

**Re Dion**

**IN THE MATTER OF:**

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

**and**

**Steven Dion**

2017 IIROC 20

Hearing Panel  
of the Investment Industry Regulatory Organization of Canada  
(Quebec District)

Heard: February 15, 2017  
Decision: February 15, 2017  
Decision Released: April 6, 2017

**Hearing Panel:**

Me Guy Lemoine, Panel Chair, Mr. Jean A. Elie and Mr. Jean Morin

**Appearances:**

Me Fanie Dubuc, Enforcement Counsel, for IIROC and

Me Yves Robillard, Miller Thompson SENCRL/LLP, for the Respondent

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**REASONS FOR THE DECISION ON THE SETTLEMENT  
AGREEMENT BETWEEN IIROC AND THE RESPONDENT**

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**BACKGROUND**

¶ 1 A settlement hearing was held on February 15, 2017, before a Hearing Panel of the Investment Industry Regulatory Organization of Canada (IIROC), to consider whether, pursuant to Rule 8215 of the Consolidated Rules of IIROC, the Hearing Panel should accept a settlement agreement between Staff of IIROC (Staff) and Steven Dion.

¶ 2 The Settlement Agreement is appended to this decision.

¶ 3 No witness was presented at the hearing. We heard the admissions and the submissions of counsel for both parties.

¶ 4 After the closing of the proceedings on February 15, 2017, the members of the Hearing Panel withdrew to deliberate on the matter, in consideration of the facts, the applicable rules and the case law.

¶ 5 That same day, after concluding unanimously that the proposed Settlement Agreement should be accepted, we rendered our decision to accept the proposed Settlement Agreement, informed the parties of our

decision and declared that the written reasons in support of our decision would follow.

¶ 6 Here are those reasons.

## THE FACTS

¶ 7 The relevant facts in the matter before us are laid out in paragraphs 4 to 21 of the Settlement Agreement and are reproduced below:

“4. The Respondent has been approved as a Registered Representative with IIROC and with its predecessor, the Investment Dealers Association of Canada (IDA), since June 1998;

5. The Respondent was in the employ of National Bank Financial inc. (NBF) from June 1998 to July 2016;

6. The Respondent has been in the employ of Desjardins Securities Inc. (DS) since July 2016.

### *THE CLIENT M.D.*

7. M.D. opened three accounts (RRSP, LIRA and TFSA) with the Respondent at NBF in May 2010;

8. When M.D.'s accounts were opened, the form defining the “client profile” indicated that the chosen portfolio type was in the “Balanced” category, representing a 100% moderate risk factor;

9. The Respondent stated to Staff of IIROC that at the time the accounts were opened, he was informed that M.D. was 58 years old, that the latter was planning to retire at the age of 65 and that he had no experience with stock investing in the gold sector;

10. M.D. transferred 95% of his liquid assets, an amount of \$250,000, including a stock portfolio that he held with a discount broker, to the accounts opened with the Respondent;

11. According to the new account application form (“client profile”) dated May 19, 2010:

1. M.D. possessed total assets valued at \$380,000 and an annual income of \$70,000 as a government employee, and he held a government pension plan;
2. His knowledge of investing was described as “average”;
3. According to the information on Model Portfolios, the Investor Profile in the Balanced Portfolio category is described as follows: “You give equal weight to income and capital growth. You can tolerate moderate volatility to ensure the growth of your capital, but you prefer having a portfolio with a significant exposure to fixed-income securities for reasons of stability. Your tolerance for risk is average.”;
4. According to this portfolio type, the asset class should break down as follows:
  - i. Cash/cash equivalents: 0%-20%;
  - ii. Fixed income: 30%-65%;
  - iii. Equities 30%-65%
  - iv. Alternative investments: 0%-15%.

12. M.D. confirmed to Staff of IIROC that the information contained in his investor profile concerning his financial circumstances, his investment objectives and his risk tolerance was accurate.

