

# Re Marricco

IN THE MATTER OF:

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

**and**

**The By-Laws of the Investment Dealers Association of Canada (“IDA”)**

**and**

**Matteo Marricco**

2017 IIROC 01

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

Heard: December 12, 2016

Decision: December 12, 2016

Decision Released: January 10, 2017

**Hearing Panel:**

The Honourable Benjamin J. Greenberg, Q.C., C. ARB, Panel Chairman, Mr. Yves Julien and Mr. Yves Ruest

**Appearances:**

Me Francis Larin, (the Enforcement Counsel) on behalf of IIROC and the IDA

Me François-David Paré, on behalf of the Respondent

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## **UNANIMOUS DECISION ON THE SETTLEMENT AGREEMENT BETWEEN IIROC AND THE RESPONDENT**

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## **I. INTRODUCTION**

¶ 1 In these proceedings, the RESPONDENT was charged with three Counts, namely:

### **Count 1**

Between February 2006 and March 2013, the Respondent engaged in discretionary trading in the accounts of three clients, without these accounts having been previously approved and accepted as discretionary accounts, contrary to IIROC Dealer Member Rule 1300.4 and 1300.5 (IDA Regulation 1300.4 and 1300.5, prior to June 1<sup>st</sup>, 2008).

### **Count 2**

Between February 2006 and December 2012, the Respondent made investment recommendations that were not suitable for a client, contrary to IIROC Dealer Member Rule 1300.1(q) (IDA Regulation 1300.1(q) prior to June 1<sup>st</sup>, 2008).

### **Count 3**

Between February 2006 and December 2012, the Respondent failed to use due diligence to learn and remain informed of the essential facts relative to a client, contrary to IIROC Dealer Member Rule 1300.1(a) (IDA Regulation 1300.1(a) prior to June 1<sup>st</sup>, 2008).

¶ 2 No witnesses were presented at the Hearing. We have heard the submissions of counsel and have studied and discussed among ourselves the jurisprudence and other materials supplied to us by IIROC.

## **II. RESPONDENT'S EMPLOYMENT AND APPROVAL HISTORY**

¶ 3 From January 2000 to December 28, 2001, the RESPONDENT was employed by Merrill Lynch Canada Inc. as a Registered Representative under the jurisdiction of the IDA.

¶ 4 In December 2001, the retail brokerage business of Merrill Lynch was acquired by CIBC World Markets Inc. (the "CIBC").

¶ 5 Consequently, as and from the 28<sup>th</sup> of December 2001, the RESPONDENT was transferred to the CIBC where he was and still is employed as a Registered Representative under the jurisdiction, firstly of the IDA and since June 1<sup>st</sup>, 2008, of IIROC. The RESPONDENT has no disciplinary history with IIROC or with the IDA.

## **III. THE FACTS**

¶ 6 The present case concerns three of the RESPONDENT'S clients, NL, AR and MJR. Each of them respectively became clients of the RESPONDENT in 2000, 2003 and 2006.

¶ 7 Between February 2006 and March 2013, the RESPONDENT executed numerous discretionary trades in the accounts of those three clients without those accounts having previously been designated as managed or discretionary. During that period each of those three clients was *ex post facto* made aware of the trades in each one's accounts as they regularly received trade confirmations and monthly account statements that revealed those trades.

¶ 8 As for the client NL, between March 23, 2011 and March 7, 2013, the RESPONDENT executed at least eighty-one (81) discretionary trades in shares of Apple Inc. in the two (2) accounts of a management company controlled by NL.

¶ 9 Although the RESPONDENT never specifically discussed those trades with NL in advance, they did discuss the general guidelines of NL's investing and trading strategies.

¶ 10 NL did not sustain any loss as a result of all those discretionary trades effected by the RESPONDENT.

¶ 11 As for the RESPONDENT's client AR, they met periodically and agreed upon high level investment strategies for AR.

¶ 12 Between January 2 and 29, 2013, the RESPONDENT executed at least fourteen (14) discretionary trades

in AR's account without specifically discussing them with him beforehand.

¶ 13 Although the following was nowhere explicitly stated in the Settlement Agreement, we have implicitly gleaned from paragraph 39 of the Settlement Agreement that AR sustained losses of at least \$200,000 resulting from the RESPONDENT's conduct in executing those discretionary trades in AR's account.

¶ 14 AR is the father of MJR, who is his daughter. The RESPONDENT opened three (3) accounts for her at times when she was a relatively inexperienced investor. Two (2) of those were margin accounts, which were not at all suitable for her. Those accounts are the subject of Count No. 2. The third one was an RRSP account.

¶ 15 As for client MJR, between February 9, 2006 and March 8, 2013, the RESPONDENT executed at least ninety-three (93) discretionary trades in her accounts.

