

# Re Suleiman

IN THE MATTER OF:

**The Dealer Member Rules of the Investment Industry Regulatory  
Organization of Canada (“IIROC”)**

**and**

**Rizwan Suleiman (“Respondent”)**

2016 IIROC 27

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

Heard: June 22, 2016

Decision: June 22, 2016

Written Reasons: August 9, 2016

## **Hearing Panel:**

Frederick H. Webber- Chair, Leo Ciccone and Phillip Ted E. Norris

## **Appearances:**

Kathryn Andrews, IIROC Counsel

Kevin Richard, Respondent’s Counsel

Respondent in person

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## **DECISION AND REASONS**

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### **A. FACTS**

¶ 1 This is a penalty hearing based on an Agreed Statement of Facts dated May 19, 2016, a copy of which is attached hereto (“ASF”). The facts agreed to need not be repeated here, but in summary, in July 2015 the Respondent altered his industry transcript to falsely indicate that he had passed the Partners, Directors and Officers (“PDO”) examination, and then provided it to his firm as though it were true and also sent an email to his manager indicating that he had written and passed the exam. In the ASF, the Respondent admits that the misconduct agreed to is a contravention of IIROC Rule 29.1.

### **B. PANEL’S FUNCTION**

¶ 2 This is not a Settlement Hearing, in which it is the Panel’s function to determine whether the agreed settlement falls within a reasonable range of possible sanctions, not whether it would have come to the same decision. In this case, it is the Panel’s function to determine the appropriate sanctions in the circumstances agreed to in the ASF, and in light of the submissions of IIROC counsel and Respondent’s counsel.

### **C. PROPOSED SANCTIONS**

¶ 3 IIROC sought the following penalties against the Respondent:

- (i) a one year suspension from registration in any capacity with IIROC;

- (ii) a fine of \$50,000; and,
- (iii) to re-write the Conduct and Practices Handbook (“CPH”) within 12 months of any re-registration with IIROC.

IIROC was also seeking payment towards the costs of the investigation and prosecution in the amount of \$10,000.

¶ 4 Respondent’s Counsel took the position the penalties and costs sought by IIROC were excessive and felt that the following would be more appropriate:

- (i) a suspension of six months;
- (ii) no fine, and
- (iii) payment of costs of \$1,000.

He did not disagree with the Respondent rewriting the CPH.

#### D. SANCTIONS PRINCIPLES AND IIROC SANCTIONS GUIDELINES

¶ 5 IIROC submitted that general sanctions principles are aimed at protection and prevention. The ability of registrants to comply with the regulatory framework established to ensure public confidence in the markets is a fundamental element of our securities regulatory system. Respondent’s counsel did not disagree with that proposition.

¶ 6 As set out in the February 2015 IIROC Sanctions Guidelines (the “Guidelines”) which are posted on the IIROC website:

- (a) “The purpose of sanctions in a regulatory proceeding is to protect the public interest by restraining future conduct that may harm the capital markets”,
- (b) “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)”, and
- (c) Sanctions should be proportionate to the conduct in question. Penalties imposed should also strike an appropriate balance by addressing a registrant’s specific misconduct but should also be in line with industry expectations.

Respondent’s counsel did not disagree with these principles, but disagreed with IIROC counsel regarding the sanctions which would be appropriate in this case.

¶ 7 The Guidelines indicate that a suspension should be considered where the contraventions involved fraudulent, wilful or reckless misconduct or has caused some measure of harm to investors, the integrity of a marketplace or the securities industry as a whole. Respondent’s counsel did not try to excuse the Respondent’s misconduct and agreed that a suspension would be appropriate. However, he disagreed with IIROC on the appropriate length of the suspension.

#### E. KEY FACTORS IN THIS CASE

¶ 8 The Guidelines refer to a number of key factors that should be taken into account by a panel in determining the appropriate sanctions. The following are relevant, and were taken into account by the Panel, in this case.

