

2002 BCSECCOM 1000

Headnote

Mutual fund dealer exempted from the requirement to become a member of the Mutual Fund Dealers Association of Canada, subject to certain terms and conditions

Exemption Order

Gryphis Financial Consultants Inc.

Section 48 of the *Securities Act*, R.S.B.C. 1996, c. 418

Background

- ¶ 1 Gryphis Financial Consultants Inc. applied for an exemption from the requirement in section 6(2)(c)(ii)(A) of the *Securities Rules*, B.C.Reg. 194/97, to be a member of the Mutual Fund Dealers Association of Canada (the MFDA);

Representations

- ¶ 2 Gryphis Financial represents that:
1. it is registered as a mutual fund dealer and portfolio manager under the Act, and has been in operation since 1982;
 2. it is not currently in default of any of the requirements of the Act or Rules relating to mutual fund dealers and portfolio managers;
 3. Peter Griffin and Sue Ellen Griffin are its sole directors;
 4. Peter Griffin has been its sole employee and salesperson for 10 years;
 5. it provides services to clients on a fee for service basis;
 6. its services include financial planning, managing discretionary accounts and maintaining non-managed accounts invested in mutual funds;
 7. it holds all client assets at arm's length, either in client name at the mutual fund or, for managed accounts, in omnibus accounts registered in the name of its trustee, which is currently Canadian Western Trust;
 8. deposits and withdrawals from the accounts pass directly between the client and the mutual fund or the trustee;

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9. the majority of its accounts are managed accounts, and approximately 85% of its client assets are held in those accounts;

10. it does not have a corporate trust account and does intend to open one, nor will it hold client assets in dealer nominee name;

11. MFDA Rule 2.3.4 prohibits members from maintaining discretionary trading accounts for clients, or, in other words, from acting as a portfolio manager;

12. separation of its mutual fund and portfolio management activities into different entities in order to comply with MFDA Rule 2.3.4 would be impractical, as it has only one registered person at a single location;

13. it will promptly deliver to all of its clients a written notice stating:

Gryphis Financial is not currently a member, and does not intend to become a member, of the Mutual Fund Dealers Association of Canada; consequently, clients of Gryphis Financial will not have available to them investor protection benefits that would otherwise derive from membership of Gryphis Financial in the MFDA, including coverage under any investor protection plan for clients of members of the MFDA.

Order

¶ 3 Because it is not prejudicial to the public interest, the Commission orders under section 48 of the Act, that Gryphis Financial is exempt from the requirement to be a member of the MFDA.

¶ 4 December 12, 2002

Brent W. Aitken
Vice Chair