

# Re Marston

IN THE MATTER OF:

THE RULES OF THE INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

AND

THE BY-LAWS OF THE INVESTMENT DEALERS ASSOCIATION OF CANADA

AND

WILLIAM JOHN MARSTON

2010 IIROC 11

Investment Industry Regulatory Organization of Canada

Hearing Panel (Québec District Council)

Hearing: October 14, 2009

Decision: February 1, 2010

(10 pars.)

## Hearing Panel:

M<sup>e</sup> Guy Lafrance, Chair

Mr. Gilles Archambault, Panel Member

Ms. Éline Phénix, Panel Member

## Appearance:

M<sup>e</sup> Sylvie Poirier, Counsel for the Association

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## DECISION ON SETTLEMENT AGREEMENT

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¶ 1 In April 2009, the Respondent and the Association signed a Settlement Agreement in accordance with By-laws 20.35 to 20.40, inclusive, and Rule 15 of the Association Rules of Practice and Procedure.

¶ 2 This agreement must receive the approval of this Hearing Panel in order to constitute a disciplinary decision that is final and without appeal.

¶ 3 The role of the Hearing Panel is not to decide on the penalty that it would itself have imposed, but to evaluate whether the penalty agreed between the parties is reasonable considering the seriousness of the misconduct and the aggravating and mitigating factors demonstrated by the evidence.

¶ 4 The parties have therefore appeared before our Hearing Panel seeking our approval for the following agreement:

### "SETTLEMENT AGREEMENT

#### INTRODUCTION

1. The Enforcement Department Staff (Staff) of the Investment Dealers Association of Canada (the IDA) have conducted an investigation (the Investigation) into the conduct of Mr. William Marston (the Respondent).
2. On June 1, 2008, the Investment Industry Regulatory Organization of Canada (IIROC) consolidated the regulatory and enforcement functions of the IDA and Market Regulation Services Inc. (RS).
3. Pursuant to the Administrative and Regulatory Services Agreement between the IDA and IIROC, which took effect on June 1, 2008, the IDA has retained IIROC to provide the necessary services to enable the IDA to carry out its regulatory functions with respect to the conduct of IDA registrants occurring before June 1, 2008.
4. The Investigation discloses matters for which the Respondent may be disciplined by a hearing panel appointed pursuant to Part C of Schedule C.1 to Transition Rule 1 of IIROC (the Hearing Panel).

### **JOINT SETTLEMENT RECOMMENDATION**

5. The Respondent consents to be subject to the jurisdiction of IIROC.
6. Staff and the Respondent consent and agree to the settlement of these matters by way of this settlement agreement (the Settlement Agreement) in accordance with IIROC Dealer Member Rules 20.35 to 20.40, inclusive, and Rule 15 of the IIROC Rules of Practice and Procedure.
7. The Settlement Agreement is subject to acceptance by the Hearing Panel.
8. The Settlement Agreement shall become effective and binding upon the Respondent and Staff as of the date of its acceptance by the Hearing Panel.
9. The Settlement Agreement will be presented for approval to the Hearing Panel at a hearing (the Settlement Hearing). Following the conclusion of the Settlement Hearing, the Hearing Panel may either accept or reject the Settlement Agreement.
10. If the Hearing Panel accepts the Settlement Agreement, the Respondent waives his right under IIROC Rules and any applicable legislation to a disciplinary hearing, review or appeal.
11. If the Hearing Panel rejects the Settlement Agreement, Staff and the Respondent may enter into another settlement agreement or Staff may proceed to a disciplinary hearing in relation to the matters disclosed in the Investigation.
12. The Settlement Agreement will be made available to the public upon its acceptance by the Hearing Panel.
13. Staff and the Respondent agree that, if the Hearing Panel accepts the Settlement Agreement, they, or anyone on their behalf, will not make any public statements inconsistent with the Settlement Agreement.
14. Staff and the Respondent jointly recommend that the Hearing Panel accept the Settlement Agreement.

