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CIRCULAR
December 8, 2004

DISCIPLINARY DECISION
JEAN-PIERRE MORIN

On May 16, 2002, following an investigation conducted by the Investigation Department of the Regulatory Division, Bourse de Montréal Inc. (the "Bourse") lodged a complaint against Jean-Pierre Morin, a person approved by the Bourse.

Following a hearing, the Disciplinary Committee of the Bourse rendered a decision imposing a fine of \$85,000 to Jean-Pierre Morin and requiring the reimbursement of the total costs and disbursements, including professional fees, paid or incurred by the Bourse in the amount of \$57,260.14. Furthermore, Jean-Pierre Morin is prohibited permanently from an approval in any capacity with an approved participant of the Bourse.

First of all, the Disciplinary Committee determined that, during the period of February 2000 to March 2001, Jean-Pierre Morin contravened to paragraph 3 of article 7411 and article 7476 of the Rules of the Bourse.

Paragraph 3 of article 7411 of the Rules of the Bourse prohibits a registered representative from executing a discretionary order or exercising any discretion in the handling of the account of a client of an approved participant. The specific provisions regarding discretionary accounts are set out in article 7476 of the Rules of the Bourse. This article provides, among other things, that a registered representative must not exercise any discretionary power with respect to a client's account unless such client has given his prior written authorization and the account has been accepted in writing by a partner or director of the firm.

The Disciplinary Committee also found that, during the period of February 2000 to March 2001, Jean-Pierre Morin had a conduct inconsistent with just and equitable principles of trade and contrary to the provisions of article 4101 of the Rules of the Bourse, by excessively multiplying the transactions in a client's accounts in order to generate commissions and by granting a loan to the said client without the employing firm's knowledge.

Article 4101 of the Rules of the Bourse prohibits an approved person any act, conduct, practice or proceeding unbecoming, inconsistent with just and equitable principles of trade, or detrimental to the reputation of the Bourse or to the interests or the welfare of the public or of the Bourse.

The \$85,000 fine imposed to Jean-Pierre Morin consists of an amount of \$30,000 for discretionary trading, \$50,000 for excessive trading and \$5,000 for the loan granted to a client without the employer's knowledge.

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The client gave to Jean-Pierre Morin an amount of money which was inherited following the death of her husband. In the beginning, three accounts were opened at the firm, consisting of a Canadian dollar margin account, an account for the purpose of gathering assets from her retirement savings plan (RSP) and a locked-in retirement account (LIRA). In the first opening account form, for the said accounts, the investment knowledge of the client was noted as being limited and her poor tolerance to risk would signify very conservative investment objectives, representing 90% income and 10% capital gain, in a long term return perspective.

Only a few months after the opening of the client's accounts, Jean-Pierre Morin proceeded to the opening of a new account, this time an US dollar margin account. In the US dollar account opening form, the investment knowledge of the client was indicated as "fair" and her propensity to assume investment risks on equities as being "moderate". As for the LIRA and the US dollar margin account, the previous conservative investment objectives changed exclusively to short-term growth (80% of the portfolio) and medium term growth (20% of the portfolio).

During the hearing, the proof revealed that, from February 2000 to March 2001, Jean-Pierre Morin acted on his own initiative and executed discretionary orders at least on 223 occasions during the management of the client's accounts, when none of the accounts represented a discretionary account.

The Disciplinary Committee stressed the fact that, at no time during the above-mentioned period, did the client authorize, by writing or other, a partner or director of the firm, even more importantly Jean-Pierre Morin who was only a registered representative, to exercise any discretionary power in her accounts for the purchase or sale of securities, or for the choice, time or price to be paid or amount received for the securities.

During this hearing, the proof also revealed that, from February 2000 to March 2001, Jean-Pierre Morin executed 228 transactions in the client's accounts for the purpose of generating commissions.

In its decision, the Disciplinary Committee specified that churning of an account is a practice that occurs in the securities industry of all developed economies. A securities broker churns an account when he executes transactions and manages an account for the purpose of generating commissions and this, with disregard of the client's interests. The Disciplinary Committee mentioned that churning is reprehensible because it implies that the broker creates a situation of conflicts of interest, becoming in opposition with the client, when attempting to maximize earnings at the expense of the latter by needlessly multiplying transactions in order to generate commissions.

In order to proceed with the analysis of the alleged churning violation, the Disciplinary Committee referred to the following three criteria whose use has become a classic in disciplinary matters implying securities brokers: 1) the broker exercises control over the client's accounts, 2) the transactions on the accounts are excessive in light of the client's investment objectives and 3) the broker acted deliberately.

In its decision, the Disciplinary Committee concluded that the exaggerated turnover ratio of the assets in the client's accounts, the non realistic level of return to be attained in the representative's strategy in order to protect the client's capital gain, the commissions perceived for the management of a modest amount of global assets, the very short holding periods of the securities within the portfolio for long-term growth objectives, all concerning accounts of a relatively unsophisticated individual investor having limited income, shows, with regards to the just and equitable principles of trade, that Jean-Pierre Morin excessively multiplied the transactions in the client's accounts. The transactions executed by Jean-Pierre Morin on the client's accounts generated commissions for an amount exceeding \$61,000, which represents approximately 30% of all gross commissions collected from his 40 clients for the same period.

The Disciplinary Committee determined that margin trading and excessive transactions in the client's accounts resulted in losses for the client and debts in order to cover margin calls.

Finally, the proof has shown that, in November 2000, following a margin call, Jean-Pierre Morin granted a loan in the amount of \$3,800 USD to the client without the employing firm's knowledge.

The Disciplinary Committee mentioned that Jean-Pierre Morin's attitude, his manners, his total illegitimate ways displayed, the proclivity shown, over a period of more than two and a half years, trying at all costs to make his own personal interests prevail over those of others, raised serious doubts on his integrity, probity and stability.

To this effect, the Disciplinary Committee, took note of the Court of Quebec's decision, dated December 10, 2003 where Jean-Pierre Morin was declared a vexatious litigant following an avalanche of procedures he instituted against the people implicated in this matter, regardless of their level of involvement.

The Disciplinary Committee is convinced that Jean-Pierre Morin no longer has a place in the industry in which the fundamental values of integrity, equity and loyalty towards the client have become unfamiliar to him.

At the time of these infractions, Jean-Pierre Morin was a registered representative for Laurentian Bank Securities Inc.

Jean-Pierre Morin is not currently employed in the securities industry.

For the full text version of the Disciplinary Committee's Decision, please refer to the following link : http://www.m-x.ca/f_publications_fr/041123_decision_disciplinaire_fr.pdf (available in French only.)

For further information, please contact David Desjardins, Supervisor, Registration and Disciplinary Affairs, at (514) 871-4949, extension 361, or by e-mail at d-desjardins@m-x.ca.

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