*CONCENTRATION OF SECURITIES IN THE GOLD AND PRECIOUS METALS SECTOR*

13. *Between July 15, 2011 and February 24, 2014 (the material period), the Respondent implemented an investment strategy to concentrate the accounts in the gold and precious metals securities sector;*

14. *The Respondent stated to IIROC Staff that he maintained the same investment strategy throughout the material period;*

15. *The Respondent believed in good faith that this investment strategy would be profitable for his client according to his analysis, which included his personal assessment of the economic conditions during the material period and studies of investments in the gold and precious metals sector;*

16. *The Respondent recommended to client M.D. the purchase of eight (8) securities in the gold and precious metals sector;*

17. *However, the majority of the recommended securities were considered to be high-risk securities with a high volatility rate;*

18. *Over the course of the material period, the investment strategy led to a concentration of securities in the gold and precious metals sector that ran as high as 39% at certain times;*

19. *This investment strategy proved unsuitable, for it resulted in a concentration of high-risk securities in the client accounts that exceeded the risk tolerance parameters associated with the client's investor profile;*

20. *Because of this unsuitability, the client M.D. lost nearly \$94,000, irrespective of the gains realized on other assets:*

<i>Gains / Losses</i>			
<i>Securities in the Gold and Precious Metals Sector</i>			
<i>Security</i>	<i>Amount Invested (\$)</i>	<i>Sale/Value as at January 31, 2014 (\$)</i>	<i>Gains/(Losses) (\$)</i>
DYNAMIC PRECIOUS METALS	45,000.00	19,361.63	(25,638.37)
CARPATHIAN GOLD INC	10,070.00	1,120.00	(8,950.00)
GREAT BASIN GOLD LTD	12,725.00	40.89	(12,684.11)
GREAT BASIN CV 8% 30NV14	19,271.20	1,200.00	(18,071.20)
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SEMAFO INC	12,464.40	5,505.00	(6,959.40)
JAGUAR MINING INC	9,932.25	11,310.00	1,377.75
<b>Total Losses</b>	<b>135,894.85</b>	<b>42,277.52</b>	<b>(93,617.33)</b>

21. *The losses suffered by client M.D. in the gold and precious metals sector represent 35% of the total capital invested with the Respondent.”*

¶ 8 At the hearing, the parties also informed the Hearing Panel of the additional facts below:

1. The Respondent has no disciplinary history;

2. The client M.D. was paid an indemnity by the Respondent's insurer. The Respondent also paid his client a sum of five thousand dollars (\$5000), which is the amount of his insurance deductible.
3. Following the events in the case at hand, the Respondent conducted a review program of all of his clients' portfolios.

## CONTRAVENTION

¶ 9 The proposed Settlement Agreement states Mr. Dion's alleged misconduct in these terms:

*"By reason of the above-described misconduct, the Respondent admits that he contravened Rule 1300.1 (q) of the IIROC Dealer Member Rules when he recommended an investment strategy and the purchase of securities that were unsuitable for this client, given such factors as the client's financial situation, his knowledge of investing, his investment objectives and time horizon, his risk tolerance, as well as the current composition and risk level of the client's investment portfolio in the said account or accounts."*

¶ 10 IIROC Dealer Member Rule 1300.1(q) provides:

*"Suitability determination required when recommendation provided*

*(q) Each Dealer Member, when recommending to a client the purchase, sale, exchange or holding of any security, shall use due diligence to ensure that the recommendation is suitable for such client based on factors including the client's current financial situation, investment knowledge, investment objectives and time horizon, risk tolerance and the account or accounts' current investment portfolio composition and risk level."*

## TERMS OF SETTLEMENT

¶ 11 The proposed Settlement Agreement states the following:

