

Re Bodnarchuk

IN THE MATTER OF:

The Rules of the Investment Industry Regulatory Organization of Canada

and

Edward Peter Bodnarchuk

2018 IIROC 05

Investment Industry Regulatory Organization of Canada
Hearing Panel (Manitoba District)

Heard: January 24, 2018
Decision: January 25, 2018

Hearing Panel:

Robert Hucal, Chairman, Alan McLaughlin and Bernie Plett

Appearances:

Tayen Godfrey, Senior Enforcement Counsel, IIROC

Thor Hansell, Counsel for the Respondent

DECISION

¶ 1 The Respondent's solicitor made a presentation in respect of the Respondent's Notice of Motion to have the Panel recuse itself. IIROC took no position but reserved the right to make representation.

¶ 2 We have considered the presentation and the information coming before the Panel attributing certain activities to the Respondent. We have determined that the Panel is in a position where a reasonable apprehension of bias has been created, possibly requiring our disqualification if we continued the Hearing. Notwithstanding, we as Panel members believe that we have not been prejudiced. However, the test expressed in *Wewaykum Indian Band v Canada 2003 2 SCR 259* requires that the idea that justice must seem to be done, cannot be severed from the situation of reasonable apprehension of bias created in this circumstance.

¶ 3 Unfortunately, the integrity of the hearing process has been impugned by the third party information coming forward, which in turn affects the integrity of the regulatory activities of IIROC.

¶ 4 We therefore grant the Motion to have the Panel recuse itself and further direct that if a new hearing is convened regarding this matter, that the current Panel members shall not be appointed to the newly constituted Hearing Panel.

Dated at Winnipeg, Manitoba, this 25th day of January, 2018.

Robert Hucal

Alan McLaughlin

Bernie Plett

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