¶ 16 It is alleged by the RESPONDENT that MJR agreed that he could execute discretionary trades in her account. According to him, her wish was that the RESPONDENT execute in her accounts trades that were similar to those executed in the account of AR, her father.

¶ 17 We have noted from paragraph 35 of the Settlement Agreement that, as a result of the trades executed for her by the RESPONDENT, MJR sustained capital losses of \$70,266. That amount represented 83% of her investments in her two (2) margin accounts.

¶ 18 When the CIBC learned about the RESPONDENT's improper activities relating to the three (3) clients described above, it imposed internal disciplinary measures against the RESPONDENT, which consisted of the following:

- A. A fine of \$25,000, of which \$17,570.44 has been paid. The fine received by the CIBC from the RESPONDENT was donated to a charity. As for the unpaid balance of \$7,429.56, the CIBC has agreed that it be paid by the RESPONDENT to IIROC as against the sums that are payable to IIROC pursuant to the Settlement Agreement;
- B. A requirement that the RESPONDENT pursue again the Conduct and Practice Handbook Course and successfully complete the Examination. The RESPONDENT has successfully completed the Examination in August 2014; and
- C. That the RESPONDENT be subject to "Strict Supervision" by the CIBC. That was done for a period of thirteen and one-half months.

¶ 19 Again, although it was not explicitly alleged, we have implicitly gleaned from paragraph 39 of the Settlement Agreement that both AR and MJR lodged claims for their losses against the CIBC and that the CIBC paid \$200,000 to AR and \$35,119 to MJR. A copy of the Settlement Agreement is appended as Schedule "A" to this DECISION.

#### **IV. THE MISSION AND JURISDICTION OF THE HEARING PANEL**

¶ 20 At the end of the Hearing on December 12, 2016, the Members of the Hearing Panel withdrew from the Hearing room to again discuss the Case. We returned shortly thereafter and informed those present that we approve and accept the Settlement Agreement and that written Reasons will follow. These are those Reasons.

¶ 21 Our mission is not that of an appeal jurisdiction. We are not to ask ourselves, had we heard this matter as a contested case in first instance, if we would have decided the case in the same manner that the parties agreed to in the Settlement Agreement<sup>1</sup>.

¶ 22 Neither should we ask ourselves if the content of the Settlement Agreement is too clement or too severe. That is not at all our role.

¶ 23 Even if we were of the view that, having heard this case contested in first instance, we would have

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<sup>1</sup> See In Re. Richard Roy, 2011 IIROC 9; In Re. BMO Nesbitt Burns, 2012 IIROC, 38; In Re. Glenn Arthur Taggart, 2013 IIROC, 24; In Re. Jacques Turenne, 2013 IIROC, 43.

ordered Sanctions that would have been either more clement or more draconian than the content of the Settlement Agreement; neither would that be our mission.

¶ 24 Moreover, our jurisdiction is limited to either accepting or refusing the Settlement Agreement. We have no jurisdiction to modify it in any way<sup>2</sup>.

## V. THE POSITION OF IIROC

¶ 25 IIROC takes the position that the infractions committed by the RESPONDENT were serious and that aspect was duly considered when the terms of the Settlement Agreement were negotiated.

¶ 26 It considers the Sanctions incorporated into the Settlement Agreement to be just and reasonable in the circumstances of the case.

¶ 27 It points out that this case is the first disciplinary matter involving the RESPONDENT and that in addition to the Sanctions called for in the Settlement Agreement, the RESPONDENT also was subjected to the CIBC's severe internal disciplinary measures in regard to the same matters.

## VI. THE POSITION OF THE RESPONDENT

¶ 28 On his part, the RESPONDENT echoed the position espoused by IIROC

## VII. ANALYSIS AND DISCUSSION

¶ 29 The Sanctions imposed in a case such as this one must accord with the protection of the investing public and IIROC's members. They must also seek to protect the integrity of the securities industry and the stock market and as well have a dissuasive effect with regard to the RESPONDENT specifically and generally discourage others from repeating the wrongful conduct that was perpetrated by the RESPONDENT in this case.

¶ 30 We must also keep in mind the internal disciplinary measures imposed by the CIBC against the RESPONDENT.

¶ 31 We had counsel clarify at the Hearing that the CIBC expects the RESPONDENT to make it whole with regard to the amounts of \$200,000 and \$35,119 that it paid, respectively, to AR and MJR, but we are unsure if the RESPONDENT is legally obligated to do so.