##### (a) Actions of the Respondent

There is no dispute that the Respondent altered the transcript of his PDO examination, provided the false

transcript to his Dealer Member firm and also sent an email to his manager indicating that he had written and passed the PDO exam, neither of which were true. This conduct was intentional and fraudulent and merits a suspension, a conclusion not denied by Respondent's counsel, the only question being the length of the suspension.

IIROC counsel stated that the transcript was altered in three ways, course name, mark achieved and date; Respondent's counsel argued that there was really only a single alteration involving three elements. The Panel agrees with Respondent's counsel on this issue, but does not find that the distinction is of much significance. The Respondent's actions were egregious whether the alterations are viewed as one or three things, and even though it was a single event and did not take place over an extended period of time. This is so because his actions involved dishonesty and deception.

IIROC counsel stated that an aggravating factor was the Respondent not admitting his misconduct until confronted by his firm. On the other hand Respondent's counsel pointed out that the Respondent did not take active steps to hide his misconduct (as took place in a number of the cases to which the Panel was referred) and admitted his misconduct as soon as he was confronted by his firm. The Panel finds that not voluntarily disclosing his misconduct is an aggravating factor, but not as serious as it would have been had he lied or tried to cover up his actions when confronted by his firm.

(b) Respondent's Personal Situation

Respondent was an experienced industry participant at the time of the misconduct and a Vice President at his firm. He cannot claim inexperience as an excuse for his actions. The ASF states that work and family stress at the time of the misconduct was a mitigating factor. At the hearing, the Panel was advised that the stress involved some issues with his parents and a newborn child at home. The Panel does not find this to be a compelling mitigating factor. However, the fact that the Respondent has no previous disciplinary history is a mitigating factor in the Panel's determination of appropriate sanctions.

(c) Respondent Motivation/ Benefits, Client Harm

The ASF states the Respondent told IIROC that that one reason he wanted to pass the PDO exam was to be eligible for a promotion from Vice President to Director at his firm the following year. However, he did not tell anyone at his firm that he was taking the PDO exam. Respondent's counsel told the Panel that this potential promotion was a minor motivation to the Respondent. He would also have been eligible for a paid gym membership from his firm if he passed the PDO exam, but did not seek that benefit after altering his transcript. In contrast to other cases to which the Panel was referred, the Respondent does not appear to have been significantly motivated by personal gain.

The ASF also states that a mitigating factor was the absence of client losses or other client involvement in the Respondent's actions. The Panel believes that the significance of this as a mitigating factor is lessened by the fact that the Respondent's misconduct had little or no potential to cause client losses. However the absence of client losses in this case was taken into account by the Panel when analyzing other cases in which client losses did occur.

(d) Harm to Market Integrity/Market Reputation

It is possible to characterize the Respondent's misconduct as relatively minor especially when contrasted with other cases to which the Panel was referred. However, there is no escaping the fact that it was dishonest and deceptive. It is the Panel's opinion that this type of misconduct causes harm to the integrity of the market and harms its reputation. It is below the standard which the public and those in the industry expect, or should expect of market participants. This Panel agrees with, and finds particularly applicable to our case, the following statement from Re Gill 2015 IIROC 39, contained in

the IIROC Penalty Book:

“... Honesty is fundamental to the fair, effective and transparent operation of the industry. It is key to the trust and reliance all stakeholders place on Registered Representatives...the central issue... relates to the need to promote and protect the proper functioning of the investment industry and public investors who depend on the professionalism, integrity and honesty of Registered Representatives to comply with their ethical duties and responsibilities. It is essential to the industry that Registered Representatives comply with these duties and obligations not only when they benefit at the expense of a public investor, but also when they do not benefit personally, even where the effect on the public investor is neutral or advantageous.”

