

Re MacArthur

IN THE MATTER OF:

**The Rules of the Investment Industry Regulatory
Organization of Canada**

and

James Dugald MacArthur

2017 IIROC 29

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

Heard: March 27, 2017

Decision: May 8, 2017

Hearing Panel:

Edward T. McDermot, Chair, Debbie Archer and Daniel Iggers

Appearances:

Natalija Popovic, Senior Enforcement Counsel

No one appearing for the Respondent, James Dugald MacArthur

REASONS FOR DECISION

PURPOSE OF HEARING

¶ 1 This Hearing Panel was constituted pursuant to the provisions of the Consolidated Enforcement, Examination and Approval Rules of IIROC (the “Rules”) including in particular sections 8203 and 8205 thereof.

¶ 2 The Notice of Hearing which initiated this matter is dated January 12, 2017 and states that an initial appearance was to be held on March 27, 2017 at the IIROC premises located at 121 King Street West, Suite 2000, Toronto, Ontario for the purpose of scheduling a hearing in order to determine whether the Respondent committed the contraventions set forth in a Statement of Allegations which accompanied the Notice of Hearing.

¶ 3 The Notice of Hearing also informed the Respondent of his obligation to serve and file a Response to the Notice of Hearing and Statement of Allegations and set forth the consequences of failing to do so in the following terms:

Notice of Hearing

...

“The Respondent must serve a Response (“Response”) to this Notice of Hearing and the Statement of Allegations dated January 12, 2017 (“Statement of Allegations”) in accordance with Section 8415 within 30 days from the effective date of service of this Notice of Hearing.

If the Respondent does not file a Response in accordance with Section 8415(1), the Initial Appearance may be immediately converted to a Hearing.

...

If the Respondent fails to serve a Response at the Hearing, the Hearing Panel may, pursuant to Section 8415(4):

- (a) proceed with the hearing as set out in this Notice of Hearing, without further notice to the Respondent;
- (b) accept as proven the facts and contraventions set out by Staff in the Statement of Allegations; and
- (c) order penalties and costs against the Respondent pursuant to Sections 8209, 8210 and 8214.

If the Hearing Panel concludes that the Respondent did commit any or all of the contraventions alleged by Staff in the Statement of Allegations, the Hearing Panel may, pursuant to Sections 8209 and 8210 impose any one or more of the following penalties:

Where the Respondent is/was a Regulated Person who is not a Dealer Member:

- (a) a reprimand;
- (b) disgorgement of any amount obtained, including any loss avoided, directly or indirectly, as a result of the contravention;
- (c) a fine not exceeding the greater of:
 - (i) \$5,000,000 per contravention; and
 - (ii) an amount equal to three times the profit made or loss avoided by the person, directly or indirectly, as a result of the contravention.
- (d) suspension of the person's approval or any right or privilege associated with such approval, including access to a Marketplace, for any period of time and on any terms and conditions;
- (e) imposition of any terms or conditions on the person's continued approval or continued access to a Marketplace;
- (f) prohibition of approval in any capacity, for any period of time, including access to a Marketplace;
- (g) revocation of approval;
- (h) a permanent bar to approval in any capacity or to access to a Marketplace;
- (i) permanent bar to employment in any capacity by a Regulated Person, and
- (j) any sanction determined to be appropriate under the circumstances.

...

If the Hearing Panel concludes that the Respondent did commit any or all of the contraventions alleged by the Staff in the Statement of Allegations, the Hearing Panel may assess and order any investigation and prosecution costs determined to be appropriate and reasonable in the circumstances pursuant to Section 8214.

¶ 4 The Notice of Hearing and Statement of Allegations accordingly clearly set forth the obligations of the Respondent to serve and file a Response within the stipulated time limit and at the Hearing and the consequences of him failing to do so.

THE COMMENCEMENT OF THE HEARING

¶ 5 It is also important to note the provisions of section 8423(12) of the Rules which set forth the potential consequences to the Respondent if, having been served with a Notice of Hearing, fails to attend a hearing on the merits. That section provides as follows:

8423

- (12) If a respondent who has been served with a notice of hearing does not attend the hearing on the merits, the hearing panel
 - (i) may proceed with the hearing in the respondent's absence and may accept as proven the facts and contraventions alleged in the notice of hearing and statement of allegations, and
 - (ii) if it finds that the responding committed the alleged contraventions, may hear submissions on sanctions from Enforcement Staff immediately, without a further hearing on sanctions and costs, and may impose sanctions and costs pursuant to sections 8209 and 8210, as it considers appropriate.