¶ 32 Consequently, if we combine the Sanctions to be imposed on the RESPONDENT in virtue of the Settlement Agreement herein and, if he is legally obligated to pay those amounts to the CIBC and will in fact make those payments, then the total that he has been and would be called upon to pay would be \$302,689.44, calculated as follows:

A.	In these proceedings:	
(i)	A fine of:	\$ 45,000.00
(ii)	Costs of:	<u>\$ 5,000.00</u>
	Sub-total:	\$ 50,000.00
B.	Via the CIBC's internal disciplinary proceedings:	
(i)	A fine paid of:	\$ 17,570.44 <sup>3</sup>
(ii)	The amount of \$200,000 to reimburse the CIBC the amount it has paid to AR:	\$200,000.00

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<sup>2</sup> See In Re. Jacques Turenne, *ibid*, at paragraph 18.

<sup>3</sup> The fine imposed was \$25,000.00 and the RESPONDENT has paid \$17,570.44 against that amount. As for the unpaid balance of \$7,429.56, the CIBC has agreed that it is to be redirected to IIROC and applied to the sums due by the RESPONDENT to IIROC pursuant to the Settlement Agreement.

(iii) The amount of \$35,119 to reimburse	
the CIBC the amount it has paid to MJR:	<u>\$ 35,119.00</u>
Sub-total:	\$252,689.44
A + B = the total of:	<u>\$302,689.44</u>

¶ 33 Albeit that the infractions committed by the RESPONDENT were serious, the total financial consequences to him by way of the Sanctions herein and, even if he is not legally obligated to pay the amounts of \$200,000 and \$35,119 to the CIBC, the amount of \$17,570.44 that he has already paid to the CIBC resulting from the CIBC's internal disciplinary proceedings, taken together with the sanctions herein, are far from being clement.

¶ 34 Moreover, the RESPONDENT has no previous disciplinary history either with the IDA or IIROC. As well, he cooperated fully in IIROC's investigation in this case.

¶ 35 In the Settlement Agreement, IIROC's personnel and the RESPONDENT both recommend that the Hearing Panel accept the Settlement Agreement.

¶ 36 At the end of the Hearing on December 12, 2016, the three (3) Members of the Hearing Panel unanimously came to the conclusion that the various elements of the Settlement are justified in the circumstances of this case and they fall within a reasonable range of appropriateness<sup>4</sup>.

¶ 37 Moreover, in three Canadian Courts of Appeal cases<sup>5</sup>, it was decided that one should apply to an Administrative Tribunal (such as here) the principles applicable to joint submissions on sentencing in Criminal Cases, namely, that there is an obligation on the Court of first instance to give very serious consideration to a joint submission on sentencing agreed upon by Crown counsel and defence counsel, unless such a Sentence would be unfit or unreasonable; or contrary to the public interest; and it should not be departed from unless there are cogent reasons for doing so.

¶ 38 That same principle applies to us as an Administrative Tribunal.

¶ 39 As we declared at the end of the Hearing on December 12, 2016, the three Members of the Hearing Panel unanimously approve and accept the Settlement Agreement.

## **VIII. CLOSING PROVISIONS**

¶ 40 This unanimous DECISION ON THE SETTLEMENT AGREEMENT BETWEEN IIROC AND THE RESPONDENT is signed by the Members of the Hearing panel in several duplicate originals. Each such duplicate original is legally valid and authentic and can serve as such for all legal purposes.

¶ 41 We open here a parenthesis: As is frequently the case in the paperwork presented by IIROC's personnel in regard to a Settlement Hearing, we found that in this case the narrative presented in the Settlement Agreement lacked sufficient detail.

¶ 42 For example, there was no clear assertion to the effect that both AR and MJR had made claims against the CIBC for their losses that resulted from the acts of the RESPONDENT, and that, as a consequence of those claims, the CIBC paid \$200,000 and \$35,119, respectively, to AR and MJR.

¶ 43 Nor was it clear from the Settlement Agreement that the RESPONDENT has to reimburse those two (2) amounts to the CIBC.

¶ 44 To establish that the client referred to in paragraph 42 a) of the Settlement Agreement was MJR, we were obliged to refer back to paragraph 36 of the Settlement Agreement.

<sup>4</sup> See In Re : Milewski, [1999] I.D.A.C. No, 17, August 5, 1999, at page 11; In Re. Grant Louis Gaudet, 2010 IIROC 29.

<sup>5</sup> Rault v. Law Society of Saskatchewan, [2009] SKCA 8; Paradis v. R., 2009 QCCA 1854; Sylvio Poulin v. R., 2010 QCCA 1854.

¶ 45 To establish all those facts, we were obliged to resort to questioning counsel and to reach certain assumptions implicitly revealed by the Settlement Agreement.

¶ 46 It would be well if IIROC's personnel adopted a methodology whereby the paperwork prepared and presented to a Settlement Hearing Panel would be as explicit and complete as that routinely prepared and presented to a Hearing Panel in contested cases.

¶ 47 We close the parenthesis.

