

Financial adviser, TD Securities cited by regulators

Alleged offences relate to a real estate investment scheme that went bad

By DAVID BAINES

B.C. securities regulators have cited a Kelowna financial adviser and the bank-owned securities firm with which he was associated for a string of alleged securities offences relating to a real estate investment scheme that went awry.

The B.C. Securities Commission alleges that from March 1996 to May 1997, George Grafton and his securities firm, Grafton Global Management Ltd., sold \$5.1 million in high-risk promissory notes to about 110 investors, many of them elderly and financially unsophisticated. At the time, Grafton worked as an "introducing broker" under a correspondent relationship with TD Securities Inc.

The unsecured notes were issued by Valley Mortgage and Investment Company, a company in which Grafton acted as "the directing mind." Proceeds were used to fund a real estate project in the Kelowna area.

The project is now the subject of foreclosure proceedings. Vancouver lawyer David Church, who is representing many of the aggrieved investors in a separate lawsuit, said Friday his clients have not recovered any money from the investment.

The commission alleges that Grafton Global entered into an "introducing/carrying broker" agreement with TD Securities (then known as TD Green Line).

Under that agreement, TD agreed to be responsible for obtaining and maintaining account opening documentation for the clients and for complying with applicable laws, including the "know your client" rule which requires the adviser to determine the suitability of the investments for the clients.

The commission alleges that TD permitted Grafton, his firm and

Valley Mortgage to issue the notes without a prospectus or an exemption from prospectus requirements. It also alleges that Grafton failed to advise the investors that he was associated with Valley Mortgage and that there was a potential conflict of interest.

It alleges that Grafton, his firm and TD did not advise clients that the notes were "risky, illiquid and speculative" and "unsuitable for any investor unless that investor had a high tolerance for risk [and] no need for short-term income..."

The commission said some of the clients were unsophisticated investors who relied heavily on the professional advice and judgment of Grafton. In some instances the clients, encouraged by Grafton, transferred funds from money market or T-bill accounts, and redeemed mutual funds" to pay for the notes.

It said Grafton did not have discretion to buy the notes without the clients' authority, but in some cases informed the client after the purchase had been made and in other cases, not until they called to inquire.

The commission said TD provided statements referring to the notes as "TD mortgages" but the notes "do not appear to be mortgages and the reference to TD mortgages gave investors a false sense of security regarding the safety of their investments."

It said it made numerous requests to TD for a list of all Grafton accounts that traded in the notes, but received only a partial list. As a result, commission staff "had to spend considerable time determining who had traded in the notes so that the back-up documentation could be requested."

In addition to the other alleged breaches, the commission cited TD for "failing to reply fully and timely" to an order for production of documents.

rates proposed by panel