¶ 6 In accordance with the information set forth in the Notice of Hearing, this Hearing Panel accordingly convened at 10:00 a.m. on March 27, 2017 at the place set forth in the Notice of Hearing. At that time, IIROC was in attendance and represented by Senior Enforcement Counsel. Neither the Respondent nor anyone acting on his behalf however was in attendance at the appointed time and place.

¶ 7 The Hearing Panel accordingly stood the matter down until 10:30 a.m. in case some untoward event such as traffic, car accident, etc. had precluded the Respondent from being in attendance. Upon the recommencement of the hearing at 10:30 a.m., neither the Respondent nor anyone acting on his behalf were in attendance and no communication had been received from him to explain the non-attendance. Senior Enforcement Counsel also advised the Hearing that during the half hour deferment, IIROC had placed a call to his telephone number and left a message but no communication had been received by IIROC from the Respondent in response to such message.

¶ 8 In accordance with the provisions of Section 8415 of the Rules, Senior Enforcement Counsel then requested the Hearing Panel to proceed with the hearing of this matter on its merits. The relevant provisions of Section 8415 are as follows:

8415. Response to a Notice of Hearing

- (1) A respondent must serve and file a response within 30 days from the date of service of a notice of hearing.

...

- (4) If a respondent who has been served with a notice of hearing does not serve and file a response in accordance with subsection 8415(1), Enforcement Staff may proceed with the hearing of the matter on its merits on the date of the initial appearance set out in the notice of hearing, without further notice to and in the absence of the respondent, and the hearing panel may accept as proven the facts and contraventions alleged in the statement of allegations and may impose sanctions and costs pursuant to section 8209 or 8210, as applicable.

¶ 9 After due deliberation, the Hearing Panel determined to proceed with the hearing of the matter on its merits subject to IIROC establishing that the Notice of Hearing and Statement of Allegations had been properly served on the Respondent pursuant to the provisions of the Rules.

SERVICE OF NOTICE OF HEARING

¶ 10 Before proceeding with the evidence, the Hearing Panel reviewed the contents of the Notice of Hearing and Statement of Allegations and was satisfied that they complied in all respects with the provision of section 8414(2) and (3) of the Rules.

¶ 11 Senior Enforcement Counsel then adduced *viva voce* and affidavit evidence which satisfied this Hearing Panel that the Respondent had on January 13, 2017, been personally served with the Notice of Hearing and Statement of Allegations (together with other related material) entered into evidence before this Hearing Panel and attached hereto as Schedules "A" and "B". The evidence also indicated that the same material was sent to the Respondent at his last known address in the National Registrations Database by both registered and regular mail (although the registered copy was returned unclaimed).

¶ 12 Having established by the evidence that proper service of the Notice of Hearing and Statement of Allegations had been effected on the Respondent, the Hearing Panel proceeded to consider the matter on its merits and reviewed the allegations set forth in the Statement of Allegations and additional evidence adduced by Mr. David De Biasi, the IIROC investigator in charge of this file from September 2016 to date.

THE CONTRAVENTIONS

¶ 13 As noted at paragraphs 3, 5 and 8 *supra*, if a Respondent who has been properly served with a Notice of Hearing and Statement of Allegations fails to serve and file a Response within the stipulated time limit or fails to attend at the hearing, the hearing can proceed on the initial appearance date on its merits without further notice to the Respondent. The Hearing Panel can also accept as proven the facts and contraventions alleged in the Statement of Allegations and may proceed to impose sanctions and costs as it may determine in accordance with the Rules.

¶ 14 The Hearing Panel was satisfied that no such Response had been served on IIROC or filed with the National Hearing Co-ordinator in accordance with the provisions of sections 8415 and 8406(7) of the Rules and that the Respondent was not in attendance at the Hearing of March 27, 2017.

¶ 15 The Hearing Panel accordingly determined that, in accordance with the provisions of sections 8415(4) and 8423(12), the facts and contraventions set forth in the Statement of Allegations should be accepted as proven.