Similarly this Panel agrees with the following from Re Davies 2014 IIROC 41:

“The Hearing Panel is mindful that forgery is a serious regulatory matter. It is a manifestation of dishonesty and deception. It harms the integrity of professionals in the securities industry and the capital markets and calls them into disrepute. The Panel is also mindful that penalties for forgery should reflect the seriousness of the offence, the profession’s disapproval of such conduct and the need to deter such conduct in the industry as a whole. “

#### F. RELEVANT CASES

¶ 9 Both IIROC counsel and Respondent’s counsel referred the Panel to a number of cases to help the Panel determine the appropriate sanctions in our case. The Panel reviewed these cases and a chart summarizing the results thereof contained in IIROC’s Penalty Book. The Panel also heard submissions of both counsel regarding those cases. IIROC counsel pointed out that in all the cases in IIROC’s Penalty Book, the sanctions involved both a fine and a suspension or permanent ban. Respondent’s counsel pointed to the fact that in none of those cases was the fine as high as IIROC was requesting in our case. Each case is fact specific, many involved misconduct which was more egregious than in our case and some were settlement cases. A review of the misconduct and penalties imposed in those cases compared to this case was helpful in the Panel’s determination of the appropriate sanctions in this case.

#### G. DECISION

¶ 10 As stated above, the Panel must determine what sanctions are appropriate in order to achieve both specific deterrence of future misconduct by the Respondent and general deterrence of others in the industry.

¶ 11 IIROC counsel took the position that the sanctions proposed by IIROC were necessary to achieve specific and general deterrence in this case. Regarding specific deterrence, in addition to the factors and cases reviewed above, the Panel also took into account the fact that the Respondent lost his job as a result of his misconduct and is not now in the industry. He is working, but earning less than in his industry job. He has suffered financially and any suspension will result in additional financial loss. As with many previous cases, including Re Cartaway Resources Corp., 2004 SCC 26, cited in IIROC’s Penalty Book, the Panel also viewed general deterrence as an important, though not the only, consideration in determining the appropriate sanctions in this case. The Panel feels that, in addition to specific deterrence of the Respondent, a message must be sent to others in the industry that dishonest conduct will not be tolerated, no matter how trivial the circumstances may seem.

¶ 12 Regarding the issue of costs, Respondent’s counsel argued that costs of \$1,000 rather than the \$10,000 requested by IIROC would be appropriate in this case. He acknowledged that some investigation of the Respondent’s conduct was necessary, but questioned how much. In determining an appropriate costs award, the Panel took into account the relatively simple facts of this case and the short time frame it took IIROC to determine those facts; the Panel also noted that the costs awarded in all but one of the cases cited by IIROC

were lower than being requested by IIROC in this case.

¶ 13 Having regard to the factors reviewed above, the sanctions imposed and costs awarded in the circumstances of the cases cited to the Panel, it was the Panel's decision, delivered orally at the end of the penalty hearing, that the following sanctions be imposed on the Respondent:

- (i) a suspension of six months from registration in any capacity with IIROC;
- (ii) a fine of \$30,000;
- (iii) that the Respondent re-write the Conduct and Practices Handbook and the Partners, Directors and Officers exams within twelve months of any re-registration with IIROC; and
- (iv) that the Respondent pay costs to IIROC of \$5000.

Dated as of the 9<sup>th</sup> day of August, 2016.

Frederick H. Webber- Chair

Leo Ciccone- Industry Member

Phillip Ted E. Norris- Industry Member

### **AGREED STATEMENT OF FACTS**

#### **I. INTRODUCTION**

1. The Enforcement Department of the Investment Industry Regulatory Organization of Canada ("IIROC") has conducted an investigation (the "Investigation") into the conduct of the Respondent Rizwan Suleiman ("Suleiman" or the "Respondent").
2. The Investigation discloses matters for which the Respondent may be disciplined by a hearing panel appointed pursuant to IIROC Transitional Rule No.1, Schedule C.1, Part C (the "Hearing Panel").
3. IIROC staff ("Staff") and the Respondent admit and agree to the facts outlined below.

#### **II. CONTRAVENTION**

4. The Respondent admits to the following contravention of IIROC Dealer Member Rules, Guidelines, Regulations or Policies:
5. On or about July 2015, Rizwan Suleiman altered an examination transcript relating to a securities industry course and provided the false transcript to his Dealer Member firm, contrary to IIROC Dealer Member Rule 29.1.