*"23. The Respondent accepts the following penalties and costs:*

- a) A fine of \$25,000, including disgorgement of the commissions earned in connection with the alleged contravention, a sum of \$2,976; and*
- b) Pass the exam based on the Conduct and Practices Handbook Course within twelve (12) months following acceptance of this Settlement Agreement by the Hearing Panel;*
- c) The Respondent agrees to pay IIROC costs in the amount of \$3,000.*

*24. The Respondent agrees to pay IIROC, by cheque, an amount of \$14,000, which is equal to 50% of the aggregate financial penalty (fine, disgorgement of commissions and costs) on the date of acceptance of the Settlement Agreement by the Hearing Panel."*

## REPRESENTATIONS OF THE PARTIES:

¶ 12 At the hearing, the parties made the following representations in order to argue the merits of their joint recommendation.

¶ 13 The parties recalled the main facts and the Respondent's admission that he contravened Rule 1300.1 (q) of the IIROC Dealer Member Rules when he recommended an investment strategy and the purchase of securities that were unsuitable for this client.

¶ 14 Counsel for IIROC notably invoked the limited powers of a Hearing Panel seized of a proposed settlement agreement. To that effect, she notably referred us to IIROC Rule 8215 (5), on enforcement proceedings, and to Rule 8428 (6) of IIROC's "Rules of Practice and Procedure". She then submitted different decisions that have been rendered on the subject.

¶ 15 The parties emphasized that the joint recommendation submitted to us regarding the penalties to impose were founded on the principles contained in the “IIROC Sanction Guidelines”.

¶ 16 Finally, the Hearing panel was invited to consider various disciplinary decisions imposed in similar matters.

## ANALYSIS

### A) HEARING PANEL POWERS OVER A PROPOSED SETTLEMENT AGREEMENT

¶ 17 Rule 8215 (5) on Enforcement Proceedings states:

*“Following a settlement hearing, the Hearing Panel may either accept or reject the Settlement Agreement.”*

¶ 18 Consequently, the hearing panel seized of a settlement proposal may in no case modify the content.

¶ 19 Rule 8428 (6) of the "Rules of Practice and Procedure" provides:

*“At a settlement hearing, facts that are not contained in the settlement agreement must not be disclosed to the hearing panel without the consent of all parties...”*

¶ 20 We have considered four decisions that explain the role of a Hearing Panel when the parties at a hearing submit a joint recommendation.

¶ 21 *Re Sole* (2016 IIROC 30),

In this matter, the Hearing Panel examined the role that it must play in determining whether to accept or reject the terms of a settlement agreement. It reviewed the case law on this question.

*“14 ... The Hearing Panel adopts and approves of the following statement in that respect as set forth in Re Melville (2014 IIROC 51) and referenced in Re M Partners Inc. (2015 IIROC 11):*

*15 In Re Melville (2014 IIROC 51) the Hearing Panel capsulized the role of a Hearing Panel in reviewing the Settlement Agreement in the following terms:*

*9. In the recent decision of Re Faber, 2014 IIROC 14 (CanLII), the panel commented on the role of a Hearing Panel in considering a Settlement Agreement in the following terms:*

*9. Under the provisions of IIROC’s Rule 20.36, it is open to this Hearing Panel to either accept or reject the Settlement Agreement tendered upon us by the parties. It is not a question of whether the agreed-upon penalties are ones which this Panel would have imposed had the matter come before us for determination at a hearing. It is also not open to us to amend, re-write or alter the terms of the agreement reached between the parties.*

*10. It is however our fundamental responsibility to be satisfied that the penalties set forth in the agreement are within a reasonable range of appropriateness in the circumstances set forth in the agreed-upon statement of facts.*

*11. The following excerpts from previously decided cases as recorded in the decision of Re Ast (2012 IIROC 38) set forth the parameters of the Hearing Panel’s decision making processes when reviewing a Settlement Agreement presented to us by the parties to the dispute:*

*Standard for Reviewing a Settlement Agreement*

*13 The standard for reviewing a Settlement Agreement was well-*

stated in a recent Pacific District hearing, *Re Johnson* (2012 IIROC 19), where the panel stated:

