

# Unofficial English Translation

**INVESTMENT DEALERS  
ASSOCIATION OF CANADA**

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**In the matter of:** **THE BY-LAWS OF THE INVESTMENT  
DEALERS ASSOCIATION OF CANADA (IDA)**

**and**

**LOUIS-PHILIPPE SÉGUIN**

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**DECISION OF THE HEARING PANEL  
REGARDING SANCTIONS TO BE IMPOSED  
ON MR. LOUIS-PHILIPPE SÉGUIN**

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**Hearing Panel**

- Mr. Guy L. Jolicoeur
- Mr. Yves Julien
- Me Claude Bisson, Chair

Hearing held at Montréal,  
on February 14, 2008  
at the Maison du Barreau

Me Caroline Champagne, Enforcement  
Counsel, Enforcement Litigation  
IDA

Decision rendered at Montréal,  
on March 11, 2008

Me Philippe Frère (Lavery de Billy)  
for the Respondent, Louis-Philippe Séguin

## **Preliminaries**

1. In a decision dated December 7, 2007, the undersigned members of the Hearing Panel found the Respondent liable of the following misconduct:

(1) “On or about March 22, 2006, the Respondent violated Association By-law 19.5 by refusing to appear before the investigators and provide them with information.”

2. The representations regarding penalties were heard on February 14, 2008, at which time the matter was taken under advisement.

3. By-law 20.33 stipulates :

### **“33 Approved Person**

(1) Upon conclusion of a disciplinary hearing, a Hearing Panel may impose the penalties set out at 20.33(2) if, in the opinion of the Hearing Panel, the Approved Person:

(...)

(b) failed to comply with the provisions of any By-law, Regulation, Ruling or Policy of the Association; or.

(2) Pursuant to subsection (1), a Hearing Panel may impose any one or more of the following penalties upon the Approved Person:

(a) a reprimand;

(b) a fine not exceeding the greater of:

(i) \$1,000,000 per contravention; and

(ii) an amount equal to three times the profit made or loss avoided by such Approved Person by reason of the contravention;

(c) suspension of approval for any period of time and upon any conditions or terms;

(d) terms and conditions of continued approval;

(e) prohibition of approval in any capacity for any period of time;

(f) termination of the rights and privileges of approval;

(g) revocation of approval;

- (h) a permanent bar from approval with the Association; or
- (i) any other fit remedy or penalty.”

4. By-law 20.49 (1) for its part states:

**“20.49 Assessment of Costs**

- (1) In addition to imposing any of the penalties set out in By-law 20.33, By-law 20.34 or By-law 20.45, the Hearing Panel may assess and order any Association Staff investigation and prosecution costs determined to be appropriate and reasonable in the circumstances.”

- 5. Though it is understood that the Respondent has not been an Approved Person with the IDA since December 30, 2005, the latter nonetheless is calling for a permanent bar from approval (By-law 20.33 (2) (h)).
- 6. The IDA suggests a fine of \$50,000 (subparagraph (b) (i)) and, pursuant to By-law 20.49 above, costs in excess of \$50,000 as detailed in statements S-1 and S-2.
- 7. On the other hand, Counsel for the Respondent suggests that penalties be limited to a reprimand (By-law 20.33 (2) (a)), and no assessment of costs.

**II. THE REPRESENTATIONS**

A. THE IDA

- 8. In the matter of a failure to attend and answer investigators’ questions (By-law 19.5), a \$50,000 fine is the standard, based on nine (9) hearing panel decisions filed by Me Champagne.

9. Moreover, one hearing panel recently imposed just one fine of \$40,000, on grounds that the individual in question finally decided to comply with investigators' demands (*Re Mirza* – June 19, 2007).
10. As for costs, the amounts awarded in these ten (10) decisions range from \$6,020 to \$27,130.

**B. LOUIS-PHILIPPE SÉGUIN**

11. In its December 7, 2007 decision, the Hearing Panel upheld the ground of confidentiality argued in support of the investigators' refusal to accede to Respondent's request (paragraphs 43 to 48).
12. Me Frère argues that in the communications exchanged in March 2006 – both verbal and written – the ground of confidentiality was not raised by the investigators and that, had it been, appropriate measures might have been put in place.
13. Thus, there should be no minimum penalty, but if absolutely necessary, says Counsel, the minimum penalty would be appropriate, e.g. a reprimand.
14. Regarding the costs claimed, Me Frère finds them exaggerated and out of proportion with the situation that resulted in his client's refusal to respond to the investigators.

**III. DECISION**

**A. THE PENALTY**

15. There must be a permanent bar from approval.
16. Since letter P-5 dated February 7, 2006, the Respondent has been aware of the subjects that the investigators wished to discuss with him; he refused to do so and our decision of June 29, 2007 does not seem to have swayed him to take a different attitude besides refusal.

17. A fine is appropriate, since a mere reprimand would not be of a nature to condemn such serious misconduct, which paralyzed the IDA in its mission to ensure the protection of the public.
18. As for the quantum of the fine, \$50,000 seems to be the norm, even when the person has acted on the advice of counsel (*Re Basset* - July 6, 2005, specifically paragraph 25).
19. In *Mirza*, mentioned in paragraph 9, it is because the person finally agreed to answer the investigators that the fine was set at \$40,000.
20. In the *Beaudoin* decision dated June 6, 2007, paragraphs 22 to 27, the Hearing Panel recalled that a refusal to cooperate in an investigation constitutes serious misconduct. In our decision of December 7, 2007, we emphasized in paragraph 31 that the investigation had been paralyzed by Mr. Séguin's failure to respond.
21. As for the ground of ensuring confidentiality, the fact that it was not raised by the investigators in March 2006 can have no bearing. Had it been raised, it would have changed nothing, since the Respondent was unwilling to answer any questions without a recording. The IDA's position was that the Respondent was not allowed to dictate the conditions of his appearance, a position that we consider reasonable. In conducting its investigations, the IDA is entitled to establish methods of proceeding, inasmuch as the latter are reasonable.
22. We are in agreement with setting a fine of \$50,000; it is important that similar contraventions should entail similar penalties, unless there are mitigating or aggravating factors involved, which is not the case here.

B. COSTS

23. By-law 20.49 (1), the text of which is reproduced in paragraph 4 above, mentions "...Association Staff investigation and prosecution costs determined to be appropriate and reasonable in the circumstances."

24. Here, the IDA is calling for fees of \$51,288 for its in-house counsel and assistants (exhibit S-1) as well as a sum of \$2,596.47 for various expenditures, namely a total of \$53,884.47. This is double the highest amount awarded in the 10 decisions filed by Me Champagne.
25. The costs that we believe must be ordered are those relating to the failure to respond and to the complaint process before the Hearing Panel. In the circumstances, we consider appropriate the sum of \$27,000, which we believe represents the steps we just mentioned.

CONSEQUENTLY, the Hearing Panel imposes on Louis-Philippe Séguin :

- a permanent bar on approval in any capacity;
- a fine in the amount of \$50,000;
- costs in the amount of \$27,000.

Original executed by:

MONTREAL, this 11th day of March 2008.

« Guy L. Jolicoeur »

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Guy L. Jolicoeur

« Yves Julien »

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Yves Julien

« Claude Bisson »

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Claude Bisson, Chair