¶ 16 As can be seen from the Statement of Allegations set forth in Schedule “B” of this Decision, the Respondent (while a Registered Representative with IIROC member firms) is alleged to have borrowed approximately \$1 million from a client and has failed to repay any of the principal amount borrowed or interest thereon. While that is not a matter that is before this Hearing Panel, the conduct of the Respondent *vis-à-vis* IIROC’s requests for information and documentation relevant to the client complaint filed with IIROC and his failure to attend interviews which IIROC had compelled the Respondent to attend in connection with its investigation of this complaint are matters of serious import which are the subject matter of this proceeding.

¶ 17 The specifics of the contraventions which the Respondent is alleged to have committed are set forth in the Statement of Allegations as follows:

From September to November, 2016 the Respondent failed to co-operate with an IIROC investigation by failing to provide documents and attend a compelled interview, contrary to the IIROC Consolidated Enforcement, Examination and Approval Rules, Section 8104.

¶ 18 The relevant provisions of Rule 8100 which empowers IIROC and its Enforcement Staff to require and compel the Respondent to comply with its directives in this respect are as follows:

Rule 8100

Enforcement Investigations

...

8102. Conducting Investigations

- (1) Enforcement Staff may investigate the conduct, business and affairs of a Regulated Person with respect to IIROC requirements, applicable laws, or trading or advising in respect of securities, commodities contracts or derivatives.

8103. Investigation Powers

- (1) In connection with an investigation, Enforcement Staff may, by written or electronic request, require a Regulated Person, an employee, partner, director or officer of a Regulated Person, an approved investor, or, where authorized by law, another person to:
 - (i) provide a written report with respect to any matter,

- (ii) produce for inspection any records and documents in the person's possession or control that Enforcement Staff believe may be relevant to the investigation, whether written, electronically stored or recorded,
- (iii) provide copies of any such records and documents in the manner and form, including electronically and recorded, that Enforcement Staff requests, and
- (iv) attend and answer questions under oath or otherwise, and any such attendance may be transcribed, recorded electronically, audio-recorded or video-recorded, as Enforcement Staff determines.

...

8104. Obligations of Regulated Persons and Other Persons

- (1) A person who receives a request made under section 8103 must comply with the request within the time specified in it.

...

- (3) A person must cooperate with Enforcement Staff who are conducting an investigation, and a Regulated Person must require its employees, partners, directors and officers to cooperate with Enforcement Staff conducting an investigation and to comply with a request made under section 8103.

...

¶ 19 Clearly it is the intent and purpose of these sections to ensure that the Enforcement Staff of IIROC have the full cooperation of all of the "persons" enumerated in Rule 8100 when it is discharging its mandate to initiate and conduct enforcement investigations to ensure compliance with the Rules including, in particular, the Standards of Conduct set forth in Rule 1400. If IIROC were not able to rely on the cooperation of the "persons" referenced in the Rules, then its ability to initiate and conduct enforcement proceedings would be seriously impaired. Section 8201 of the Rules sets forth the purpose and intent of such proceedings in the following terms:

8201

- (2) Enforcement proceedings are intended to ensure compliance with and to enforce IIROC requirements, securities legislation, and other requirements relating to trading or advising in respect of securities, commodities contracts or derivatives.

THE FACTS RELATED TO THE ALLEGED CONTRAVENTIONS

¶ 20 The facts set forth in the Statement of Allegations (which this Hearing Panel has determined to accept as proven pursuant to Sections 8415(4) and 8423(12) of the Rules) was supplemented by the *viva voce* evidence introduced by Senior Enforcement Counsel through Mr. De Biasi. That evidence clearly established that the Respondent has contravened his fundamental obligation to cooperate with IIROC Enforcement Staff by failing to provide documentation as required by IIROC in connection with its investigation into a client complaint involving the conduct of the Respondent. In addition, we were satisfied on the evidence before us that the Respondent failed to attend an interview which he had been compelled to attend by Enforcement Staff in the course of conducting the above-referenced investigation.

FAILURE TO PROVIDE REQUIRED INFORMATION AND DOCUMENTS

¶ 21 The evidence demonstrates that this was not simply a case where IIROC Enforcement Staff issued a single letter requesting information and documentation with respect to its investigation. In point of fact, Enforcement Staff issued three such letters to the Respondent, the latter two of which compelled him to provide the requested information and documentation by an enumerated deadline.

¶ 22 When the Respondent received the first letter requesting the information and documentation by August

22, 2016, he contacted IIROC on the due date and requested an extension of time to provide a response which was readily granted by IIROC Enforcement Staff. When, however, he failed to further contact Enforcement Staff, the second letter (September 12, 2016) compelled the requested production by a deadline of September 22, 2016.

