

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

AND

IN THE MATTER OF
PATRICK MICHAEL RONEY
BARTLEY JOHNSON
BRUCE MacQUARRIE IVERSON

AND

CANADIAN AMERICAN FINANCIAL CORPORATION (CANADA) LIMITED

DECISION

THIS HEARING was held the 25th of April, 1989, before the Chairman, Marcel de la Gorgendiere, and the Commissioners, Herbert Dow, and Morley Meiklejohn, to determine:

1. Whether Mr. Roney failed to disclose convictions on an application for registration as a salesperson;
2. whether certain officers and employees of Canadian American Financial Corporation (Canada) Limited knew or ought to have known of the convictions and failed to bring that information to the attention of the Commission;
3. and whether a diligent inquiry had been made by them, in connection with completion of the certificate of employer, forming part of the application form 1U-85.

The evidence in this matter is not disputed in any essential way. Mr. Roney admitted that he had been convicted of certain offences and knew that he was not disclosing them at the time of the application. Mr. Iverson who initially assisted Mr. Roney in completing the application, understood that Mr. Roney asked whether he had to disclose certain drug charges and was advised by Mr. Iverson that if they were charges only they would not have to be declared. Mr. Iverson was distinguishing between a charge and a conviction and Mr. Roney was not. Mr. Johnson in completing the certificate on behalf of the employer sponsoring firm was not advised by Mr. Iverson that Roney had indicated that he had been charged with an offence.

Subsequent to the hearing Mr. Roney made an application to voluntarily have his registration surrendered.

The Commission in the course of the hearing heard testimony from Mr. Roney as to his past background and personal circumstances surrounding the time of his convictions and how his personal problems and difficulties had subsequently been rectified and how he had a good steady employment record, establishing he had his personal life under control. The Commission was also advised that the registrant had made no sales and taken part in training sessions and in training sales with clients only under supervision.

The question is then in what way has the public interest been affected by the continued registration of Mr. Roney and those involved in the obtaining of the registration and whether it is in the public interest, pursuant to Section 29(1), to suspend, cancel, restrict, reprimand or impose terms and conditions on his registration, and those connected with his registration, or accept the voluntary surrender of the registration, pursuant of Section 29(4).

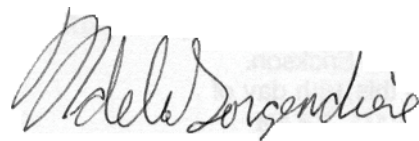
The Commission feels that the public interest is best served by a course of conduct which clearly shows that information is truthfully provided to the Commission in regard to all matters and in particularly in regard to the background of applicants for registration. It is a basic principle that the public is entitled to place confidence in the integrity and good character of the people with whom they transact business in securities. This is not to say however, that a person once having been convicted of a criminal offence or any other breach of good character, which may question that person's integrity or ability, is forever to be deemed incapable of operating within the securities field. It was deemed extremely unfortunate by the Commission that none of the information received would *prima facie* indicate that Mr. Roney should not be registered and in light of his references, it could well be reasonable to expect that he would have obtained registration in due course after complete disclosure of his personal background. Any applicant has also the right after a rejection of his application by the Director to appeal to the Commission in the event that the applicant feels that an unfavourable determination of his application is not justifiable.

However, it is also clear that any person who willingly withholds information that is requested on the application has committed a more serious offence that justifies withholding or suspending registration. The offence of overtly misleading under Oath, cannot be taken lightly as an indication of character. As a result the Commission is of the opinion that in such circumstances such conduct cannot be condoned and allowing a voluntary withdrawal of registration after discovery of misleading information without restriction would be misinterpreted by the public, indicating that the Commission would tolerate such conduct, allowing the applicant to freely re-register at a subsequent date.

The Commission therefore determines that Patrick Michael Roney's request for voluntary deregistration be granted subject to the provisions that a complete record of the documents filed and the tape of this Hearing be maintained and that no application for registration by Mr. Roney be granted by the Director unless and until such application has been approved by the Commission at a Hearing in which Mr. Roney and any potential employer attend. After two years any application can be made to the Director in the usual manner.

The question is then to whether the course of conduct involved merits any action on behalf of the Commission towards that company and its employees Johnson and Iverson. It is clear from the evidence that Mr. Iverson, having received an indication of a possibility of a conviction, did not make sufficient inquiries, being satisfied with references from a well known solicitor and from Mr. Roney's landlord who was also a school principal. Mr. Iverson agreed that he should pursue a more questioning line of investigation when looking into an application. Mr. McQuat, the president of the company, Canadian American Financial (Canada) Limited, felt that the company's record of some years in regard to approximately 100 people hired, would indicate that its usual practices were sufficient and felt that it was only Mr. Iverson's newness in his position that caused him not to be more questioning in his attitude. However, there appeared to be a reluctance on the part of management to question applications, in light of what they thought were restrictions under "privacy" legislation. In light of what appeared to be a case of misjudgment on part of junior employee, and not made in a deliberate attempt to deceive the Commission, the Commission feels that no action will be taken in regard to Mr. Bartley Johnson, and Bruce MacQuarrie Iverson, or Canadian American Financial (Canada) Limited, providing that within one month of this Order the Commission receives pursuant to the undertaking given by the President, a letter from the company's solicitor, confirming the nature of any advice that he has given the company as to the restrictions upon questioning that can be made by the company or its employees regarding completion of the applications for registration to be filed in the Province of Saskatchewan.

DATED at the City of Regina, in the Province of Saskatchewan, this 24th day of May, 1989.



MARCEL de la GORGENDIERE, Q.C.
CHAIRMAN