### **STATEMENT OF FACTS**

15. Staff and the Respondent agree with the facts set out in this Section and acknowledge that the terms of the settlement contained in this Settlement Agreement are based on those specific facts and are final.

### **INTRODUCTION**

#### **The Respondent**

16. The Respondent was approved as a registered mutual fund representative from December 1989 until February 2002;
17. The Respondent was approved as a registered representative with an unrestricted practice from February 1, 2002 until March 30, 2006;
18. As a registered representative with an unrestricted practice, the Respondent was employed by two Member firms of the Association. From September 28, 2001 to December 1, 2005, he was in the employ of iForum Securities Inc. ("iForum Securities"). He then worked at Industrial Alliance Securities Inc. from December 20, 2005 until March 30, 2006, the date of his dismissal;
19. In 1997, the Quebec Securities Commission held that the Respondent had transferred client accounts without the authorization of the clients, had made unauthorized trades, had acted as a financial planner without certification, had acted as a registered representative for several firms and had offered investments without a prospectus. The Quebec Securities Commission suspended the Respondent from June 28 to September 28, 1997 as a result of such violations;

**iForum Securities Inc.**

20. iForum Securities was a full-service securities dealer with a principal place of business in Montreal, Quebec. It had been a Member firm of the Association since March 1, 2001. Prior to March 26, 2001, iForum Securities was known as Norshield Securities Inc.;
21. Previously a Type 3 introducing broker, iForum Securities had been a Type 2 introducing broker since June 2005. iForum Securities' carrying broker was Penson Financial Services Canada Inc.;
22. iForum Securities had also signed a service agreement with B2B Trust, a federally chartered trust company, in July 2001. iForum Securities never reported this agreement to the Association. The Association discovered its existence in October 2005;
23. On or about October 28, 2002, iForum Financial Network Inc. acquired 72% of the shares of iForum Securities;
24. The remaining shares were held by two directors of iForum Securities, being Yves Méchaka, President of iForum Securities (25%), and Enrico Bruni;

**iForum Financial Network Inc.**

25. iForum Financial Network Inc. was a company listed on the TSX Venture Exchange.
26. Joseph Pettinicchio was the president and secretary-treasurer of iForum Financial Network Inc. and also held in excess of 10% of the shares in that company.
27. iForum Financial Network Inc. also had as shareholder 3251497 Canada Inc.;
28. The shareholders of 3251497 Canada Inc. were:
  - a. Joseph Pettinicchio, also president of the aforesaid 3251497 Canada Inc.;
  - b. RFC Consultants Inc., whose president and principal shareholder was Lino Matteo;
  - c. MRACS Management Limited ("MRACS"); and
  - d. Michael Maloney;
29. Aside from iForum Securities, iForum Financial Network Inc. had, among other subsidiaries, iForum Financial Services Inc. (hereinafter, "iForum FS"), whose president was Joseph Pettinicchio. iForum FS was approved as a group savings dealer (investment funds), an investment contracts dealer and a scholarship plan dealer with the Autorité des marchés

financiers (“AMF”);

**MOUNT REAL CORPORATION**

30. Mount Real Corporation (MRC) was incorporated in 1987 under the Alberta Companies Act and continued under the Canada Business Corporations Act on July 10, 1998;
31. The common shares of MRC were listed on the Toronto Stock Exchange (TSX), where they traded under the symbol "MRF";
32. The President and Chief Operating Officer of MRC was Joseph Pettinicchio,
33. Lino Matteo was the president of the executive committee and CEO of MRC;
34. MRC did business through numerous subsidiaries, all of which were private companies;
35. Most of MRC's subsidiaries were, despite listings to the contrary in official registers, all headed and controlled by the same persons, namely Lino Matteo and Joseph Pettinicchio;
36. Until September 30, 2002, MRC was the principal shareholder of MRACS, previously known as Mount Real Acceptance Corporation;
37. MRC also held a 29% interest in Real Vest Investments Ltd. (Real Vest), which it sold in 2004;
38. As for Real Vest, it was the majority shareholder in Real Assurance Acceptation Corporation (RAAC);

