

Re Pedersson

IN THE MATTER OF:

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

and

George Alexander Peder Pedersson

2017 IIROC 32

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

Heard: April 27, 2017 in Vancouver, BC

Decision: April 27, 2017

Written Decision: May 31, 2017

Hearing Panel:

Jean P. Whittow Q.C., Chair, Mark Redcliffe and Johannes B. Van Koll

Appearances:

Paul Smith, Enforcement Counsel

George Alexander Peder Pedersson, absent

DECISION ON THE ACCEPTANCE OF SETTLEMENT AGREEMENT

¶ 1 This hearing was convened to consider a settlement agreement between IIROC and the respondent George Alexander Peder Pedersson, dated March 28, 2017 (the “Settlement Agreement”). The Settlement Agreement is attached as an appendix to this Decision.

¶ 2 The Respondent did not attend the hearing. Enforcement Counsel contacted the Respondent from the hearing room at the commencement of the proceedings and confirmed that the Respondent was aware that the hearing was proceeding and did not wish to attend.

¶ 3 For the reasons set out below, the Panel decided to accept the Settlement Agreement.

¶ 4 The Respondent admitted to the following contraventions of the IIROC Dealer Member Rules:
“The Respondent acted contrary to IIROC Dealer Member Rule 1300.1 (q) between March 2008 and July 2013 by failing to ensure recommendations he made to a client were suitable for that client.”

¶ 5 The agreed upon penalties were:

- a. a fine of \$10,000;
- b. a requirement to successfully rewrite the exam based on the Conduct and Practices Handbook;
and
- c. a requirement that any future registration be subject to a one year period of close supervision.

Facts

¶ 6 The facts agreed upon are set out in Part III of the attached Settlement Agreement.

¶ 7 This case concerns the Respondent's conduct in dealing with a single client, SW, over the period 2007 to 2013. The initial NCAF indicated that SW was a divorced woman in her 60s. She placed \$326,000, which was nearly her entire retirement savings, in an RRSP account over which the Respondent was the registered representative. Between 2008 and 2013, the Respondent recommended and executed purchases of large amounts of a limited number of high risk and high reward securities. While some produced significant gains, the losses were more than double the gains.

¶ 8 A high level of risk tolerance was recorded in an updated NCAF (approximately October 2009). However, the Respondent agrees that "[n]otwithstanding the recorded Risk Tolerances and Objectives on the NCAFs for the RRSP account, SW was risk averse" (para. 30).

¶ 9 The Respondent further agrees that he "failed to fully consider the essential facts related to SW such as her age, her limited future earning potential, and the total value of her retirement portfolio. A diligent RR, fully considering these facts, would not have recommended that such a large percentage of the RRSP Account be invested in high risk securities" (para. 32).

¶ 10 SW made a complaint to the Respondent's Dealer Member firm and to IIROC. The panel was advised that a claim against the firm was settled.

¶ 11 The Respondent is 67 years old, was formerly an economist at a Dealer Member firm, and became a client advisor in September 2000. He has not worked for an IIROC Dealer Member firm since April 2016.

¶ 12 Enforcement counsel advised that IIROC staff interviewed the Respondent and were satisfied that he has no substantial assets and limited income. The particulars will not be repeated here. The Respondent has agreed that, if not for his inability to pay, the agreed fine would have been higher and costs sought.

Analysis

¶ 13 It is well-established that a panel should accept a negotiated settlement unless it is clearly outside the range of acceptable outcomes. The most recent case referred to by Enforcement Counsel, *Re Donnelly* [2016 IIROC 23] is consistent with the long line of relevant authorities.

¶ 14 Enforcement Counsel referred the panel to *Re Husebye* (2016 IIROC 05 and 2016 IIROC 21), and an accepted Settlement Agreement between IIROC and Michael Sawisky dated August 24, 2016.

¶ 15 *Re Husebye* concerned a contravention of Rule 1300.1(q) of the Dealer Member Rules. Mr. Husebye recommended high risk leveraged exchange traded funds to several of his clients. He was described by the panel as "sincerely trying to do the best for his clients" but the panel found he failed to appreciate that the attendant risks made such securities unsuitable for three clients. After a contested hearing, the panel imposed a fine of \$20,000, a six month prohibition on re-registration, a requirement that he successfully rewrite Conduct and Practices Handbook Course exam and costs.

