

November 08, 2004

Honourable Gerry Phillips, MPP  
Chair, Management Board of Cabinet  
Management Board Secretariat  
77 Wellesley St W, 12th Floor, Ferguson Block  
Toronto ON  
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By Fax: (416) 327-3790

Dear Mr. Phillips,

**Re: IDA v. Gruson**

I spoke with Mr. Atul Sharma of your office on Nov. 04, 2004 concerning the recent Notice of Hearing in the matter of Brian Gruson posted on the Investment Dealers Association of Canada's ("IDA") website. Mr. Gruson is facing a disciplinary hearing on December 02, 2004 for failing to attend and give information in respect of an investigation being conducted by the IDA, contrary to IDA By-Law 19.

I bring this matter to your attention having regard to the Standing Committee on Finance and Economic Affairs' recommendation that "the question of whether SROs should be given more powers or, indeed, whether they should have any powers at all, should be the subject of further review by a task force established to examine this specific issue."

It appears from the Notice of Hearing that Mr. Gruson was not refusing to attend and give evidence to the IDA. However, he refused to attend and give evidence to the IDA with a representative of the Securities Exchange Commission ("SEC") present during the investigation.

The nature of the matter being investigated by the IDA is by no means clear from the Notice of Hearing; there is simply a reference to Mr. Gruson's "conduct" and that he conducted trades in respect of an alleged stock manipulation, presumably on behalf of clients of his firm.

The IDA purports to be merely a voluntary organization whose relationship with its members is contractual. If that is so:

1. Why does the IDA purport to assume jurisdiction with respect to an issue which may involve a breach of provincial securities legislation or the *Criminal Code*; and
2. Why is the IDA using its contract with its members to assist a foreign regulatory body?

I recognize that the Ontario Securities Commission ("OSC") and the SEC are signatories to a multilateral memorandum of understanding concerning cooperation and the exchange of information (attached). I further acknowledge that the OSC has the authority to grant an investigation order pursuant to section 11(1)(b) of the *Securities Act* for the purpose of assisting a foreign jurisdiction.

However, there is an important distinction between the OSC and the IDA. The OSC is a creature of statute; the IDA is not. The present law is that an individual who is compelled to give information pursuant to IDA By-law 19 does not have the legal protections, such as those embodied in the *Statutory Powers and Procedures Act*, the *Evidence Act* and the *Charter*, which an individual compelled to give information pursuant to an OSC investigation order may have.

In my view, the Gruson case underscores the need to expeditiously review the role of the SROs, the nature of their jurisdiction and their relationship with OSC.

I would appreciate the opportunity to speak with you on this topic. I applaud and support your understanding and actions to date in trying to remedy the regulatory problems plaguing our securities industry.

I have attached the documents referred to in this letter for your convenience. If I can be of any assistance or should you have any questions or comments with respect to the above, please do not hesitate to contact me. I look forward to hearing from you.

Respectfully,



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cc. MPP Michael Prue, Management Board Critic  
cc. MPP John Yakabuski, Management Board Critic

Documents Attached (\*via e-mail PDF):

1. IDA Notice of Hearing and Particulars
2. IOSCO Memorandum of Understanding (MOU)
3. Signatories to IOSCO MOU
4. IDA By-law 19