¶ 23 When the Respondent failed to respond to that letter, IIROC (on October 24, 2016) issued yet a further letter of compulsion with a new deadline of November 9, 2016. The Respondent however failed to respond to that letter and never did provide the required information or documentation with respect to the IIROC investigation.

FAILURE TO ATTEND COMPELLED INTERVIEW

¶ 24 Quite apart from the compelled request for information and documentation, IIROC Enforcement Staff also exerted considerable efforts to request and then compel the Respondent to attend an interview with them in connection with the ongoing investigation related to the client complaint. The evolution of those efforts and the Respondent's conduct in response thereto demonstrate that while the Respondent knew IIROC staff were demanding an interview with him, he would wait until the last minute before the scheduled meeting and then leave a voicemail message indicating that he could not make that particular meeting but that he would be in contact with IIROC staff.

¶ 25 By way of illustration, the initial letter dated September 12, 2016 compelled him to attend an interview on October 24, 2016. IIROC had left voicemail messages on his phone reminding him of the interview on October 21, 2016 but it was only on Sunday, October 23, 2016 that he left a voicemail with IIROC staff advising he could not make the meeting scheduled for the next day and said he would be in touch with staff to reschedule the interview. He ultimately never did contact staff and an additional letter was issued by IIROC compelling him to attend an interview on the extended date of November 23, 2016. IIROC staff also left him a voicemail message confirming the details with respect to the new compulsory interview date. Once again however, the Respondent at 6:00 a.m. on the appointed date left a voicemail message indicating he could not make the interview.

¶ 26 It was only after these significant attempts to obtain the Respondent's cooperation relative to IIROC's investigation into a client's complaint about the Respondent's conduct that Enforcement Staff determined to initiate these proceedings.

¶ 27 In our view, IIROC Enforcement Staff exerted considerable efforts to obtain the Respondent's voluntary cooperation to assist it in its obligations to investigate the complaint it had before it relative to the Respondent. The Respondent, however, who was well aware of IIROC's requirement to produce the required information and documentation as well as attend the compelled interview, totally failed to cooperate with them in this process and instead kept putting them off with promised cooperation which was never forthcoming.

¶ 28 Based upon the evidence and proven facts placed before this Hearing Panel, we advised Enforcement Counsel at the hearing that it was our decision that the Respondent had committed the contraventions alleged in the Statement of Allegations and we so found with our written reasons for such decision to follow.

SANCTIONS

¶ 29 Following the determination by this Hearing Panel that it was satisfied on the basis of the evidence placed before it that the Respondent had committed the contraventions as set forth in the Statement of Allegations, Enforcement Counsel proceeded (pursuant to the provisions of section 8415 of the Rules, *supra*) to make submissions with respect to the appropriate sanctions to be imposed by reason of these contraventions. Senior Enforcement Counsel on behalf of IIROC provided the Hearing Panel with a number of prior decisions in support of its position that the appropriate penalty or sanctions for contraventions of this nature should include:

- (a) a fine of \$50,000;
- (b) a permanent ban on registration in any capacity of the Respondent;

(c) costs in the amount of \$10,000.

(See Re: Morrison [2009] IIROC No. 4; Re: Austin [2017] IIROC 09; Re: Dettelbach [2011] IIROC No. 6.)

¶ 30 Having reviewed all the previous cases submitted by Senior Enforcement Counsel (and the numerous additional decisions referenced in such cases), we are of the view that while no penalty for a specific contravention should be set in stone, it does appear to us that the sanctions requested by Senior Enforcement Counsel in this case are the same or substantially similar to the determinations of other Hearing Panels for offences of a similar nature.

¶ 31 In our view, these decisions establish somewhat of a benchmark as to what an appropriate response should be for contraventions of this nature which obviously cut to the root of the ability of IIROC to discharge its mandate to regulate and uphold the Standards of Conduct and other regulated requirements designed to maintain and preserve investor confidence in the integrity of the marketplace and the regulated persons who work within it.

¶ 32 We subscribe to and adopt the following passage of the Hearing Panel in *Re Morrison (supra)* at paragraph 51:

The securities industry is a business of trust and confidence. Approved Persons must above all conduct themselves with trustworthiness and integrity, and act in an honest and fair manner in all their dealings with the public, their clients, and the securities industry as a whole. Approved Persons have agreed to abide by and comply with the Association's By-laws, and that includes the duty to cooperate in any investigation. As was said in *Re Steward (supra)*, there is a general principle that the requirement to cooperate in any investigation is fundamental to maintaining an efficient, competitive market environment, and also to maintain the integrity of the securities system and protect the public interest.