**2500 ALLARD STREET, MONTRÉAL, QUÉBEC**

39. The majority shareholder of iForum Securities and iForum FS, IForum Financial Network Inc., iForum FS, MRC, MRACS and RAAC, as well as Joseph Pettinicchio, President of IForum Financial Network Inc. and MRC, all had a place of business at 2500 Allard Street, in Montréal, Québec;

**THE PROMISSORY NOTES**

40. On or about February 1, 2003, iForum Securities entered into an agreement with Mount Real, whereby the parties agreed that iForum Securities would promote to its clients promissory notes issued by MRC and its subsidiaries;
41. Through representatives of iForum Securities and iForum FS, including the Respondent, promissory notes were issued and/or sold by any one or more of MRACS, Real Vest and RAAC (Issuing Companies);
42. The promissory notes that were issued were registered with two trustees, namely B2B Trust and Penson;
43. No audited financial statements on which the representatives might have relied had been prepared for any of the issuing companies, namely MRACS, Real Vest and RAAC;
44. Confidential Information Memorandum regarding the issuing companies had been distributed to the investors. They erroneously indicated that the promissory notes were offered in accordance with the prospectus exemption requirements stipulated by the Securities Act, R.S.Q., c. V-1.1;
45. The holders of the promissory notes believed or might have believed that their investments were in MRC rather than in the issuing companies;
46. Indeed, the Confidential Information Memorandum stated that “Mount Real Corporation, the Corporation’s parent company, will provide adequate resources to support the Corporation’s operations”.
47. However, contrary to the information contained in the Confidential Information Memorandum, MRACS and Real Vest were no longer subsidiaries of MRC and had not been since 2002 and

2004 respectively;

48. Finally, the holders of the Issuers' promissory notes received correspondence on letterhead bearing the MRC logo, which may have added to the confusion;

#### **INVESTIGATIONS, EXAMINATIONS AND PROCEDURES**

49. On January 19, 2005, the newspaper La Presse published an article concerning, among other things, MRC's liquidity problems;
50. On February 21, 2005, the AMF initiated an investigation into the investment operations of MRACS, MRC and related corporations;
51. On June 18, 2005, a new article in La Presse reported on MRC's illegal financing practices;
52. As a result of this article, on June 20, 2005, the price of MRC's securities tumbled by more than 40% and trading was suspended;
53. On June 22, 2005, the AMF announced that it was conducting an investigation into MRC's financial operations;
54. On or about October 3, 2005, IDA Sales Compliance provided IDA enforcement investigators with information concerning irregularities uncovered during an examination of iForum Securities;
55. On or about October 7, 2005, the investigations department informed iForum Securities that it was opening an investigation into the latter's compliance;
56. On or about November 2, 2005, Penson Financial Services Inc. decided to rate as "not available" on client account statements all the promissory notes held by Penson as the carrying broker. Penson took this measure as numerous promissory notes having reached the maturity date had not been repaid;
57. On or about November 7, 2005, because of irregularities uncovered in the examination of iForum Securities by Sales Compliance and after analysis of the information received from iForum Securities' carrying broker, the IDA Director, Member Regulation advised iForum Securities that it had been designated as being in Early Warning Level 2 and that restrictions would therefore apply pursuant to By-law 30, and ordered the imposition of additional restrictions pursuant to By-law 20.28;
58. On or about November 9, 2005, the Bureau de décision et de révision en valeurs mobilières ("BDRVM") issued an order prohibiting MRC, MRACS, Real Vest, RAAC, iForum Securities and iForum FS from disposing of any funds, securities or other assets in their possession;
59. This order also prohibited MRC, MRACS, Real Vest and RAAC from effecting a transaction in securities, and iForum Securities and iForum FS from effecting any activity in respect of a transaction in the securities of MRC, MRACS, Real Vest and RAAC;
60. Around November 10, 2005, at the request of the AMF and pursuant to a recommendation to this effect made by the BDRVM, the Québec Minister of Finance appointed a provisional administrator for the Respondent, to administer the assets of iForum Securities or to administer iForum Securities in place of the board of directors;
61. On or about November 28, 2005, the IDA advised the Respondent that it was initiating an investigation into his activities with iForum Securities;
62. iForum Securities' membership in the Association was suspended on December 1, 2005;
63. On December 9, 2005, the interim receiver appointed by the Superior Court, Raymond Chabot Inc., proceeded to sell iForum Securities' client accounts to Industrial Alliance Securities Inc.;

