

Contact:
Barbara Lohmann
604-331-4795, blohmann@ida.ca

For distribution to relevant parties within your firm

BULLETIN # 3478
November 21, 2005

Discipline

Discipline Penalties Imposed on David Patrick Joseph Yanor; Violations of Regulation 1300.1 (c), now Regulation 1300.1 (q).

Person Disciplined	A Hearing Panel appointed pursuant to IDA By-law 20 has imposed discipline penalties on David Patrick Joseph Yanor (“Yanor”), at all material times a Registered Representative (“RR”) with a Vancouver, BC sub-Branch office of Edward Jones (“EJ”), a Member of the IDA.
By-laws, Regulations, Policies Violated	<p>In a written decision dated October 28, 2005, following a disciplinary hearing held on October 19, 20 and 26, 2005 in Vancouver, B.C., a Hearing Panel found that Yanor violated Regulation 1300.1 (c), now Regulation 1300.1 (q) by failing to use due diligence to ensure that his recommendations were suitable for his client, between November 1999 and December 1999, when he recommended that his client sell mutual funds from her accounts which resulted in the client incurring deferred sales charges.</p> <p>The Hearing Panel also found that Yanor violated Regulation 1300.1 (c), now Regulation 1300.1 (q), between October 1999 and April 2002 when he recommended that the same client purchase securities for her accounts which caused the total amount of aggressive securities in those accounts to unreasonably exceed her investment objectives for those accounts, which recommendations were unsuitable for the client.</p> <p>The Hearing Panel further found that between April 2000 and April 2002, contrary to Regulation 1300.1 (c), now 1300.1 (q), Yanor recommended that this client use her margin facility to purchase securities for her account, which strategy was unsuitable for her.</p>
Penalty Assessed	While the Hearing Panel found liability for all three counts, they did not assess a penalty for count 1. The fine imposed for count 2 was \$25,000 and for count 3 was \$5,000. The Hearing Panel also ordered that Yanor could not seek re-approval by the Association for one year. Further, as a pre-condition to any re-approval by the IDA, Yanor must successfully complete the Canadian Securities Course and Conduct and Practices Handbook examinations, as administered by the Canadian Securities Institute.

Summary
of Facts

Any re-approval of Yanor in a registered capacity shall be conditional upon him being subject to strict supervision for the first 12 months of his re-approval. The Hearing Panel ordered that Yanor pay \$15,000 towards the costs of this proceeding and further that the entire fine and costs be paid in full as a pre-condition of any re-approval in a registered capacity.

The three counts relate to Yanor's handling of the accounts of one of his clients, GR. Yanor and GR knew each other for about 4 years prior to his joining EJ. In October 1999, Yanor persuaded GR to open a cash and an RRSP account at EJ. At the time, she was 51 years old, single, the manager of a small retail shop, her gross annual salary was \$24,000 which was her sole income, her liquid assets were \$100,000 (which represented an inheritance that she invested in mutual funds prior to investing with EJ) and fixed assets of \$20,000 (her car and furnishings). She did not own any real estate. Her investment objectives were recorded as Cash 5%, Income 10%, Income and Growth 25%, Growth 50% and Aggressive 10%. Her risk tolerance was Low 20%, Medium 60% and High 20%. GR's investment knowledge was noted as fair.

Deferred Sales Charges

In October and November 1999, the mutual funds previously held by GR were transferred to her new accounts at EJ. Those mutual funds were, on Yanor's recommendation, subsequently sold, thereby incurring total deferred sales charges of \$4,611.12 or about 4.5% of the value of her portfolio. While GR knew that there would be certain fees associated with the sales of these mutual funds, she was unaware that the charges would be as significant as they were. Yanor admitted that he did not understand the extent to which deferred sales charges would be imposed and did not understand how to go about calculating them.

The Hearing Panel found that the trailer fees were perhaps excessive. Further EJ required switch letters where there were transfers between mutual funds with significant deferred sales fees, and it was admitted by Yanor that no such letters were obtained. The Panel found that the sales of the mutual funds may or may not have been suitable, but Yanor did not take the necessary steps to make that determination, and accordingly, he was in breach of Regulation 1300.1 (c).

Unsuitable Investment Recommendations

In late 1999, GR discussed with Yanor that she needed to raise \$5,000 to pay off certain debts. Initially, she proposed that she would sell sufficient securities to raise this money. However, Yanor convinced her that she should instead open a margin account and borrow the money from EJ. She did so, although it was clear to the Hearing Panel that she was somewhat confused about where these funds came from. The NCAF that changed the cash account to a cash account and a margin account essentially mirrored the original NCAF.

Between October 1999 and April 2002, Yanor recommended and executed the purchase of over 25 securities that were aggressive growth securities. In respect of GR's RRSP account, the weighting of aggressive growth securities ranged from 22.88% to 82.68%, with an average weighting of 52.87% over the relevant period. In respect of her cash and margin accounts, the weighting of aggressive growth securities ranged from 0% to 73.68% with an average weighting of 52.23% during the period.

Yanor testified that he thought that he had modified the investment objectives on GR's second NCAF to allow 80% aggressive growth. The Hearing Panel found that it was irrelevant whether or not he thought he had changed the investment objectives since it would have been inappropriate for GR – an individual of extremely limited means – to have investment objectives where 80% of her only asset was devoted to the purchase of aggressive growth securities.

With respect to his trading generally in GR's accounts, Yanor admitted that he had done something that was not permitted and that he had abrogated all the rules that he had been taught.

The total losses in GR's accounts during the relevant period, as a result of the trading recommended by Yanor, amounted to approximately \$75,000, reducing GR's holdings from approximately \$100,000 to \$25,000.

Unsuitable Use of Margin

Securities were purchased on margin in GR's margin account between April 2000 and March 2001 (after the initial \$5,000 that GR had required was paid off) . During this time, the amounts owing in margin, varied, but ranged up to approximately \$14,000. Yanor admitted that the use of margin to purchase securities was inappropriate for someone of GR's limited means.

Yanor has no previous disciplinary history and he is not currently employed in any registered capacity in the industry.

The full text of the decision of the Hearing Panel will be made available on the IDA website www.ida.ca.

Kenneth A. Nason
Association Secretary