*‘The test applicable to a decision whether to accept or reject a settlement is well-known. Simply put, a panel should accept such an agreement unless it considers the penalty provided for clearly to fall outside a reasonable range of appropriateness.’*

¶ 22 *Re Turenne* (2013 IIROC 43),

*“18 The question for the Hearing Panel is whether, given the misconduct, the penalties fall within "a reasonable range of appropriateness". The Hearing Panel can either accept or reject the Settlement Agreement. It may not in any way alter the agreement or have knowledge of facts not in evidence in the Agreement. The Hearing Panel powers end there.”*

¶ 23 *Re BMO Nesbitt Burns and BMO Nesbitt Burns Inc.* (2012 IIROC 21)

*“8 It is clear from jurisprudence emanating from the courts and from Hearing Panels of IIROC, Investment Dealers Association and the Mutual Fund Dealers Association, that our task is not to decide whether, in this case, we would have arrived at the same decision as that reached by the parties. Rather, our duty is to determine whether the penalty is a reasonable one and that it meets the objectives of the disciplinary process which are to maintain the integrity of the investment industry. We cite from the recent decision of the Hearing Panel in *Re CIBC World Markets Inc.*, [2011] IIROC No. 38:*

*13 Finally, hearing panels will not lightly interfere with a negotiated settlement. As was said in *Re Milewski*, [1999] IDACD No. 17,*

*... a District Council considering a settlement agreement will tend not to alter a penalty that it considers to be within a reasonable range, taking into account the settlement process and the fact that the parties have agreed. It will not reject a settlement unless it views the penalty as clearly falling outside a reasonable range of appropriateness.*

*14 Or, as put by Winkler J. (albeit in another context) in *Gilbert v. CIBC*, [2004] O.J. 4260:*

*There is a presumption of fairness when a proposed class settlement negotiated at arms length ... is presented to the court for approval. A court will only reject a proposed settlement when it finds that the settlement does not fall within a range of reasonableness.*

*The test to be applied is whether the settlement is fair and reasonable ... This allows for a range of possible results and there is no perfect settlement. Settlement is a product of compromise, which by definition, necessitates give and take.*

*15 In our view, the settlement, negotiated as it was by the parties assisted by capable counsel, does not clearly fall "outside a range of appropriateness" and it should therefore be, and was, accepted by the panel.”*

¶ 24 *Poulin c. R.* (2010 QCCA 1854)

The Québec Court of Appeal states:

[TRANSLATION]

*“[10] Although the judge is not bound by the joint recommendation of the parties, he may not set it aside unless it is unreasonable, contrary to the public interest or would tend to bring the administration of justice into disrepute.”*

## **B) PRINCIPLES APPLICABLE TO SANCTIONS**

¶ 25 Applicable principles when determining sanctions are contained in the *IIROC Sanction Guidelines*.

¶ 26 Their provisions are divided into two parts:

Part I – Sanction Principles for IIROC Disciplinary Proceedings provides a framework that should be considered in connection with the imposition of sanctions in all cases.

Part II – Key Factors in Determining Sanctions provides a list of factors commonly taken into consideration when making a determination as to an appropriate sanction.

¶ 27 Disciplinary sanctions are preventative in nature and should be designed to protect the investing public, strengthen market integrity, and improve overall business standards and practices.

¶ 28 The purpose of sanctions in a regulatory proceeding is to protect the public interest by restraining future conduct that may harm the capital markets. In order to achieve this, sanctions should be significant enough to prevent and discourage future misconduct by the respondent (specific deterrence), and to deter others from engaging in similar misconduct (general deterrence).

