

September 5, 2007

Ontario Securities Commission of Ontario
P.O. Box 55, 19th Floor
20 Queen Street West
Toronto, ON M5H 3S8

Attention: J. Stevenson, Secretary to the Commission

Please be advised that I wish to file a request for a review with the Secretary of the Commission pursuant to Rule 7. I believe that the various paragraphs in the reply document dated August 10, 2007 (Director's Decision) contain inaccurate and misleading information on my file. I therefore wish to provide further clarification at this review.

I trust the above is satisfactory and would ask for your response as soon as possible.

Thank you.

A handwritten signature in black ink, appearing to read 'Hacik Istanbul', with a long horizontal flourish extending to the right.

Hacik Istanbul

**In the Matter of the Registration of
Hacik Istanbul**

**Opportunity to be heard by the Director
Section 26(3) of the Securities Act**

Date: August 10, 2007

Director: David M. Gilkes
Manager, Registrant Regulation

Submissions: Dianna Daley
For the staff of the Commission

Hacik Istanbul
For the Registrant

Background

1. Hacik Istanbul (the **Registrant**) has been registered with the Ontario Securities Commission (**OSC**) as a mutual fund salesperson since June 30, 1991. He was sponsored by BMO Investments Inc. from November 8, 2000 until his termination for cause on April 18, 2007.
2. On May 12, 2007, OSC staff received a request to transfer the registration of Mr. Istanbul to The Investment House of Canada Inc., a mutual fund dealer.
3. On June 5, 2007, OSC staff sent a letter to the Registrant and The Investment House of Canada Inc. notifying them that staff was recommending the transfer of the registration of Hacik Istanbul be refused for the reasons described in the submissions below.
4. On June 18, 2007, the Registrant notified the OSC that he wished to exercise his right for an Opportunity to be Heard (**OTBH**) by the Director. Subsection 26(3) of the Act states:

(3) Refusal – The Director shall not refuse to grant, renew, reinstate or amend registration or impose terms and conditions thereon without giving the applicant an opportunity to be heard.
5. The OTBH was conducted through written submissions made by OSC staff and the Registrant.

Submissions

6. The Registrant was sponsored by BMO Investments Inc. but was also employed and worked for BMO Bank of Montreal (**BMO**). It was his activities at BMO that led to his termination for cause.
7. BMO is a participant in the Air Miles program. The bank offers Air Miles for client appreciation, problem solving and general courtesy for dealing with BMO.
8. In early 2007, BMO conducted an internal audit and found that the same Air Miles account number had showed up on several client applications for loans or mortgages that had been approved. The auditor found that the recurring Air Miles account was held by Mr. Istanbul's spouse. BMO corporate security investigated the matter and found that the spouse of Mr. Istanbul was being credited unearned Air Miles and had been redeeming them.
9. There were a number of instances dating back to 2002 where Air Miles were credited to and redeemed by the spouse of Mr. Istanbul. A total of 6,500 Air Miles were misappropriated and BMO was able to recoup about 2,400 Air Miles. There was a financial loss to BMO of about \$1,700.
10. BMO corporate security was considering whether to forward the information to a law enforcement agency for possible criminal charges.

11. The Registrant admitted that he misappropriated Air Miles and credited them to his spouse's account. He also admitted that he had engaged in this practice since 2002.
12. The Registrant said that since the investigation started he had made every effort to surrender the unearned Air Miles back to BMO. However, BMO claims that the transfer of the Air Miles back to it was not done voluntarily. BMO provided information that the bank branch manager where Mr. Istanbul worked instructed a person at the Air Miles group to reverse the unearned Air Miles as they were not returned voluntarily.
13. Mr. Istanbul said that he has had a successful career in banking spanning over 23 years and that "this one air miles incident is not an accurate reflection on my integrity as an industry professional."

Analysis

14. Determining whether an applicant should be registered is an important component of the work undertaken by OSC staff to protect investors and foster confidence in the capital markets. This point was made in the *Mithras* decision that reads in part:

... the role of the Commission is to protect the public interest by removing from the capital markets -- wholly or partially, permanently or temporarily, as the circumstances may warrant -- those whose conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of those capital markets. We are not here to punish past conduct; that is the role of the courts, particularly under section 118 of the Act. We are here to restrain, as best we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient. In doing so we must, of necessity, look to past conduct as a guide to what we believe a person's future conduct might reasonably be expected to be; we are not prescient, after all.

Re Mithras Management Ltd., (1990) 13 OSCB 1600

15. The fit and proper standard for registration is based on three well established criteria that have been identified by the OSC:

The [Registrant Regulation] section administers a registration system which is intended to ensure that all Applicants under the Securities Act and the Commodity Futures Act meet appropriate standards of integrity, competence and financial soundness ...

(Ontario Securities Commission, Annual Report 1991)

When analyzing these criteria staff consider:

- integrity – honesty and good character, particularly in dealings with clients, and compliance with Ontario securities law;
- competence – prescribed proficiency and knowledge of the requirements of Ontario securities law; and
- financial soundness – an indicator of a firm's capacity to fulfil its obligations and can be an indicator of the risk that an individual will engage in self-interested activities at the expense of clients.

16. The fit and proper standard for registration is both an initial and an ongoing requirement for registrants. In relation to the ongoing integrity requirement, registrants must meet the general duties as set out in OSC rule 31-505, s. 2.1 (2):

A registered salesperson, officer or partner of a registered dealer or a registered officer or partner of a registered adviser shall deal fairly, honestly and in good faith with his or her clients.

17. The Registrant admits that he misappropriated Air Miles that should have been awarded to his bank clients. While the monetary loss suffered by BMO was not a significant amount by bank standards, Mr. Istanbul misappropriated Air Miles in a number of instances over a five-year period. He only stopped when he was caught.
18. The Registrant acknowledged it was wrong to misappropriate the Air Miles. He did not provide an explanation for his behaviour nor did he express any remorse for his actions.

Decision

19. Mr. Istanbul took Air Miles that did not belong to him and deposited them in his spouse's account. This was an act of dishonesty. Mr. Istanbul refers to the misappropriation as being a single Air Miles incident, however, this was not a single act but numerous acts over a period of five years.
20. The Registrant did not deal fairly, honestly and in good faith with all of his clients nor his employer, BMO, over the last five years. Mr. Istanbul has clearly demonstrated a lack of integrity.
21. I find that the Registrant has not demonstrated the high standards of integrity required of a professional in the securities industry. Therefore, I refuse to grant the registration of Hacik Istanbul.

August 10, 2007

David M. Gilkes
Manager, Registrant Regulation
Ontario Securities Commission