## **IX. CONCLUSIONS**

¶ 48 FOR ALL FOREGOING REASONS:

We, the Members of the Settlement Hearing Panel, do hereby APPROVE and ACCEPT the SETTLEMENT AGREEMENT entered into between IIROC and the RESPONDENT on October 25, 2016 and do hereby impose the SANCTIONS AGREED TO by the Parties, as follows:

- A. The RESPONDENT will pay to IIROC a FINE in the amount of \$45,000, which includes the net commissions earned by the RESPONDENT on trades executed in MJR's accounts;
- B. The RESPONDENT will pay costs to IIROC in the amount of \$5,000.00.

## **X. THE SIGNATURES**

Signed at Montreal (Quebec), this 10<sup>th</sup> day of January, 2017

Benjamin J. Greenberg

THE HONOURABLE BENJAMIN J. GREENBERG, QC.

CHARTERED ARBITRATOR,

Chairman of the Hearing Panel

Yves Julien

Panel Member

Yves Ruest

Panel Member

## **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 Matteo Marricco ("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.

#### **A. Overview**

4. The Respondent began working as a Registered Representative as of January 2000 with Merrill Lynch and transferred over to CIBC World Markets Inc. in December 2001 when the latter acquired the retail brokerage business of Merrill Lynch;
5. NL, AR and MJR became clients of the Respondent respectively in 2000, 2003 and 2006;
6. Between February 2006 and March 2013, the Respondent executed discretionary trades in the accounts of these three clients, without these accounts being designated as managed or discretionary accounts;
7. NL, AR and MJR have received account statements and trade confirmations at all times showing these transactions;
8. Between February 2006 and December 2012, the Respondent executed trades in two accounts of his client MJR that were not suitable for her, notably by executing different options strategies and by purchasing shares and options using the leveraging afforded her by her margin account;
9. Between February 2006 and December 2012, the Respondent did not ensure that his client MJR's investor profile, as indicated on the latter's new account application forms, reflected her real experience level and knowledge.

**B. Approval history**

10. The Respondent has been approved as a Registered Representative with IIROC, as well as its predecessor, the Investment Dealers Association of Canada (IDA), since January 2000;
11. The Respondent has been employed by CIBC World Markets Inc. since December 28<sup>th</sup>, 2001 and prior to that was employed by Merrill Lynch Canada Inc.

**C. The client NL**

12. Between March 23<sup>rd</sup>, 2011 and March 7<sup>th</sup>, 2013, the Respondent executed at least eighty-one (81) discretionary trades in shares of Apple Inc., in the two accounts of a management company controlled by NL, as more fully described in Schedule A;
13. The Respondent never specifically discussed these trades with his client NL before executing them;
14. The Respondent declared to Staff of IIROC that he had obtained an open-ended mandate from NL to trade options and shares in the Apple Inc. security;
15. However, these two accounts had not been approved and accepted as "discretionary" accounts beforehand;
16. The Respondent has admitted to Staff of IIROC that this conduct was wrong;
17. NL suffered no loss as a result of these trades.

**D. The client AR**

18. The Respondent and AR met and talked periodically to establish high level investment strategies;
19. Between January 2<sup>nd</sup> and 29<sup>th</sup>, 2013, the Respondent executed at least fourteen (14) trades in the account of his client AR without specifically discussing them with AR beforehand, as more fully described in Schedule B;
20. However, AR's account had not been approved and accepted as a discretionary account.

**E. The client MJR**

21. In February 2006, the Respondent opened one margin account for his client MJR;
22. MJR is the daughter of AR and, according to the Respondent, she wanted him to trade in options in her account, executing trades that were similar to those executed in AR's account;
23. The Respondent and MJR allegedly agreed that the Respondent could execute trades in these accounts,

when necessary;

24. MJR subsequently opened an RRSP account and a TFSA account through the Respondent;
25. MJR never preapproved the trades executed by the Respondent in any of her accounts, being under the impression that the Respondent's way of operating was the norm;
26. Thus, between February 9<sup>th</sup>, 2006 and March 25<sup>th</sup>, 2013, the Respondent executed ninety-three (93) discretionary trades in MJR's three (3) accounts as more fully described in Schedule C;
27. MJR's accounts had not been approved and accepted as discretionary accounts;
28. Moreover, at the time that MJR's accounts were opened, the Respondent did not evaluate his client's experience and knowledge of investing;
29. Since MJR had asked him in February 2006 to open an account that would enable her to trade options like her father, the Respondent assumed that these instruments were suitable for her;
30. Although MJR only had prior experience with mutual funds and her investment knowledge was "low", the Respondent stated on the new account application form that her knowledge of investing was "good" and proceeded to open accounts that authorized all types of options strategies;
31. Between February 2006 and December 2012, the Respondent executed various options strategies in his client's accounts:

Options strategies executed in the account of client MJR since the account opening			
Type	Description	Number of options positions that were «opened»	
		CAD \$ Account	USD \$ Account
VDOV	Short-selling put options («short put»)	5	10
VDOA	Short-selling call options («short call»)	0	2
VOAC	Selling a covered call («covered call writing»)	2	0
AOA	Buying a call option («long call»)	0	2
VPC	Sale of a strangle («strangle»)	0	1

32. Short-selling the put options in order to cash in on the related premiums had the effect of exposing MJR's portfolio to substantial capital losses when the value of the underlying securities dropped;
33. The assignments that resulted from these trades led to the successive liquidation of the other securities in MJR's portfolio, in so doing considerably reduced the diversification in that portfolio;
34. The Respondent then adopted a leveraged stock and options buying strategy in order to compensate for the losses in MJR's accounts, but the strategy led instead to an aggravation of the losses;
35. The capital losses suffered by MJR, as a result of these various strategies, totaled \$70,266 and represented 83% of the sum invested by the client in her two margin accounts;
36. The trades executed by the Respondent in MJR's accounts generated \$3,912 (CAD) and \$4,814 (USD) in commissions for the Respondent.

#### **F. CIBC's Internal Disciplinary Measures**

37. On or around December 19<sup>th</sup>, 2013, the Respondent was subject to internal disciplinary measures imposed by his employer, CIBC World Markets Inc., concerning the discretionary trades executed in the

accounts of his clients NL, AR and MJR.

38. These internal measures included:

- a) A fine in the amount of \$25,000, of which \$17,570.44 has been paid by the Respondent, with the Respondent's employer agreeing that the balance can be redirected to IIROC for the purpose of the present settlement agreement;
- b) A requirement to re-write the *Conduct and Practices Handbook Examination*, which the Respondent successfully completed in August 2014;
- c) The Respondent was subject to strict supervision by his employer for a period of 13 ½ months.

39. In addition, Respondent's employer expects to be reimbursed the amounts of \$200,000 and \$35,119 that it has paid to the clients AR and MJR, as compensation for their losses following Respondent's conduct in this matter;

40. The Respondent does not have any disciplinary history with IIROC.

#### **PART IV - CONTRAVENTIONS**

41. By engaging in the conduct described above, the Respondent contravened to the following IIROC Rules:

##### Count 1

Between February 2006 and March 2013, the Respondent engaged in discretionary trading in the accounts of three clients, without these accounts having been previously approved and accepted as discretionary accounts, contrary to IIROC Dealer Member Rule 1300.4 and 1300.5 (IDA Regulation 1300.4 and 1300.5, prior to June 1<sup>st</sup>, 2008).

##### Count 2

Between February 2006 and December 2012, the Respondent made investment recommendations that were not suitable for a client, contrary to IIROC Dealer Member Rule 1300.1(q) (IDA Regulation 1300.1(q) prior to June 1<sup>st</sup>, 2008).

##### Count 3

Between February 2006 and December 2012, the Respondent failed to use due diligence to learn and remain informed of the essential facts relative to a client, contrary to IIROC Dealer Member Rule 1300.1(a) (IDA Regulation 1300.1(a) prior to June 1<sup>st</sup>, 2008).

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

42. The Respondent agrees to the following sanctions and costs:

- a) A fine in the amount of \$45,000, which includes the net commissions earned by the Respondent following trades executed in one of his client's account.
- b) The Respondent agrees to pay costs to IIROC in the sum of \$5,000.

43. If this Settlement Agreement is accepted by the Hearing Panel, the Respondent agrees to pay the amounts referred to above within 30 days of such acceptance unless otherwise agreed between Staff and the Respondent.

#### **PART VI - STAFF COMMITMENT**

44. 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 9 below.

45. 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**

46. This Settlement Agreement is conditional on acceptance by the Hearing Panel.
47. 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.
48. 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.
49. 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.
50. 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.
51. The terms of this Settlement Agreement are confidential unless and until this Settlement Agreement has been accepted by the Hearing Panel.
52. The Settlement Agreement will become available to the public upon its acceptance by the Hearing Panel and IIROC will post a full 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.
53. If this Settlement Agreement is accepted, the Respondent agrees that neither he nor anyone on his behalf, will make a public statement inconsistent with this Settlement Agreement.
54. 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**

