP is in her early 70's and unmarried. She has a real estate licence but has not been actively employed for some years. While she had some investment experience she was not a sophisticated investor. She had had managed accounts at other firms. HP had no previous experience in options trading before meeting Mr. Tobin in the summer of 2001.

While at TD, HP thought Mr. Tobin was her money manager. HP did know that he would be effecting covered, and subsequently uncovered, calls in her account, however, Mr. Tobin did not fully explain the risks of uncovered calls to her.

HP began to be concerned about her account in the fall of 2002. By October 2002, her account had approximately $658,000 U.S. worth of short stock positions on an account that had a market value of approximately $203,000 U.S.

The options trading conducted in HP's account was not suitable for her given her age, investment experience and objectives.

Disgorgement of fees:

The client accounts discussed above were fee based accounts. Mr. Tobin's gross fees for this time period (January 2003 to April 2003) for the client accounts was approximately $60,000. After deductions for his split (50/50) and reasonable branch expenses that he was required to cover, the amount for fees is accordingly $28,000.

Other:

Mr. Tobin has no previous disciplinary history.

Mr. Tobin has not been registered with the Association since December 30, 2005.

For further details, please see the Settlement Agreement on the web site. The Hearing Panel's reasons will be posted on the Association's web site when they become available.

Kenneth A. Nason
Association Secretary