¶ 33 It is accordingly our view that the sanctions sought by Enforcement Counsel in this particular matter do indeed provide a necessary and appropriate response to the contraventions committed by the Respondent. In making such finding, however, we do note that no additional circumstances were brought before this Hearing Panel by way of mitigating factors which may have persuaded us in other circumstances to determine that some other penalty might be appropriate.

¶ 34 We have also taken note of the fact that the fees and costs (\$10,000) sought by IIROC in this matter pursuant to Section 8214 of the Rules only represents approximately one-half of the investigation and prosecution costs incurred up to but not including the costs of preparation for the conduct of this hearing itself. Accordingly, we find that the amount claimed is more than reasonable in the circumstances.

DECISION

¶ 35 In the result, we have determined to impose the following sanctions on the Respondent James Dugald MacArthur for his contraventions of section 8104 of the Rules:

- (a) a fine of \$50,000;
- (b) a permanent ban on registration in any capacity of the Respondent James Dugald MacArthur, and
- (c) the Respondent to pay costs to IIROC in the amount of \$10,000.

¶ 36 These reasons may be signed in counterpart.

DATED this 8th day of May, 2017.

Edward T. McDermott

Debbie Archer

Daniel Iggers

If the Hearing Panel concludes that the Respondent did commit any or all of the contraventions alleged by Staff in the Statement of Allegations, the Hearing Panel may, pursuant to Sections 8209 and 8210 impose any one or more of the following penalties:

Where the Respondent is/was a Regulated Person who is not a Dealer Member:

- (a) a reprimand;
- (b) disgorgement of any amount obtained, including any loss avoided, directly or indirectly, as a result of the contravention;
- (c) a fine not exceeding the greater of:
 - (i) \$5,000,000 per contravention; and
 - (ii) an amount equal to three times the profit made or loss avoided by the person, directly or indirectly, as a result of the contravention.
- (d) suspension of the person's approval or any right or privilege associated with such approval, including access to a Marketplace, for any period of time and on any terms and conditions;
- (e) imposition of any terms or conditions on the person's continued approval or continued access to a Marketplace;
- (f) prohibition of approval in any capacity, for any period of time, including access to a Marketplace;
- (g) revocation of approval;
- (h) a permanent bar to approval in any capacity or to access to a Marketplace;
- (i) permanent bar to employment in any capacity by a Regulated Person, and
- (j) any sanction determined to be appropriate under the circumstances.

Where the Respondent is/was a Dealer Member:

- (a) a reprimand;
- (b) disgorgement of any amount obtained, including any loss avoided, directly or indirectly, as a result of the contravention;
- (c) a fine not exceeding the greater of:
 - (i) \$5,000,000 per contravention; and
 - (ii) an amount equal to three times the profit made or loss avoided by the Dealer Member, directly or indirectly, by reason of the contravention;
- (d) suspension of membership in IIROC or of any right or privilege associated with membership, including a direction to cease dealing with clients, for any period of time and on any terms and conditions;
- (e) imposition of any terms and conditions on the Dealer Member's continued membership, including on access to a Marketplace;
- (f) expulsion from membership and termination of the rights and privileges of membership, including access to a Marketplace;
- (g) a permanent bar to membership in IIROC;
- (h) appointment of a monitor; and
- (i) any other sanction determined to be appropriate under the circumstances.

If the Hearing Panel concludes that the Respondent did commit any or all of the contraventions alleged by the Staff in the Statement of Allegations, the Hearing Panel may assess and order any investigation and prosecution costs determined to be appropriate and reasonable in the circumstances pursuant to Section 8214.

DATED this 12th day of January, 2017.

“National Hearing Coordinator”

NATIONAL HEARING COORDINATOR

Investment Industry Regulatory Organization of Canada

Suite 2000, 121 King Street West

Toronto, Ontario, M5H 3T9

SCHEDULE “B”

IN THE MATTER OF:

**THE RULES OF THE INVESTMENT INDUSTRY REGULATORY
ORGANIZATION OF CANADA
AND
JAMES DUGALD MACARTHUR**

STATEMENT OF ALLEGATIONS

Further to a Notice of Hearing dated January 12, 2017 Staff of the Investment Industry Regulatory Organization of Canada make the following allegation:

PART I - CONTRAVENTION ALLEGED

From September to November, 2016 the Respondent failed to co-operate with an IIROC investigation by failing to provide documents and attend a compelled interview, contrary to the IIROC Consolidated Enforcement, Examination and Approval Rules Section 8104.