¶ 16 The Sawisky matter concerned a similar allegation, plus related allegations that the respondent failed to learn and remain informed of essential facts related to two clients (Dealer Member Rule 1300.1 (a)) and ensure that a security held in one client's account was suitable (1300.1 (r)). The panel accepted a disposition virtually identical to that now proposed.

¶ 17 The Panel notes the similarity of the contravention admitted to those in the precedent cases. We also had regard to the financial circumstances of the Respondent. This Panel is satisfied that the Settlement Agreement is well within the range of appropriate outcomes. The Settlement Agreement is therefore accepted.

Dated at Vancouver, British Columbia this 31st day of May, 2017.

Jean P. Whittow

Mark Redcliffe

Johannes B. Van Koll

APPENDIX
SETTLEMENT AGREEMENT

PART I – INTRODUCTION

1. The Investment Industry Regulatory Organization of Canada (IIROC) will issue a Notice of Application to announce that it will hold a settlement hearing to consider whether, pursuant to Section 8215 of the Consolidated Enforcement, Examination and Approval Rules of IIROC, a hearing panel (Hearing Panel) should accept the settlement agreement (Settlement Agreement) entered into between the staff of IIROC (Staff) and George Alexander Peder Pedersson (Respondent).

PART II – JOINT SETTLEMENT RECOMMENDATION

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

PART III – AGREED FACTS

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

Overview

4. These facts relate to the period of time from November 2007 through July 2013 when George Alexander Peder Pedersson (the Respondent) was a Registered Representative (RR) working at DWM Securities Inc. (DWM) in Vancouver, British Columbia.
5. Over a period of approximately five years, the Respondent failed to ensure that securities he recommended to a client who was over 60 years old with limited investment knowledge were suitable for her.

The Respondent

6. The Respondent is 67 years old and was a Vice-President and Economist at a dealer member firm from 1985 – 1989 and Chief Economist at another dealer member firm in 1998 and 1999.
7. The Respondent started working as a client advisor in Vancouver, British Columbia in September 2000 when he became a licensed mutual funds representative. He completed the Canadian Securities Course and Conduct and Practices Handbook Course in 2003 and the Professional Financial Planning Course in 2006.
8. The Respondent joined Dundee Securities Corporation (Dundee) in 2004 after the firm he was working at was purchased and merged into Dundee. Dundee subsequently became DWM and later HollisWealth, a division of Scotia Capital Inc. The Respondent worked continuously at this firm from 2004 until April, 2016. He has not worked for an IIROC Dealer Member Firm since that time.
9. As contemplated by IIROC's Sanction Guidelines, the Respondent has demonstrated to Staff that he has a bona fide inability to pay a higher fine.

The Client SW

10. SW was born in 1944 and resided in British Columbia. She had worked steadily as a property management administrator since 1981. At all times relevant to these allegations SW was divorced and solely responsible for funding her own retirement. She had limited investment knowledge.
11. Prior to meeting the Respondent, SW had a Registered Retirement Savings Plan (RRSP) account worth approximately \$265,000 at an investment management firm that offered mutual fund investments. SW had another group retirement account worth approximately \$40,000 at another investment management firm that offered mutual fund investments. These amounts represented virtually all of her investable assets.

SW opens accounts with the Respondent

12. On November 27, 2007, when she was 63 years old, SW opened a Cash account (Cash Account) and an RRSP account (RRSP Account) at Dundee. The Respondent was the RR responsible for these accounts.

Cash Account was insignificant

13. In December 2007, five different high risk securities with a total combined value of \$4,600 were transferred into the Cash Account.
14. There were no significant transactions in the Cash Account during the relevant period.

The NCAFs for the RRSP Account

15. The New Client Application Form (NCAF) for the RRSP Account signed by SW and the Respondent on November 27, 2007 recorded the following:

- SW was 63 years old
- SW had limited investment knowledge
- Apart from her personal residence valued at \$700,000, SW had \$285,000 in investable assets
- SW's annual income from all sources was \$80,000
- SW had known the Respondent for 2 weeks.