¶ 29 These guidelines also enumerate certain key factors that are useful in the determination of sanctions. In particular, we considered the following factors:

1. The client's portfolio was heavily concentrated in eight securities in the gold and precious metals sector. This concentration fluctuated between 20% and 39% and constituted a high level of risk.
2. The investment strategy, while unsuited to this client, was established in good faith and maintained throughout a 32-month period. The business relationship between Mr. Dion and his client was longer, having begun in 2010. Despite the Respondent's failure, there was no fraudulent intent.
3. The extent of the injury: The client sustained a loss of \$93,617.33 on the portion of his portfolio invested in eight securities in the gold and precious metals sector. These losses were however offset by the gains realized (total losses amount to \$56,609 according to IIROC and to \$49,194.17 according to the Respondent) on the portfolio as a whole during the total investment period.
4. The client, who was 58 years old at the start of his business relationship with the Respondent, wanted to retire at age 65.
5. The client's degree of vulnerability, since he had no investment experience in the gold sector.
6. The concentration of the client's stock portfolio in gold securities (39%) was excessive.
7. The Respondent has no disciplinary history.
8. The investment strategy developed by Mr. Dion caused the client to lose money, yet is not in the nature of a fraud. The strategy did not aim to enrich Mr. Dion at his client's expense. The recommended sanctions includes disgorgement of two thousand nine hundred and seventy-six dollars and thirty-two cents (\$2976.32), namely the amount of the commissions collected, such that the Respondent will have derived no financial benefit from his misconduct.
9. The Respondent had errors and omissions insurance, which compensated his client. However, Mr. Dion handled the \$5,000 deductible provided in his insurance contract.
10. Following the events in this matter, the Respondent voluntarily undertook a review of all of his portfolios in order to avoid a repeat of the current situation.

### C) CASE LAW

¶ 30 For purposes of evaluating the adequacy of the recommended sanctions, the Hearing Panel examined five disciplinary decisions imposed in similar matters.

¶ 31 *Re Ford* (2016 IIROC 31)

In this matter, only one of the three counts is relevant to the case at hand, namely count 2 which alleges that Mr. Ford, over a six-year period, recommended securities that were unsuitable to two clients. The aggregate penalty imposed on the respondent was a fine of thirty thousand dollars (\$30,000) for all three counts, costs in the amount of five thousand dollars (\$5000), rewriting the exam based on the Conduct and Practices Handbook, and strict supervision for six months.

¶ 32 *Re Renaud* (2016 IIROC 20)

Between 2007 and 2013, Mr. Renaud failed to use due diligence to ensure that the recommendations that he made for the accounts of his clients were suitable for them, contrary to IIROC Dealer Member Rule 1300.1 (q) (IDA By-law 1300.1(q) prior to June 1, 2008).

There were four clients to whom Mr. Renaud made inappropriate recommendations, entailing considerable losses of more than eight hundred and thirty thousand dollars (\$830,000).

The hearing panel imposed the following sanctions on Mr. Renaud: a) an \$80,000 fine; b) a one-year suspension from registration. Mr. Renaud will also have to pay costs in the amount of \$20,000.

¶ 33 *Re Jones* (2015 IIROC 05)

IIROC accepted a settlement agreement entered into between IIROC Staff and Kelly Richard Jones.

Mr. Jones admitted to having handled the accounts of three of his clients inappropriately over a period of more than four years, by failing in his duty to know the clients and by making unsuitable recommendations that led to losses of more than \$440,000.

Under the terms of the settlement agreement, Mr. Jones agreed to the following sanctions:

- a. A fine in the amount of \$75,000;
- b. suspension of approval with IIROC in any capacity for one year;
- c. Mr. Jones also agreed to pay IIROC costs in the amount of \$5,000.

¶ 34 *Re Brodie* (2013 IIROC 39)

Following a disciplinary hearing, a hearing panel of IIROC found that Mr. Brodie made investment recommendations that were unsuitable for his clients, made discretionary trades and personally compensated clients for losses in their accounts, contrary to IIROC Rules.

