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## Discipline

### **Discipline Penalties Imposed on Simon Schillaci; Violations of Regulation 1300.2 and Policy No. 2.**

**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 Simon Schillaci, at all material times, Branch Manager with Union Securities Ltd., a Member of the IDA.

**By-laws, Regulations, Policies Violated** The disciplinary hearing was held on October 5<sup>th</sup> and 6<sup>th</sup>, 2006, in Calgary, Alberta. The matter proceeded by Agreed Statement of Facts, followed by oral and written submissions relating to penalty. The Hearing Panel found that Simon Schillaci was in contravention of Regulation 1300.2 and Policy No. 2 by his:

(i) failure to adequately supervise the client account management activities of the D.M. and L.B. investment accounts by the Registered Options Representative, E.L., an employee of Union in Calgary, during the period October 2002 to March 2003, and

(ii) failure to maintain adequate supervision records and failure to establish appropriate procedures and controls for effective supervision of the Registered Options Representative, E.L., and other registered employees of Union in Calgary, during the period May 2002 to September 2003.

**Penalty Assessed** The discipline penalties assessed against Mr. Schillaci are:

- Fine - \$15,000.00 (payable within 6 months of the decision);
- Successful completion the Effective Management Seminar and the Options Supervision Course (within 1 year of the date of the decision); and
- Failure to successfully complete the Effective Management Seminar and the Options Supervision Course within the 1

year period resulting in immediate suspension from approval as Branch Manager.

Mr. Schillaci is also required to pay cost of \$10,000, within 6 months of the decision.

**Summary of Facts** The Respondent became the Branch Manager of the Calgary branch office of Union Securities Ltd. on May 2, 2002. He supervised 14 Investment Advisors, including the Registered Options Representative, E.L. At the material time, the Respondent had been Branch Manager for approximately 6 months and had not completed the Effective Management Seminar.

E.L. was registered to provide investment recommendations, including options trading advice, on October 16, 2002, and thereafter was subject to a six month period of close supervision as required by the Association. Union Head Office took responsibility for the close supervision of E.L., including completing and signing the Close Supervision Reports.

E.L. opened investment accounts for D.M. on October 26, 2002, and for L.B. on November 18, 2002. D.M. was a single parent of two children attending university, had average financial means and limited investment experience and knowledge. L.B. was married with two dependent children, had average financial means and basic/limited investment knowledge and investment experience. Approximately half of the monies deposited by L.B. for investment were derived from a line of credit secured against the family residential property. L.B.'s spouse, who also had minimal investment experience, had trading authorization over the L.B. account. Neither, D.M. or L.B. had experience trading in options and both were reliant upon E.L. for trading advice.

The New Client Application forms for both the D.M. and L.B. accounts showed investment objectives of 100% venture speculative and risk factors of 100% high risk. With knowledge of the personal and financial circumstances of the clients, the Respondent approved the opening of the D.M. and L.B. accounts. The Respondent also signed the Options Agreements for the D.M. and L.B. investment accounts, approving both client accounts for options trading, including "purchase options", "purchase and sell covered options" and "purchase, sell covered/spread options. The Respondent did not question E.L. regarding the suitability of D.M. and L.B. to invest in high-risk speculative equities and option trading.

Within a period of approximately three months both client accounts were subjected to aggressive and high-risk trading; largely S&P Index Options and high-risk equities. The D.M. account sustained losses in the amount of \$70,000 (78% of the original amount invested and 42% of net liquid assets) and the L.B. account sustained losses of

\$43,000 (27% of the original amount invested and 56% of net liquid assets).

The Respondent failed to respond to many “red flags” indicating a need for closer supervision of the D.M. and L.B. accounts. The “red flags” included, the inconsistency between the clients’ personal/financial circumstances and investment objectives/ risk tolerance recorded on the NCAFS; the frequency of trade activity (D.M. accounts - 45.8% and L.B. accounts – 28%, of all trades conducted in E.L. client accounts for the relevant period); commissions exceeding \$1,500 for each of the three months in the D.M. account and for two months in the L.B. account; high turn-over ratios (D.M. account - 19.97 and L.B. – 3.74, for the relevant period); option trades comprised of 10 or more contracts (D.M. - 36 of 40 options trades and L.B. – 33 of 39 option trades); execution of unapproved option trades, and a complaint about account losses from a third E.L. client in December 2002.

The Respondent made some inquiries of E.L. in respect of the trade activity in the D.M. and L.B. accounts, but in each instance accepted the assertions of E.L. that the clients understood, were fully aware of and accepted the trading in their accounts. The Respondent did not contact the clients to confirm the accuracy of E.L.’s representations. The Respondent was involved with Head Office in a decision to restrict E.L.’s trading activity as of January 15, 2003.

The Respondent did not maintain complete records of inquiries made, replies received and other steps taken in the course of his supervisory duties of registrants at the Calgary Union office.

The hearing panel accepted, “virtually in their entirety, the submissions of the Association, and concluded:

“The Respondent’s action in restricting E.L.’s trading was appropriate action but should have been taken sooner. He should also have recognized the many “red flags” which called for supervisory action, including confirming with the clients the suitability of the extent of options trading considering the high turn ratios and significant losses. The involvement (ineffective as it was) of Union’s Head Office in Vancouver, in completing and signing the close Supervision Reports, did not excuse the Respondent from his Branch Manager supervisory responsibilities under Policy No. 2 and Regulation 1300.2.

The Panel agrees that the Association has made its case in that there is no evidence the Respondent maintained supervision records and the Respondent failed to effectively supervise E.L. as required by Association Regulation 1300.2 and Policy No. 2. We accept that while there are no supervision records, the Respondent did supervise E.L., but his supervision efforts were ineffective until he took decisive action in January, 2003.”

During the penalty phase of the hearing, the hearing panel considered

a letter submitted by the Respondent detailing the past effect of the disciplinary investigation and the further deleterious effect that a suspension would have, upon the Respondent and his family.

The hearing panel considered as mitigating factors that: the Respondent had demonstrated rehabilitation by taking the Effective Management Seminar, developing procedures for supervision and follow-up, retaining evidence of supervision efforts, recognizing the need to consult with clients to ensure that accounts were being handled properly and ending relationships with questionable brokers; that the Respondent had not been adequately trained and supported by his Member Firm; that the Respondent had no prior disciplinary history and had cooperated with the Association, when determining that the misconduct in this case was at the lower end of the spectrum for the purpose of imposing sanctions.

For further details, please see the Reasons for Decision posted to the Association's website ([www.ida.ca](http://www.ida.ca)).

Kenneth A. Nason  
*Association Secretary*