

**IN THE MATTER OF
THE SECURITIES ACT
R.S.O. 1990, c. S.5, AS AMENDED**

AND

**IN THE MATTER OF
CHATERAM RAMDHANI**

DECISION AND REASONS FOR DECISION

Submissions: Written submissions were provided by Mr. Ramdhani on August 17, 2001

Director: Marsha Gerhart, Senior Legal Counsel, Registrant Regulation, Capital Markets Branch

Decision

The decision of the Director is to refuse the application by Chateram Ramdhani ("Mr. Ramdhani" or the "Applicant") to be registered as a salesperson under the *Securities Act* (Ontario) (the "Act").

Background

The Applicant was previously registered with the Ontario Securities Commission (the "OSC") to sell securities at and was employed by A.C. MacPherson Securities (August 1996 - January 1998), Chartwell Securities (February 1998 - February 1998), Gordon-Daly Grenadier Securities ("Gordon-Daly") (February 1998 - April 1999) and C.J. Elbourne Securities ("C.J. Elbourne") (May 1999 to July 2000).

The Applicant applied (the "Application") to the OSC on December 13, 2000 to be registered as a salesperson with Anchor Securities Limited. Staff of the Registration section of the Capital Markets Branch of the OSC recommended that the Application be denied. It was Staff's view that, while the Applicant was employed at C.J. Elbourne, Gordon-Daly and A.C. MacPherson, he failed to deal fairly, honestly and in good faith with his clients and resold stocks to his own clients at excessive mark-ups. The Applicant exercised his right to be heard under subsection 26(3) of the Act and provided written submissions to the Director on August 17, 2001.

The other provision of the Act which is relevant to this decision is subsection 26(1) of the Act which provides:

(1) *Granting of Registration* - Unless it appears to the Director that the applicant is not suitable for registration, renewal of registration or reinstatement of registration or that the proposed registration, renewal of registration, reinstatement of registration or amendment to registration is objectionable, the Director shall grant registration, renewal of registration, reinstatement of registration or amendment to registration to an applicant.

Evidence

Mr. Ramdhani provided written submissions (the "Applicant's Submissions") to the Director on August 17, 2001. At tab 2 of the Applicant's Submissions was a copy of the transcript from the interview (the "Interview") OSC Staff conducted with Mr. Ramdhani on February 14, 2001 in connection with the Application.

The Applicant's Submissions stated that Mr. Ramdhani had been registered with the OSC to sell securities with four different firms for various lengths of time during the period from August 1996 to July 2000. In the Interview Mr. Ramdhani stated that, while at A.C. Macpherson and Chartwell Securities, he only did telemarketing and did not sell any securities. After Chartwell Securities he moved to Gordon-Daly where he did telemarketing and then sold securities. After Gordon-Daly he moved to C.J. Elbourne where he also did telemarketing and then sold securities.

While at Gordon-Daly and C.J. Elbourne, the Applicant was an opener which meant he cold-called clients from leads generated by the telemarketing department of the firms. Once Mr. Ramdhani made a sale, he would pass the client on to another salesperson (the "senior") who would then act as the client's broker. Mr. Ramdhani would have no further contact with the client. Mr. Ramdhani stated that he earned commissions at the rate of 17 1/2% on sales to a client if the sale was from a principal position held by the firm. He also earned commissions at a rate of 8 3/4% on sales from the firm's principal

position made by the senior to clients whom Mr. Ramdhani had passed on to the senior.

Mr. Ramdhani stated in the Interview that he did not know how the prices of the securities he sold from his firms' principal positions were determined except that they were set by the firms. However, he acknowledged that, on the occasions when he followed stocks he had sold to his clients, he noticed that after a period of stabilization, the price of the stocks would fall. He also stated that he did not usually conduct any research into the stocks he was selling to his clients.

Mr. Ramdhani stated in the Interview that while he was at Gordon-Daly he was aware of a stock being acquired by Gordon-Daly at \$.50 and then being sold to clients at \$1.10. The Applicant stated in the Interview that this was a reasonable difference. There was no evidence that the Applicant sold any of this stock.

The Interview covered a number of issues, not all of which I have summarized.