#### **III. STATEMENT OF FACTS**

##### **Registration information**

6. Suleiman has been a Registered Representative ("RR") since 2007. He was employed in Toronto by ITG Canada Corp. ("ITG") from August 2014 until his departure from the firm in late July 2015. He worked at ITG as an RR in an institutional sales capacity, as a salesperson.
7. Suleiman is not currently an IIROC registrant but has been working elsewhere as an independent contractor since October 2015 earning less than the compensation that he received from ITG.

##### **Events leading up to the document alteration**

8. Suleiman told IIROC Staff that taking the Canadian Securities Institute's ("CSI") Partners, Directors and Officers ("PDO") course was on his list of objectives for the 2015 year. According to Suleiman, in the spring of 2015 he registered to take the PDO examination (the "Exam") by attending at the CSI offices in person where he then paid the course enrolment fee by credit card.
9. Suleiman told IIROC Staff that one reason he wanted to pass the PDO course was in order to be eligible for a promotion from his current role (Vice President), to that of Director the following year. He did not tell anyone at ITG about his plan to write the Exam.

### **The Exam**

10. The Respondent told IIROC Staff that he went to the CSI offices to write the Exam in June 2015. He completed part of the Exam on the computer but then left without finishing it. He states that he realized that he was not properly prepared for the Exam and that at the time he was experiencing family stresses that did not allow him to prepare adequately for the Exam.
11. According to Suleiman, he was told by the proctor that he would have to pay a re-write fee to sit the Exam again, but was assured that there would be no record in his transcript of this incomplete attempt.

### **The CSI transcript and Suleiman's actions**

12. Suleiman said that a few days later he wanted to confirm that there was no record of his first attempt. He reviewed his CSI student profile on line and saw that there was a notation indicating that he did not pass the Exam. He panicked and requested online that the transcript be emailed to him.
13. When he received the pdf copy of his transcript it did not show any Exam attempt. He was confused and felt that two attempts might still show up in CSI records at a later date or on later searches.
14. Suleiman then altered his transcript by converting the electronic document to Word format, made changes to indicate that he had taken the PDO course on June 22, 2015, and had passed the Exam with a mark of 77.5 percent, then sent it to his firm on July 7, 2015.
15. Suleiman also sent an email to his manager on July 7, 2015 in which he indicated that he had written and passed the PDO.
16. After altering the transcript and sending it to his firm, Suleiman states that he called CSI a few days later to complain that his online record had indicated his earlier attempt for the Exam. According to Suleiman, he was told during this phone call that this should not have been the case.
17. His intention was to re-write the Exam prior to year end 2015. Suleiman states that he did not realize that the transcript would be shared with IIROC. He admitted his conduct when confronted by his firm later in July.

### **Other**

18. There were no client losses as a result of the Respondent's conduct and no clients were involved in his actions.
19. At the time of the events in question, the Respondent was experiencing work and family related stress.
20. CSI advised Staff that they have no records of the Respondent's registration for the Exam, payment of the enrollment fee, or attendance at the Exam.
21. According to the Respondent, he did not seek any other benefits as a result of claiming to have successfully passed the Exam. ITG told Staff that the Respondent was not required to pass the Exam to continue in his current role. According to ITG, if Suleiman had successfully passed the Exam, he would

have been entitled to receive up to \$2,000 towards annual gym membership fees. Suleiman advised Staff that he did not possess a gym membership at the time.

22. The Respondent admitted his actions to IIROC Staff and has expressed remorse for his conduct.
23. The Respondent does not have any previous disciplinary history with IIROC.

**THE FOREGOING FACTS AND CONTRAVENTION ARE ADMITTED AND AGREED TO** by the Respondent at the City of Toronto in the Province of Ontario, this 19<sup>th</sup> day of May, 2016.

**“Witness”**

Witness

**“Rizwan Suleiman”**

Respondent Rizwan Suleiman

**AGREED TO** by IIROC staff at the City of Toronto in the Province of Ontario, this 3<sup>rd</sup> day of June, 2016.

**“Witness”**

Witness

**“Kathryn Andrews”**

Kathryn Andrews

Senior Enforcement Counsel on behalf of Staff of  
the Investment Industry Regulatory Organization of  
Canada

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