16. On the 2007 NCAF, the Respondent recorded the following Objectives and Risk Tolerances for the RRSP Account:

- Objective: 15% Income 75% Growth 10% Aggressive Growth
- Risk: 10% Low 60% Medium 30% High

17. In October, 2009 the Respondent was advised by supervisors at Dundee that the holdings in the RRSP Account were beyond the risk parameters recorded on the NCAF.

18. Although there was no actual change in SW's financial circumstances, investment objectives or risk tolerance, the Respondent met with SW and both signed an NCAF update form which changed the Objectives and Risk Tolerance in the RRSP Account to the following:

- Objective: 70% Growth 30% Aggressive Growth
- Risk: 30% Medium 70% High

Amount SW put into the RRSP Account

19. SW transferred or deposited \$326,000 into the RRSP Account as follows:

- In January, 2008 SW transferred \$262,000 from another institution
- In February, 2008 SW deposited \$7,000
- In May, 2010 SW transferred \$57,000 from another institution.

20. Except for her personal residence, the \$4,600 that she had in the Cash Account and another \$10,000 deposited into a Tax-Free Savings Account in 2011, this \$326,000 represented her entire retirement savings.

Recommendations in the RRSP Account

21. From March 11, 2008 through March 22, 2013, the Respondent recommended and executed purchases of large amounts of a limited number of high risk and high reward securities. Some of these securities produced significant gains, but others resulted in significant losses. The losses were more than double the gains.

22. A total of \$75,000 was invested in five securities that had significant gains. These were:

- Allana Potash Corp. \$23,000
 - Canfor Pulp Income Fund \$17,000
 - Dundee Wealth Inc. \$11,000
 - European Goldfields Limited \$13,000
 - Western Coal Corp. \$11,000
23. The \$75,000 invested in these five securities generated a \$77,000 profit in a relatively short period of time. Four of the five securities were held for less than six months.
24. A total of \$235,000 was invested in another seven securities as follows:
- Anderson Energy Ltd. \$22,000
 - Arsenal Energy Inc. \$33,000
 - Catalyst Paper Corporation \$45,000
 - Energizer Resources Inc. \$34,000
 - Hanwei Energy Services Corp. \$44,000
 - Migao Corporation \$34,000
 - San Gold Corporation \$23,000
25. The \$235,000 invested in these seven securities resulted in losses of \$179,000.
26. The price volatility associated with at least four of these securities was obvious to the Respondent because he continued to recommend and purchase them after the share price had dropped substantially. For example:
- (a) \$20,000 was initially invested in Catalyst Paper Corporation when the share price was \$1.17. An additional \$25,000 was purchased after the share price had fallen below \$0.30.
 - (b) \$10,000 was initially invested in Hanwei Energy Services Corp. when the share price was \$0.93. An additional \$34,000 was purchased after the share price had fallen below \$0.47.
 - (c) \$14,000 was initially invested in Migao Corporation at an average share price of \$6.87. An additional \$20,000 was purchased at an average share price of \$3.28 after the share price had fallen more than 50%.
 - (d) \$19,000 was initially invested in Anderson Energy Ltd. at an average share price of \$1.06. An additional \$6,000 was purchased after the share price had fallen to \$0.59.

High risk securities were unsuitable for SW

27. Except for Migao Corporation and Dundee Wealth Inc. which were both categorized as Medium Risk securities, ten of the twelve securities identified above were categorized as high risk securities by the Respondent's firm.
28. From June 2010 until July 2013, high risk securities as a percentage of the book value of the RRSP Account ranged from 53% - 70% and averaged 63% of the book value of the account.
29. During the same period the percentage of low risk securities was never above 8% of the book value of the account.
30. Notwithstanding the recorded Risk Tolerances and Objectives on the NCAFs for the RRSP Account, SW was risk averse. She wanted to achieve a reasonable rate of return on her investments but did not expect or want to take on any more risk than her circumstances would have otherwise dictated.
31. The Respondent's recommendations to purchase and hold the previously listed securities in the amounts

listed were not suitable for SW.