Summary of Applicant's submissions

Mr. Ramdhani submitted that OSC Staff misconstrued his evidence in finding that he sold securities for A.C. MacPherson & Co. Mr. Ramdhani states that he did not sell securities while at A.C. MacPherson although he was registered to do so. No evidence was presented to prove that Mr. Ramdhani sold securities while he was at A.C. MacPherson.

Mr. Ramdhani submitted that there was no evidence that he sold stock to his own clients at excessive mark-ups. He also submitted that it was unfair of OSC Staff to take the position that a stock was sold at an excessive mark-up when there is no evidence as to what an appropriate mark-up is and no standard has been set by the investment industry, the Investment Dealers Association of Canada or the OSC with respect to this issue.

Mr. Ramdhani submitted that there is no evidence that the commission of 17.5% was inappropriate in all the circumstances.

Mr. Ramdhani submitted that the Interview was unfairly conducted by OSC Staff. He submitted that the legislative intent of section 31 of the Act is that one individual conduct the examination and in his case the Interview was conducted by two individuals. As well, Mr. Ramdhani submitted that he was improperly questioned by OSC Staff during the Interview because the same questions were asked over and over again, hypothetical questions were posed which were entirely unrealistic and unfair and a generally aggressive manner of questioning was adopted.

Reasons for Decision

I have denied Mr. Ramdhani's application for registration on the basis that he is not suitable for registration because he did not meet the obligations of a registered salesperson while employed by Gordon-Daly and C.J. Elbourne. As a registrant, Mr. Ramdhani was subject to section 2.1 of OSC Rule 31-505 - *Conditions of Registration* (the "Rule"). The Rule provides that a registered salesperson shall deal fairly, honestly and in good faith with his clients. Section 1.5 of the Rule which sets out the "Know-Your-Client and Suitability" provisions of the Rule. The provisions require a registrant to know his client's general investment needs and determine if a proposed transaction is suitable for the client.

In the Interview, Mr. Ramdhani displayed a substantial lack of understanding of his responsibilities as a registered salesperson and of the "Know-Your-Client and Suitability" provisions of the Rule. This is illustrated by Mr. Ramdhani's responses in the Interview where he stated that when selling securities from the inventory of Gordon-Daly and C.J. Elbourne he did not take steps to inquire into the investment objectives of his clients. He stated that an individual was suitable for the securities he was selling once they met two tests: minimum income of \$20,000 and net worth of \$20,000. As well, Mr. Ramdhani did not take steps to inquire whether the price of the securities which he was selling to his clients was justified by market conditions; rather, he relied completely upon instructions from Gordon-Daly and C.J. Elbourne. Apart from the instructions given by the firms, the Applicant did not have a basis for recommending specific securities to his clients.

Further illustrations of Mr. Ramdhani's failure to understand and live up to his obligations as a registered salesperson can be seen in the Interview where he responded that: (i) he did not usually conduct research into any securities which he sold to clients; (ii) he advised clients that two brokers would handle their accounts knowing that after he opened the account, the account would be passed onto a senior salesperson and he would no longer be handling the account; (iii) he displayed little understanding of the Know-Your-Client provision of the Rule - he summarized it as "... the client has preferential treatment over the broker"; and (iv) he was unaware of what category of registration was held by Gordon-Daly or C.J. Elbourne while he was employed by them.

Mr. Ramdhani's actions demonstrate a lack of due diligence on behalf of his clients.

Mr. Ramdhani submitted that there is no direct evidence that he sold stock to his own clients at excessive mark-ups or that he received excessive commissions. I agree with this submission, however I do not find the lack of such evidence changes my decision in light of the other indications of Mr. Ramdhani's failure to understand and live up to his obligations as a

registered salesperson. After considering Mr. Ramdhani's responses in the Interview I am not satisfied that he understands the nature of his responsibilities as a registered salesperson to his clients.

Although I have decided against granting Mr. Ramdhani registration as a salesperson, I have decided that it is appropriate in this case to offer some guidance about the actions he might take should he decide to reapply for registration at a later date. Mr. Ramdhani may wish to address my finding that he does not understand the duties and obligations of a registered salesperson by re-enrolling in and successfully completing the Conduct & Practices Handbook Course. Mr. Ramdhani should be aware that in relation to any registration application that he may file in the future, the Director responsible for considering such application may decide that additional remedial terms and conditions be placed on his registration.

February 4, 2002.

"Marsha Gerhart"