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

**DATED** this “25” day of October, 2016.

“Witness” \_\_\_\_\_

**Witness**

**DATED** this “25” day of October, 2016.

“Linda Vachet” \_\_\_\_\_

**Witness**

“Matteo Marricco” \_\_\_\_\_

**Matteo Marricco**

“Francis Larin” \_\_\_\_\_

**Francis Larin**

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

**SCHEDULE "A"**

**Client NL**

**Trades in the Apple Inc. security since March 2010**

#	Date	B/S	Description	Qty	Price (\$)	Dt/ Cr (\$)	Profit/ Loss (\$)
1	1-Apr-11	B	Call AAPL 360 18-June-11 - op	15	13.65	(20,475)	
2	21-Apr-11	S	Call AAPL 360 18-June-11 - cl	(15)	8.15	12,225	(8,250)
3	21-Apr-11	S	Call AAPL 380 18-June-11 - op	(15)	3.16	4,740	
4	25-Apr-11	B	Call AAPL 380 18-June-11 - cl	15	3.297	(4,945)	(205)
5	19-May-11	S	Call AAPL 360 18-June-11 - op	(10)	20.65	20,650	
6	2-June-11	B	Call AAPL 360 18-June-11 - cl	10	13.20	(13,200)	7,450
7	13-June-11	S	Put AAPL 350 20-Aug-11 - op	(10)	28.45	28,449	
8	7-July-11	B	Put AAPL 350 20-Aug-11 - cl	10	12.10	(12,100)	16,349
9	6-July-11	S	Put AAPL 400 20-Aug-11 - op	(10)	49.89	49,889	
10	27-July-11	B	Put AAPL 400 20-Aug-11 - cl	10	9.00	(9,000)	40,889
11	7-Oct-11	B	Call AAPL 405 19-Nov-11 - op	10	12.30	(12,300)	
12	13-Oct-11	B	Call AAPL 405 19-Nov-11 - op	10	19.60	(19,600)	
13	18-Oct-11	S	Call AAPL 405 19-Nov-11 - cl	(20)	28.70	57,399	25,499
14	2-Nov-11	B	Call AAPL 400 21-Jan-12 - op	20	23.80	(47,600)	
15	4-Nov-11	B	Call AAPL 400 21-Jan-12 - op	5	24.50	(12,250)	
16	5-Jan-12	S	Call AAPL 400 21-Jan-12 - cl	(25)	18.50	46,249	(13,601)

**Client NL**

**Trades in the Apple Inc. security since March 2010**

#	Date	B/S	Description	Qty	Price (\$)	Dt/ Cr (\$)	Profit/ Loss (\$)
17	5-Jan-12	B	Call AAPL 420 18-Feb-12 – op	25	16.09	(40,225)	
18	24-Jan-12	S	Call AAPL 420 18-Feb-12 – cl	(25)	15.402	38,504	(1,721)
19	24-Jan-12	B	Call AAPL 420 21-July-12 - op	12	37.50	(45,000)	
20	25-Jan-12	S	Call AAPL 420 21-July-12 – cl	(12)	48.42	58,099	13,099
21	6-Dec-12	B	Put AAPL 630 22-Dec-12 - cl	3	100.52	(30,156)	
22	28-Jan-13	B	Put AAPL 630 22-Dec-12 – cl	3	183.50	(55,050)	(33,592)
23	8-Nov-12	B	Call AAPL 600 22-June-13 – op	5	40.55	(20,275)	
24	28-Jan-13	S	Put AAPL 630 20-July-12 – op	(3)	186.50	55,949	
25	7-March-13	B	Put AAPL 630 20-July-12 – cl	3	206.00	(61,800)	(5,851)
<b>Trading profit:</b>							<b>14,078</b>

**Account n° 2 - XXX-XXXXX-X-U**

**Trades in the Apple Inc. security since March 2010**

#	Date	B/S	Description	Qty	Price (\$)	Dt/ Cr (\$)	Profit/ Loss (\$)
1	23-March-11	B	Call AAPL 350 18-June-11 – op	25	15.45	(38,625)	
2	4-Apr-11	B	Call AAPL 350 18-June-11 - op	10	14.30	(14,300)	
3	15-Apr-11	B	Call AAPL 350 18-June-11 - op	25	8.676	(21,690)	