64. As a result, the Respondent was transferred to Industrial Alliance Securities Inc.;
65. On December 11, 2005, iForum Securities filed an assignment of its assets;
66. On January 24, 2006, the Minister of Finance appointed a provisional administrator charged with administering the assets of the Issuing Companies;
67. In his February 23, 2006 report, the provisional administrator estimated that the promissory notes issued by the Issuing Companies amounted to a total of approximately \$125 million to \$135 million;
68. On March 8, 2006, MRC, MRACS, RAAC and Real Vest filed a declaration of bankruptcy;
69. On May 5, 2006, a hearing panel expelled iForum Securities from membership in the Association;
70. On November 7, 2007, the trustee of MRC and the Issuing Companies indicated in his progress report that he continued "to be of the opinion that if there is any dividend for the creditors, it will be marginal, considering the few realizable assets, the recovery costs, and the legal costs related to proceedings commenced or defended by persons or corporations under the influence of the former executives of Mount Real Corporation" [TRANSLATION];
71. The holders of promissory notes of the Issuing Companies, including clients of the Respondent, thus lost their entire investment;

## **MATERIAL EVENTS**

### **OFF-BOOK TRANSACTIONS INVOLVING SECURITIES OF COMPANIES RELATED TO MOUNT REAL CORPORATION**

72. Between February 20, 2004 and November 3, 2005, or thereabouts, the Respondent accepted approximately 72 orders from about 64 clients for the purchase or renewal of promissory notes of Real Vest and MRACS. Such securities were not recorded in the books of iForum Securities but rather in those of B2B Trust. In November 2005, the book value of the securities totaled approximately \$5,296,166.75;
73. Furthermore, these off-book transactions involved securities other than mutual fund securities;

### **SECURITIES OTHER THAN MUTUAL FUND SECURITIES HELD OFF-BOOK**

74. In November 2005 or thereabouts, the Respondent was responsible for the accounts of about 106 clients at B2B Trust, where such clients held approximately 42 different securities other than mutual fund securities, including promissory notes of Real Vest and MRACS, having an approximate book value of \$10,781,394.28, without such promissory notes being recorded in the books of iForum Securities;

### **TRANSACTIONS INVOLVING ILLEGAL PROMISSORY NOTES OF COMPANIES RELATED TO MOUNT REAL CORPORATION**

75. Between May 2004 and November 2005, the Respondent accepted orders from clients for the purchase or renewal of promissory notes that did not meet the prospectus and exemption requirements;
76. More particularly:
  - a) between May 2004 and October 2005, pursuant to instructions given by about 52 clients, the Respondent accepted approximately 55 orders for the renewal of promissory notes of MRACS and Real Vest in an amount equal to less than \$150,000. These promissory notes were issued without a prospectus and without an exemption, contrary to ss. 11 and 41(3) of the Quebec Securities Act, R.S.Q., c. V-1.1. The value of these promissory notes totaled

approximately \$3,528,606.48;

- b) between November 2004 and November 2005, pursuant to instructions given by about six (6) clients, the Respondent accepted six orders for the renewal of promissory notes of MRACS Management and Real Vest, in an amount equal to \$150,000 or more, without giving notice as required under ss. 46 and 51 of the Quebec Securities Act, R.S.Q. c. V-1.1. The value of these promissory notes totaled approximately \$1,119,654.85;