PART II - PARTICULARS

A. Overview

1. In September 2016 IIROC Enforcement Staff (“Staff”) compelled the Respondent to provide certain documents in relation to an IIROC investigation.
2. The Respondent has failed to deliver any of the requested documents to Staff.
3. In September 2016 Staff also compelled the Respondent to attend an interview in October 2016. At the Respondent’s request the interview was rescheduled and he was subsequently compelled to attend an interview in November 2016.
4. The Respondent failed to attend the November 2016 interview.

B. Registration History

5. The Respondent was a Registered Representative (“RR”) with IIROC member firms as follows:

CIBC World Markets Inc.	2003 to 2012
MacQuarie / Richardson GMP Ltd.	2012 to 2014
Manulife Securities Inc. (“Manulife”)	2014 to 2015

6. The Respondent is currently not an IIROC registrant.

C. Client Complaint Filing

7. In April 2016 the Respondent's Dealer Member firm, Manulife, filed a Complaints and Settlement Reporting System report ("ComSet Report") with IIROC as a result of its receipt of a Statement of Claim served by the Respondent's client TF.

8. The ComSet Report cited the Statement of Claim wherein TF alleged as follows:

- That on 15 occasions between 2011 and 2015 the Respondent borrowed a total of approximately \$1M from TF at an interest rate of 12% per annum;
- That the Respondent offered security for the loans by way of a first mortgage on real property that he owned ;
- That the Respondent signed Promissory Notes with respect to the loans in May 2011 and February 2015; and
- That the Respondent had failed to pay any of the principal amount borrowed or interest as agreed.

9. The Respondent failed to defend the Statement of Claim and was noted in default in July 2016.

D. Respondent's Failure to Co-operate with IIROC

Failure to Respond to Compelled Request for Documents

10. By letter dated August 8, 2016, Staff requested that the Respondent provide information and documentation in respect of IIROC's investigation into the issues summarized in the ComSet Report, by August 22, 2016.

11. On August 22, 2016 the Respondent left a voicemail message with Staff requesting an extension of time to provide a response to the request.

12. By letter dated September 12, 2016, Staff compelled the Respondent to provide the previously requested information and documentation by a new deadline of September 22, 2016.

13. The Respondent failed to respond to the September 12, 2016 letter.

14. By letter dated October 24, 2016, Staff again compelled the Respondent to provide the previously requested information and documentation by a new deadline of November 9, 2016.

15. The Respondent failed to respond to the October 24, 2016 letter, and has failed to provide any information or documentation in respect of the IIROC investigation.

Failure to Attend Compelled Interview

16. Between May and July 2016 Staff contacted the Respondent on approximately five occasions in an attempt to schedule an interview with him, however the Respondent failed to fix a date for the interview.

17. By letter dated September 12, 2016, Staff compelled the Respondent to attend an interview on October 24, 2016. The letter indicated that a failure to attend the interview may result in a disciplinary action.

18. On Friday, October 21, 2016 Staff left a voicemail message for the Respondent to remind him of the interview scheduled for Monday, October 24, 2016 and repeated the date, time, and address for the interview.

19. On Sunday, October 23, 2016 the Respondent left Staff a voicemail message advising that he would be unable to attend the scheduled interview due to work commitments, and that he would attempt to get in touch with Staff to reschedule the interview; but ultimately did not do so.

20. By letter dated October 24, 2016, Staff again compelled the Respondent to attend an interview on

November 23, 2016.

21. The letter indicated that should he fail to provide the documentation previously requested and/or attend the scheduled interview, Staff would be in a position to commence formal disciplinary proceedings against him for failing to co-operate with an IIROC investigation.
22. On October 24, 2016 Staff also contacted the Respondent by telephone and left a voicemail message confirming the details of the letter of the same date.
23. On November 23, 2016 at approximately 6 am the Respondent left Staff a voicemail message advising that he would be unable to attend the interview scheduled for later that day.
24. The Respondent failed to attend the compelled interview.

DATED at Toronto, Ontario this 12th day of January, 2017.

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