Account n° 2 - xxx-xxxxx-x-U

Trades in the Apple Inc. security since March 2010

#	Date	B/S	Description	Qty	Price (\$)	Dt/ Cr (\$)	Profit/ Loss (\$)
4	20-Apr-11	S	Call AAPL 350 18-June-11 - cl	(45)	11.40	51,299	
5	21-Apr-11	S	Call AAPL 350 18-June-11 - cl	(15)	12.56	18,840	(4,476)
6	17-May-11	S	Put AAPL 350 16-July-11 - op	(20)	24.354	48,707	
7	1-June-11	B	Put AAPL 350 16-July-11 - cl	20	10.535	(21,070)	27,637
8	13-June-11	S	Put AAPL 350 20-Aug-11 - op	(20)	29.60	59,199	
9	6-July-11	B	Put AAPL 350 20-Aug-11 - cl	20	12.60	(25,200)	33,999
10	6-July-11	S	Put AAPL 375 20-Aug-11 - op	(20)	28.70	57,399	
11	21-July-11	B	Put AAPL 375 20-Aug-11 - cl	20	5.45	(10,900)	46,499
12	11-July-11	S	Put AAPL 380 20-Aug-11 - op	(10)	30.13	30,129	
13	20-July-11	B	Put AAPL 380 20-Aug-11 - cl	10	7.20	(7,200)	22,929
14	13-July-11	B	Call AAPL 380 21-Jan-12 - op	20	21.00	(42,000)	
15	20-July-11	S	Call AAPL 380 21-Jan-12 - cl	(20)	34.99	69,974	27,974
16	14-July-11	S	Put AAPL 400 21-Jan-12 - op	(20)	55.00	109,998	
17	12-Aug-11	B	Put AAPL 400 21-Jan-12 - cl	20	47.90	(95,800)	14,198
18	8-Aug-11	S	Put AAPL 370 17-Sept-11 - op	(10)	24.25	24,250	
19	11-Aug-11	B	Put AAPL 370 17-Sept-11 - cl	10	16.12	(16,120)	8,130
20	10-Aug-11	B	Call AAPL 400 21-Jan-12 - op	25	25.15	(62,875)	

**Account n° 2 - xxx-xxxxx-x-U**  
**Trades in the Apple Inc. security since March 2010**

#	Date	B/S	Description	Qty	Price (\$)	Dt/ Cr (\$)	Profit/ Loss (\$)
21	10-Aug-11	B	Call AAPL 400 21-Jan-12 – op	25	25.15	(62,875)	
22	22-Sept-11	S	Call AAPL 400 21-Jan-12 – cl	(50)	38.73	193,621	67,871
23	12-Aug-11	S	Call AAPL 400 17-Sept-11 – op	(25)	6.57	16,425	
24	6-Sept-11	B	Call AAPL 400 17-Sept-11 – cl	25	1.20	(3,000)	13,425
25	12-Aug-11	S	Call AAPL 415 17-Sept-11 - op	(25)	2.85	7,125	
26	12-Aug-11	B	Call AAPL 415 17-Sept-11 – cl	25	2.80	(7,000)	125
27	4-Oct-11	B	Call AAPL 400 21-Jan-12 – op	25	19.85	(49,625)	
28	18-Oct-11	S	Call AAPL 400 21-Jan-12 – cl	(25)	42.70	10 6748	57,123
29	13-Oct-11	B	Call AAPL 415 21-Jan-12 – op	20	26.35	(52,700)	
30	18-Oct-11	S	Call AAPL 415 21-Jan-12 – cl	(20)	34.10	68,199	15,499
31	2-Nov-11	B	Call AAPL 400 21-Jan-12 – op	30	23.50	(70,500)	
32	4-Nov-11	B	Call AAPL 400 21-Jan-12 – op	10	24.50	(24,500)	
33	10-Nov-11	B	Call AAPL 400 21-Jan-12 – op	10	19.65	(19,650)	
34	4-Jan-12	S	Call AAPL 400 21-Jan-12 – cl	(50)	17.10	85,498	(29,152)
35	23-Nov-11	B	Call AAPL 370 21-Jan-12 – op	10	22.90	(22,900)	
36	13-Dec-11	S	Call AAPL 370 21-Jan-12 – cl	(10)	31.70	31,703	8,803
37	4-Jan-12	B	Call AAPL 415 18-Feb-12 – op	25	17.43	(43,575)	

Account n° 2 - xxx-xxxxx-x-U

Trades in the Apple Inc. security since March 2010

#	Date	B/S	Description	Qty	Price (\$)	Dt/ Cr (\$)	Profit/ Loss (\$)
38	24-Jan-12	S	Call AAPL 415 18-Feb-12 – cl	(25)	18.10	45,249	1,674
39	24-Jan-12	B	Call AAPL 410 21-July-12 - op	12	42.30	(50,760)	
40	25-Jan-12	S	Call AAPL 410 21-July-12 – cl	(12)	55.00	65,999	15,239
41	4-May-12	B	Call AAPL 580 19-Jan-13 – op	5	58.70	(29,350)	
42	18-May-12	B	Call AAPL 580 19-Jan-13 – op	5	50.20	(25,100)	
43	22-May-12	S	Call AAPL 580 19-Jan-13 – cl	(10)	61.20	61,199	6,749
44	18-May-12	B	Apple Inc. (unsolicited)	300	541.64	(162,493)	
45	22-May-12	S	Apple Inc. (solicited)	(300)	566.00	169,795	7,302
46	23-July-12	B	Call AAPL 600 19-Jan-13 - op	6	53.02	(31,812)	
47	13-Aug-12	S	Call AAPL 600 19-Jan-13 – cl	(6)	61.00	36,599	4,787
48	7-Nov-12	B	Call AAPL 600 22-June-13 – op	10	40.40	(40,400)	
49	9-Nov-12	B	Call AAPL 600 22-June-13 – op	5	32.00	(16,000)	
50	5-Dec-12	B	Call AAPL 600 22-June-13 – op	3	36.937	(11,081)	
n/a	31-May-13	VM	Call AAPL 600 22-June-13 (market value)	(18)	0.05	90	(67,391)
n/a	7-Nov-12	S	Put AAPL 630 22-Dec-12 (unsolicited) – op	(5)	64.05	32,024	
51	12-Nov-12	S	Put APPL 630 22-Dec-12 – op	(2)	86.35	17,270	