**DISTRIBUTION OF CONSOLIDATED PORTFOLIO STATEMENTS CONTAINING FALSE AND MISLEADING INFORMATION**

- 77. Between February 2004 and October 2005, or thereabouts, the Respondent prepared and sent consolidated portfolio statements to five (5) of his clients, which statements overstated the value of the promissory notes of Real Vest held by his clients, compared to the actual value thereof;
- 78. On the consolidated portfolio statements sent to his clients, the Respondent stated a total value of his clients' portfolio. The Respondent also stated the percentage of the total value of the portfolio represented by the promissory notes of Real Vest;
- 79. This percentage reflected a value that was up to 11% higher, approximately, than the actual value of the promissory notes of Real Vest;
- 80. In so doing, the Respondent misled or could have misled his clients;

**FAILURE TO DISCLOSE A CONFLICT OF INTEREST**

- 81. On or about February 1, 2003, iForum Securities entered into an agreement with Mount Real Services, whereby the parties agreed that iForum Securities would promote to its clients promissory notes issued by MRC and its "subsidiaries" (MRACS and Real Vest);
- 82. Thus, through representatives of iForum Securities and iForum FS, including the Respondent, promissory notes were issued or sold to the clients thereof by any one or more of the "subsidiaries" of MRC, MRACS and Real Vest;
- 83. However, the Respondent knew or should have known that the President and Chief Operating Officer of MRC, Joseph Pettinicchio, was also the President of iForum Financial Network Inc., the majority shareholder of iForum Securities since October 2002, thus placing him in an obvious conflict of interest situation;
- 84. The Respondent also knew or should have known that MRC had held a 29% interest in Real Vest until 2004;
- 85. Furthermore, the Respondent knew or should have known that MRC had been the principal shareholder of MRACS until September 30, 2002;
- 86. Despite the changes made to the stock ownership of MRACS and Real Vest in 2002 and 2004 respectively, they continued in fact to be managed and controlled by the same persons as before, being Messrs Lino Matteo and Joseph Pettinicchio;
- 87. In addition, MRACS indirectly held an interest in iForum Securities, in that MRACS was a shareholder of 3251497 Canada Inc., which was a shareholder of iForum Financial Network Inc.;
- 88. Although the Respondent knew or should have known of the existence of this conflict of interest situation, he did not disclose it to his clients whom he advised to purchase or renew promissory notes of Real Vest and MRACS from February 2004 to November 2005;

**INAPPROPRIATE RECOMMENDATIONS AND FAILURE TO PROVIDE COMPLETE AND ACCURATE INFORMATION**

89. On or about September 26, 2001, FS, then 79 years of age, signed a New Client Application Form with respect to which the Respondent acted as representative with iForum Securities;
90. On or about November 14, 2003, FS, by then 81 years of age, signed another New Client Application Form with respect to which the Respondent once again acted as representative with iForum Securities. The account number was 4N-EKA6-A;
91. According to this last New Client Application Form, FS' investment objectives were "10% income", "60% medium-term growth" and "30% long-term growth";
92. The estimated annual income appearing on FS' New Client Application Form was \$40,000.00 and the net total asset value was \$1 million;
93. According to the New Client Application Form, FS had "limited" investment knowledge;
94. On or about October 21, 2005, the Respondent sold a mutual fund security in the amount of \$101,035.66 in FS' account no. 4N-EKA6-A;
95. On or about October 28, 2005, an amount of \$101,811.22 was debited from FS' account no. 4N-EKA6-A;
96. On or about the same day, the Respondent emailed the President of iForum Securities, Yves Méchaka, a memo dated October 27, 2005 informing him that he would no longer advise his clients to invest in promissory notes issued by corporations related to MRC until he received written confirmation to the effect that "these products are of the quality at issue";
97. On or about November 2, 2005, the Respondent telephoned FS and informed him that he had recently sold one of his low-performing mutual fund securities and that the proceeds of the sale thereof had been transferred to his bank account;
98. Despite his October 27, 2005 memo, the Respondent then advised FS to purchase a promissory note of Real Vest and, for this purpose, asked FS to issue a cheque in the amount of \$100,000 to the order of Real Vest;
99. FS was, at the time, unaware of the liquidity problems affecting the corporations related to MRC, including Real Vest;
100. The Respondent knew or should have known at the time that there were liquidity problems affecting the corporations related to MRC, including Real Vest. Yet, the Respondent failed to inform FS thereof at that time;
101. Furthermore, the Respondent advised FS to purchase a security which was not suitable for FS given his age, his investment knowledge, his investment objectives and his risk tolerance;
102. Relying on the recommendations of the Respondent, FS gave the latter the order to purchase a promissory note of Real Vest and for that purpose issued a cheque in the amount of \$100,000 to the order of Real Vest. FS hand delivered the cheque to the Respondent on or about November 2, 2005;
103. Real Vest cashed FS' \$100,000 cheque on or about 4 November 2005;
104. However, FS never received the promissory note from Real Vest and no promissory note of Real Vest purchased by FS was ever deposited into any of his accounts;
105. FS discovered in the following weeks that the corporations related to MRC were in financial trouble;
106. FS contacted the Respondent for explanations;
107. The Respondent declared that he had been unaware that the corporations related to MRC were in financial trouble;