Essential facts not considered

32. During this period the Respondent failed to fully consider essential facts related to SW, such as her age, her limited future earning potential, and the total value of her retirement portfolio. A diligent RR, fully considering these facts, would not have recommended that such a large percentage of the RRSP Account be invested in high risk securities.

SW complains and closes her accounts

33. In July 2013 SW delivered a written complaint to the Respondent's firm regarding the recommendations and holdings in her account. Around the same time SW also transferred all of the holdings in her accounts to another firm.

SW was compensated

34. In May 2014 SW settled her claim by accepting a payment for a portion of the losses incurred in her accounts. This settlement was partially funded by the Respondent.

No Margin used

35. The Respondent did not recommend SW use margin at any time.

PART IV – CONTRAVENTIONS

36. By engaging in the conduct described above, the Respondent committed the following contravention of IIROC's Rules:

- (a) The Respondent acted contrary to IIROC Dealer Member Rule 1300.1 (q) between March 2008 and July 2013 by failing to ensure recommendations he made to a client were suitable for that client.

PART V – TERMS OF SETTLEMENT

37. The Respondent agrees to the following sanctions:

- (a) A fine in the amount of ten thousand dollars (\$10,000);
(b) A requirement to successfully rewrite the exam based on the Conduct and Practices Handbook;
and
(c) A requirement that any future registration be subject to a one year period of close supervision.

38. The Respondent acknowledges that if not for his inability to pay, the agreed fine would have been higher and that an order to pay costs would also have been made.

PART VI – STAFF COMMITMENT

39. If the Hearing Panel accepts this Settlement Agreement, Staff will not initiate any further action against the Respondent in relation to the facts set out in Part III and the contraventions in Part IV of this Settlement Agreement, subject to the provisions of paragraph 40 below.
40. If the Hearing Panel accepts this Settlement Agreement and the Respondent fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Rule 8200 against the Respondent. These proceedings may be based on, but are not limited to, the facts set out Part III of this Settlement Agreement.

PART VII – PROCEDURE FOR ACCEPTANCE OF SETTLEMENT

41. This Settlement Agreement is conditional on acceptance by the Hearing Panel.
42. This Settlement Agreement shall be presented to a Hearing Panel at a settlement hearing in accordance with the procedures described in Sections 8215 and 8428, in addition to any other procedures that may

be agreed upon between the parties.

43. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing, unless the parties agree that additional facts should be submitted at the settlement hearing. If the Respondent does not appear at the settlement hearing, Staff may disclose additional relevant facts, if requested by the Hearing Panel.
44. If the Hearing Panel accepts the Settlement Agreement, the Respondent agrees to waive all rights under the IIROC Rules and any applicable legislation to any further hearing, appeal and review.
45. 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 based on the same or related allegations.
46. The terms of this Settlement Agreement are confidential unless and until this Settlement Agreement has been accepted by the Hearing Panel.
47. The Settlement Agreement will become available to the public upon its acceptance by the Hearing Panel and IIROC will post a full of copy of this Settlement Agreement on the IIROC website. IIROC will also publish a summary of the facts, contraventions, and the sanctions agreed upon in this Settlement Agreement.
48. If this Settlement Agreement is accepted, the Respondent agrees that neither it nor anyone on its behalf will make a public statement inconsistent with this Settlement Agreement.
49. The Settlement Agreement is effective and binding upon the Respondent and Staff as of the date of its acceptance by the Hearing Panel.

PART VIII – EXECUTION OF SETTLEMENT AGREEMENT

50. This Settlement Agreement may be signed in one or more counterparts which together will constitute a binding agreement.
51. A fax or electronic copy of any signature will be treated as an original signature.

DATED this “28th” day of “March”, 2017.

“WITNESS”

Witness

“Lisa Hall”

Witness

“George Pedersson”

Respondent

“Paul Smith”

Paul Smith

Enforcement Counsel on behalf of Staff of IIROC

The Settlement Agreement is hereby accepted this “27th” day of “April”, 2017 by the following Hearing Panel:

Per: “Jean Whittow”

Panel Chair

Per: “Johannes van Koll”

Panel Member

Per: “Mark Redcliffe”

Panel Member