The panel imposed the following sanctions on John Edward Brodie: (a) a six-month suspension from registration in any capacity with IIROC; (b) a fine of \$20,000 for each of the three counts, for a total of \$60,000; (c) 12 months of strict supervision upon his re-registration with IIROC in any capacity; (d) the requirement to rewrite the CPH exam upon his re-registration with IIROC in any capacity; the payment of costs of \$20,000.

¶ 35 *Beaulne* (2012 IIROC 61)

Following a disciplinary hearing held on September 12, 2012, a hearing panel of IIROC found that Mr. Beaulne committed the following violations:

Between October 2008 and April 25, 2010, the Respondent failed to exercise due diligence to ensure that his investment recommendations in leveraged Exchange-Traded Funds constituted a suitable investment for two (2) of his clients, given their financial and personal circumstances and their investment objectives, contrary to IIROC Dealer Member Rule 1300.1 (a) (p) and (q); 2. Between June 2008 and April 25, 2010, the Respondent failed to use due diligence to ensure that he had the necessary knowledge of the features and risks inherent in leveraged Exchange-Traded Funds before recommending such an investment to two (2) of his clients, contrary to IIROC Dealer Member Rule 1300.1 (a).

The Hearing Panel imposed the following penalties on Mr. Beaulne:

- a. A fine in the amount of \$30,000;
- b. costs in the amount of \$10,000;
- c. disgorgement of \$1,490.72 in fees collected;
- d. a two-year suspension of registration in any capacity with an IIROC-regulated firm; and
- e. upon expiration of the two-year suspension, the requirement to have repeated or repeat the CPH course before seeking re-registration and, in the event of re-registration, a strict supervision for a period of twelve (12) months.

## CONCLUSION

¶ 36 In short, the Hearing Panel must determine whether the recommended sanction falls within “a reasonable range of appropriateness” given the facts, the misconduct, the standards and the applicable case law mentioned above. Our authority is limited to accepting or rejecting the Settlement Agreement. We do not have the authority to modify it in any way.

¶ 37 The sanctions imposed in this case should be designed to protect the investing public, strengthen market integrity and improve overall business standards and practices. They should be significant enough to prevent and discourage future misconduct by the respondent (specific deterrence), and to deter others from engaging in similar misconduct (general deterrence).

¶ 38 We conclude that the recommended sanction falls within “a reasonable range of appropriateness” given the facts, the misconduct, IIROC’s Sanction Guidelines, the analysis of the applicable case law mentioned above and the parties’ representations.

## FOR THESE REASONS:

¶ 39 The Hearing Panel, pursuant to the settlement hearing, ACCEPTS the Settlement Agreement appended hereto in full and imposes the sanctions agreed between the parties, namely:

- a) The Respondent shall pay a fine of \$25,000, including disgorgement of the commissions earned in connection with the alleged contravention, a sum of \$2,976; and
- b) Pass the exam based on the Conduct and Practices Handbook Course within twelve (12) months following acceptance of this Settlement Agreement by the Hearing Panel;
- c) The Respondent agrees to pay IIROC costs in the amount of \$3,000.

The Respondent shall pay IIROC, by cheque, an amount of \$14,000, which is equal to 50% of the aggregate financial penalty (fine, disgorgement of commissions and costs), on the date of acceptance of the Settlement Agreement by the Hearing Panel.

Signed at Montréal, this 6<sup>th</sup> day of April, 2017.

Guy Lemoine

Jean A. Elie

Jean Morin

## APPENDIX

### SETTLEMENT AGREEMENT

#### PART I - INTRODUCTION

1. The Investment Industry Regulatory Organization of Canada ("IIROC") will issue a notice of application to announce that a settlement hearing will be held before a Hearing Panel (the Hearing Panel) to consider whether, pursuant to Rule 8215 of the Consolidated Rules of IIROC, the Hearing Panel should accept a settlement agreement (the Settlement Agreement) between Staff of IIROC (Staff) and Steven Dion (the Respondent).