108. In so doing, the Respondent failed to provide complete and accurate information to his client with respect to his investment in Real Vest;
109. FS never recovered his investment in Real Vest;
110. FS is currently over 85 years old;

#### **UNAUTHORIZED DISCLOSURE OF INFORMATION ABOUT A CLIENT**

111. On or about June 10, 2004, on the advice of the Respondent, JB purchased two promissory notes of Real Vest for a total amount of \$49,979.30 for a period of one year with an expected return of 8.5%. These promissory notes were renewed on or about June 9, 2005 for an additional year;
112. Between December 19, 2005 and March 9, 2006, or thereabouts, JB received four (4) solicitations by email from BB;
113. In these emails, BB asked JB to grant BB power of attorney for the purpose of appointing a receiver in the bankruptcy of MRC;
114. JB did not know BB, but BB is a personal acquaintance of the Respondent;
115. The Respondent admitted having provided BB with JB's particulars;
116. JB never consented to the disclosure of such particulars to BB.

#### **CONTRAVENTIONS**

117. The Respondent admits to the following contraventions of IIROC Rules and Guidance and IDA By-laws, Regulations or Policies, while in the employ of former Member firm iForum Securities Inc.:

#### **OFF-BOOK TRANSACTIONS INVOLVING SECURITIES OF COMPANIES RELATED TO MOUNT REAL CORPORATION**

- I. Between February 20, 2004 and November 3, 2005, or thereabouts, the Respondent accepted approximately 72 orders from about 64 clients for the purchase or renewal of promissory notes of MRACS Management Ltd. and Real Vest Investments Inc., being securities other than mutual fund securities, having an approximate book value of \$5,296,166.75, without such securities being recorded in the books of iForum Securities Inc., thereby engaging in business conduct unbecoming, contrary to By-law 29.1.

#### **SECURITIES OTHER THAN MUTUAL FUND SECURITIES HELD OFF BOOK**

- II. In November 2005, the Respondent also had under his responsibility the accounts of approximately 106 clients of B2B Trust, a federally chartered trust company, where said clients held approximately 42 different securities, other than mutual fund securities, with an approximate book value of approximately \$10,781,394.28, without said securities being recorded in the books of iForum Securities Inc., thereby engaging in business conduct unbecoming, contrary to By-law 29.1.

#### **TRANSACTIONS INVOLVING ILLEGAL PROMISSORY NOTES OF COMPANIES RELATED TO MOUNT REAL CORPORATION**

- III. Between May 2004 and November 2005, pursuant to instructions given by about 52 clients, the Respondent accepted approximately 55 orders for the renewal of promissory notes of MRACS Management Ltd. and Real Vest Investments Inc., in an amount equal to less than \$150,000, issued without a prospectus and without an exemption, contrary to ss. 11 and 41(3) of the Quebec Securities Act, R.S.Q., c. V-1.1, thereby engaging in business conduct unbecoming, contrary to By-law 29.1.

