

IN THE MATTER OF
THE SECURITIES ACT, 1988, S.S. 1988, c. S-42.2

AND

IN THE MATTER OF
GORDON DUBIDY BLACKLOCK

D E C I S I O N

Hearing held April 12, 1991

Before: Barbara L. Shourounis, Director

Appearances: James Hall, representing Commission staff
Wayne Sanderson, representing the Respondent, Gordon
Dubidy Blacklock

Decision dated April 22, 1991

DECISION

This hearing is to determine whether Gordon Dubidy Blacklock (the "Respondent") is suitable for registration and whether his registration would be objectionable as required by subsection 28(1) of The Securities Act, 1988, S.S. 1988, c. S-42.2 (the "Act"). Commission staff have alleged that the Respondent should not be registered or that conditions should be imposed on his registration because of his erratic work history, his alcohol problem which has interfered with his duties as a salesperson, and his difficulty in managing his personal financial affairs.

Facts

Staff's evidence

The Respondent was first registered to sell securities in 1979. Since then he has worked for nine different securities firms, in five instances for periods ranging from four to six months. His latest employment has been with Yorkton Securities in Calgary, Alberta for a period of over two years from October, 1988 to January, 1991.

Evidence as to the Respondent's past financial difficulties included personal bankruptcy proceedings in 1985, garnishee proceedings by Richardson, Greenshields in 1988 to recover \$1,265.70 owing on a commodity trading account, and garnishee proceedings by Revenue Canada to collect \$13,000.00 in unpaid income taxes. As well, he left Yorkton Securities owing approximately \$86,000.00 in his personal trading account.

In connection with the Respondent's alleged drinking problem, the Respondent's application for registration disclosed five convictions relating to drinking and driving, the first in August of 1975 and the latest in January, 1990 which arose from an incident in July, 1989. In addition, he was convicted of offences relating to a marital dispute in July of 1986.

Allan Frame, the general sales manager of Yorkton Securities in Calgary, testified by conference telephone. He was the Respondent's former supervisor. Mr. Frame indicated that when the Respondent began working for the firm in 1988, he was frequently late and missed work because of his drinking. The Respondent was able to rectify that problem, worked diligently and became a successful salesperson in the firm with a large clientele. Mr. Frame had no difficulties in supervising him, and there were never any complaints, other than minor ones, from his clients. There were difficulties in January 1991, the last month that he was with the firm. His personal problems caused him to be away from the office and inquiries from his clients had to be referred to other salespersons. When he left the firm, however, his clients' accounts were all in good standing.

Mr. Frame confirmed the Respondent's \$86,000 indebtedness to Yorkton Securities. This liability arose from the Respondent's purchase of Adrian Resources shares. Many other salespersons in the firm took positions in the same security and were all left in a deficit position when the value of the shares dropped substantially. Mr. Frame indicated that firm had written off the balance owing in the Respondent's account.

The Respondent's evidence

The Respondent gave full details of his employment history and reasons why he left each firm when he did. Those reasons included an R.C.M.P. investigation of one of the firms, a firm closing, a firm being sold, a firm specializing in securities in which he had no expertise, and his wanting to return back to his home province of Saskatchewan. He left Yorkton Securities in January, 1991 because he wanted to live full time with his wife and two daughters in Saskatoon. He had been commuting there from Calgary every weekend for the past two years.

He said that the Richardson Greenshields account had been paid in full in June of 1990, and that the outstanding account with Revenue Canada would be satisfied with a refund he expected for the 1990 tax year.

The Respondent admitted that he does have a drinking problem which has been the cause of many of the difficulties in his life, including his marital difficulties and financial problems. He stated that he has not been drinking for over one year. He said that he made it through a bad period in the market in the past year without drinking and he is fairly confident that his drinking problem is under control.

Decision

The Act requires a determination that the Respondent be suitable for registration and that his registration not be objectionable. Nothing in the Act and little in the decided cases sets out criteria as to whether these tests are met. Lymburn v. Mayland, (1932) 2 D.L.R. 6 (P.C.) continues to be the leading case. It states that persons who deal in securities should be honest and of good repute.

It is clear that the Respondent has a somewhat irregular work history. It is also clear that he has had a fairly serious problem with alcohol over the past ten years and has displayed a pattern of inability to deal with his financial obligations in a timely manner.

However, there is nothing in the evidence to indicate that the Respondent is not honest and of good repute, or that he has failed in the past to discharge his obligations as a registrant. There is no indication of complaints about his business practices and the manner he dealt with clients except for his lack of attention to his clients in January, 1991.

While there are substantive concerns about the Respondent's work history, his financial problems and his alcohol problems, I accept that the problems he has encountered in the past are largely related to his drinking. It appears that he now has his drinking problem under control and his record shows it. His work record over the past two years Yorkton Securities is largely unblemished, and his outstanding financial obligations have been resolved.

The Respondent seeks registration with Sanderson Securities. Wayne Sanderson, the principal of that firm, has committed to employ him with a clear expectation that he won't tolerate any "nonsense" attributable to his drinking. He will be supportive to the Respondent by providing employee assistance and referrals to community resources if the Respondent desires this.

The Respondent, Gordon Dubidy Blacklock, will therefore be registered as a salesperson in the employment of Sanderson Securities Ltd. without terms or conditions.


Barbara L. Shourounis
Director