## **PART II - JOINT SETTLEMENT RECOMMENDATION**

2. Staff and the Respondent jointly recommend that the Hearing Panel accept the Settlement Agreement in accordance with the terms set forth below.

## **PART III – AGREED FACTS**

3. For purposes of the Settlement Agreement, the Respondent agrees with the facts set out in this Section III.

### **RESPONDENT’S PROFESSIONAL EXPERIENCE**

4. The Respondent has been approved as a Registered Representative with IIROC and with its predecessor, the Investment Dealers Association of Canada (IDA), since June 1998;
5. The Respondent was in the employ of National Bank Financial inc. (NBF) from June 1998 to July 2016;
6. The Respondent has been in the employ of Desjardins Securities Inc. (DS) since July 2016.

### **THE CLIENT M.D.**

7. M.D. opened three accounts (RRSP, LIRA and TFSA) with the Respondent at NBF in May 2010;
8. When M.D.’s accounts were opened, the form defining the “client profile” indicated that the chosen portfolio type was in the “Balanced” category, representing a 100% moderate risk factor;
9. The Respondent stated to Staff of IIROC that at the time the accounts were opened, he was informed that M.D. was 58 years old, that the latter was planning to retire at the age of 65 and that he had no experience with stock investing in the gold sector;
10. M.D. transferred 95% of his liquid assets, an amount of \$250,000, including a stock portfolio that he held with a discount broker, to the accounts opened with the Respondent;
11. According to the new account application form (“client profile”) dated May 19, 2010:
  1. M.D. possessed total assets valued at \$380,000 and an annual income of \$70,000 as a government employee, and he held a government pension plan;
  2. His knowledge of investing was described as “average”;
  3. According to the information on Model Portfolios, the Investor Profile in the Balanced Portfolio category is described as follows: *“You give equal weight to income and capital growth. You can tolerate moderate volatility to ensure the growth of your capital, but you prefer having a portfolio with a significant exposure to fixed-income securities for reasons of stability. Your tolerance for risk is average.”*;
  4. According to this portfolio type, the asset class should break down as follows:
    - i. Cash/cash equivalents: 0%-20%;
    - ii. Fixed income: 30%-65%;
    - iii. Equities 30%-65%
    - iv. Alternative investments: 0%-15%.
12. M.D. confirmed to Staff of IIROC that the information contained in his investor profile concerning his financial circumstances, his investment objectives and his risk tolerance was accurate.

**CONCENTRATION OF SECURITIES IN THE GOLD AND PRECIOUS METALS SECTOR**

13. Between July 15, 2011 and February 24, 2014 (the material period), the Respondent implemented an investment strategy to concentrate the accounts in the gold and precious metals securities sector;
14. The Respondent stated to IIROC Staff that he maintained the same investment strategy throughout the material period;
15. The Respondent believed in good faith that this investment strategy would be profitable for his client according to his analysis, which included his personal assessment of the economic conditions during the material period and studies of investments in the gold and precious metals sector;
16. The Respondent recommended to client M.D. the purchase of eight (8) securities in the gold and precious metals sector;
17. However, the majority of the recommended securities were considered to be high-risk securities with a high volatility rate;
18. Over the course of the material period, the investment strategy led to a concentration of securities in the gold and precious metals sector that ran as high as 39% at certain times;
19. This investment strategy proved unsuitable, for it resulted in a concentration of high-risk securities in the client accounts that exceeded the risk tolerance parameters associated with the client’s investor profile;
20. Because of this unsuitability, the client M.D. lost nearly \$94,000, irrespective of the gains realized on other assets:

Gain/(Loss)			
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<b>Total Losses</b>	<b>135,894.85</b>	<b>42,277.52</b>	<b>(93,617.33)</b>

21. The losses suffered by client M.D. in the gold and precious metals sector represent 35% of the total capital invested with the Respondent.