IV. Between November 2004 and November 2005, following instructions given by approximately six clients, the Respondent accepted approximately six orders for the renewal of promissory notes from MRACS Management Ltd. and Real Vest Investments Ltd., evidencing a sum of \$150,000 or more, without the notice stipulated in sections 46 and 51 of the Québec Securities Act (R.S.Q., chapter V-1.1) having been given, thereby engaging in business conduct unbecoming, contrary to By-law 29.1.

**DISTRIBUTION OF CONSOLIDATED PORTFOLIO STATEMENTS CONTAINING FALSE AND MISLEADING INFORMATION**

V. Between February 2004 and October 2005, or thereabouts, the Respondent distributed consolidated portfolio statements to about five (5) clients, which statements contained misrepresentations in that they overstated the value of the promissory notes of Real Vest Investments Inc. compared to the actual value thereof, thereby engaging in business conduct unbecoming, contrary to By-law 29.1.

**FAILURE TO DISCLOSE A CONFLICT OF INTEREST**

VI. Between February 2004 and November 2005, or thereabouts, the Respondent failed to inform his clients that a conflict of interest existed between iForum Securities Inc. and Mount Real Corporation before they purchased or renewed various promissory notes of MRACS Management Ltd. and Real Vest Investments Inc., thereby engaging in business conduct unbecoming, contrary to By-law 29.1.

**INAPPROPRIATE RECOMMENDATIONS**

VII. On or about November 2, 2005, the Respondent advised his client FS to purchase a promissory note of Real Vest Investments Inc., in the amount of \$100,000 although such investment was unsuitable for such client owing to his age, investment knowledge, investment objectives and risk tolerance, thereby contravening IDA Regulation 1300.1(p) and Standards A and C of the Conduct and Practices Handbook.

**FAILURE TO PROVIDE COMPLETE AND ACCURATE INFORMATION**

VIII. On or about November 2, 2005, the Respondent failed to provide his client FS with the complete and accurate information that he knew or should have known concerning Real Vest Investments Inc. before the client invested \$100,000, thereby engaging in business conduct unbecoming, contrary to By-law 29.1.

**UNAUTHORIZED DISCLOSURE OF INFORMATION ABOUT A CLIENT**

IX. In December 2005 and on or about March 9, 2006, the Respondent provided a third party with information concerning his client JB without such client's consent, thereby engaging in business conduct unbecoming, contrary to By-law 29.1.

**CONDITION OF SETTLEMENT**

118. As regards Counts I. to IX. inclusive, described in s. 117 above, the Respondent accepts the imposition of the following aggregate penalty and agrees to abide thereby:

(i) a permanent bar from approval, in any capacity, with the Investment Industry Regulatory Organization of Canada.

119. Unless otherwise stated, the ban shall commence on the effective date of the Settlement Agreement.”

¶ 5 The Respondent's actions caused serious harm to his clients, among them, FS who lost \$100,000.

¶ 6 The objective gravity of the violations committed by the Respondent justifies the imposition of the penalty, considering that this was not an isolated case, but involved numerous violations.

¶ 7 The Hearing Panel also took into account the fact that the Respondent has no history of relevant misconduct, that he cooperated with the Association, and that he has accepted responsibility.

¶ 8 The Hearing panel also took into account the fact that the Respondent was not enriched by the misappropriations; therefore, there was no reason to impose a severe fine.

¶ 9 In addition, the Hearing Panel has been informed that the Respondent is in a difficult financial position.

¶ 10 Consequently, the Hearing Panel accepts the Settlement Agreement reached by the Association and the Respondent.

M<sup>e</sup> Guy Lafrance, Chair of the Hearing Panel

Mr. Gilles Archambault, Panel Member

Ms. Éline Phénix, Panel Member

Montréal, this February 1, 2010.

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