**PART IV – CONTRAVENTIONS**

22. By reason of the above-described misconduct, the Respondent admits that he contravened Rule 1300.1 (q) of the IIROC Dealer Member Rules, when he recommended an investment strategy and the purchase of securities that were unsuitable for this client, given such factors as the client’s financial situation, his knowledge of investing, his investment objectives and time horizon, his risk tolerance, as well as the

current composition and risk level of the client's investment portfolio in the said account or accounts.

#### **PART V - TERMS OF SETTLEMENT**

23. The Respondent accepts the following penalties and costs:
- a) A fine of \$25,000, including disgorgement of the commissions earned in connection with the alleged contravention, a sum of \$2,976; and
  - b) Pass the exam based on the Conduct and Practices Handbook Course within twelve (12) months following acceptance of this settlement agreement by the Hearing Panel;
  - c) The Respondent agrees to pay IIROC costs in the amount of \$3,000.
24. The Respondent agrees to pay IIROC, by cheque, an amount of \$14,000, which is equal to 50% of the aggregate financial penalty (fine, disgorgement of commissions and costs) on the date of acceptance of the Settlement Agreement by the Hearing Panel.

#### **PART VI – STAFF COMMITMENT**

25. If the Hearing Panel accepts the Settlement Agreement, Staff of IIROC shall take no further measures against the Respondent in respect of the facts set out in this Part III and the contraventions set out in Part IV, subject to the provisions of paragraph 26 below.
26. If the Hearing Panel accepts the Settlement Agreement and the Respondent does not abide by the terms thereof, Staff of IIROC may initiate proceedings against the Respondent, pursuant to Rule 8200. Said proceedings may be founded in part on the facts set out in Part III.

#### **PART VII – SETTLEMENT ACCEPTANCE PROCEDURE**

27. The Settlement Agreement is subject to acceptance by the Hearing Panel.
28. The Settlement Agreement shall be presented to a Hearing Panel at a settlement hearing held in accordance with the procedures described in Rule 8215 and Rule 8428, as well as any other procedure that may be agreed between the parties.
29. Staff and the Respondent agree that the Settlement Agreement shall constitute the entirety of the agreed facts presented at the Settlement Hearing, unless the parties agree that additional facts should be presented. If the Respondent does not appear at the Settlement Hearing, Staff may communicate additional material facts at the request of the Hearing Panel.
30. If the Hearing Panel accepts the Settlement Agreement, the Respondent waives his right, under IIROC rules and any applicable legislation, to a disciplinary hearing, review or appeal.
31. If the Hearing Panel rejects the Settlement Agreement, Staff and the Respondent may enter into another settlement agreement; or Staff may proceed to a disciplinary hearing in relation to the same allegations or to related allegations.
32. The terms of the Settlement Agreement shall remain confidential until their acceptance by the Hearing Panel.
33. The Settlement Agreement will become available to the public upon its acceptance by the Hearing Panel and the full text of the Agreement will be posted on the IIROC website. IIROC will also publish a summary of the facts, contraventions and penalties agreed to in the Settlement Agreement.
34. If the Hearing Panel accepts the Settlement Agreement, the Respondent agrees that neither he nor anyone on his behalf will make any public statements inconsistent with the Settlement Agreement.
35. The Settlement Agreement shall become effective and binding upon the Respondent and Staff from the date of its acceptance by the Hearing Panel.

## PART VIII – SIGNATURE OF THE SETTLEMENT AGREEMENT

36. The Settlement Agreement may be executed in several counterparts, and such counterparts together shall constitute one and the same agreement binding the parties.
37. A fax or electronic copy of a signature shall be treated as an original signature.

**SIGNED** this November 7, 2016.

(s) Steven Dion

**Steven Dion**

**Respondent**

**SIGNED** this November 8, 2016.

(s) Fanie Dubuc

**Me Fanie Dubuc**

**Enforcement Counsel,**

**on behalf of Staff of IIROC**

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