**Account n° 2 - xxx-xxxxx-x-U**  
**Trades in the Apple Inc. security since March 2010**

#	Date	B/S	Description	Qty	Price (\$)	Dt/ Cr (\$)	Profit/ Loss (\$)
52	6-Dec-12	B	Put APPL 630 22-Dec-12 – cl	7	103.00	(72,100)	(22,806)
53	6-Dec-12	S	Put AAPL 630 16-Feb-13 - op	(8)	111.00	88,878	
54	7-Mar-13	B	Put AAPL 630 16-Feb-13 – cl	8	206.00	(164,800 )	(75,922)
n/a	21-Dec-12	B	Call AAPL 550 22-June-13 (Unsolicited) – op	5	34.40	(17,200)	
n/a	31-ma-13	VM	Call AAPL 550 22-June-13 (Valeur marchande)	(5)	0.16	80	(17,120)
55	28-Jan-13	B	Put AAPL 630 16-Feb-13	8	185.56	(148,448 )	
56	28-Jan-13	S	Put AAPL 630 16-Feb-13	(8)	188.80	151,037	2,589
						<b>Trading profit:</b>	<b>165,685</b>

**SCHEDULE “B”**

**Client AR**  
**CAD & USD Accounts**  
**Summary of the trades executed in January 2013,**  
**excluding assignments**

#	Dates	B/S	Securities	Qty
1	2-Jan-13	S	Cameco Corp.	2,500
2	11-Jan-13	S – liquidative trade (Spread)	Call AAPL500 - 19JAN13	-12
	11-Jan-13	B – liquidative trade (Spread)	Call AAPL520 - 19JAN13	12
3	17-Jan-13	B – open contract	Call AAPL560 - 22JUNE13	3
4	18-Jan-13	S	Lakeshore Gold CAD	40,000
5	22-Jan-13	S	Husky Energy CAD	1,500
6	22-Jan-13	B – open contract	Call AAPL560 – 22JUNE13	2
7	23-Jan-13	S – open contract	Put PBR35 - 18JAN14	-50

8	23-Jan-13	S – open contract	Put SVL55 - 18JAN14	-20
9	23-Jan-13	S – open contract	Put GDXJ39 - 18JAN14	-30
10	25-Jan-13	S	IShares Silver TR	-2,000
11	25-Jan-13	S	Market Vectors ETF JR Gold Mines	-3,000
12	25-Jan-13	S	Petroleo Brasileiro SA	-5,000
13	29-Jan-13	B – liquidative trade	Put AAPL630 - 16FEB13	2
14	29-Jan-13	S – open contract	Put AAPL630 – 20JULY13	-2

**SCHEDULE “C”**

**CAD Account**

<b>Client MJR</b>						
<b>Trades in CAD account</b>						
<b>#</b>	<b>Date</b>	<b>B/S</b>	<b>Qty</b>	<b>Description</b>	<b>Price (\$)</b>	<b>Commissions (\$)</b>
1	9-Feb-06	B	2000	First Asset EQ WGHT Pipe & Power income Fd uts	8.60	125.00
2	9-Feb-06	B	1800	Sentry Select Commodities Income Trust UTS	9.65	125.00
3	9-Feb-06	B	1200	UTS Timberwest Forest	13.95	125.00
4	27-Feb-06	S	-10	Put Encana Corp. JAN44 EXP01/18/08	6.00	150.00
5	04-May-06	B	1000	Top 10 CDN Fin.T/U	14.85	125.00
6	27-June-06	B	10	Put Encana Corp. JAN44 EXP01/18/08	2.80	150.00
7	28-Sept-06	B	500	First Asset Pipes & Power Income Fund	8.00	-
8	23-Oct-06	B	700	Sentry Select Commodities Income Trust UTS	8.90	125.00
9	11-Jan-07	B	1000	Top 10 CDN Fin.T/U	15.30	125.00
10	19-Jan-07	B	31000	QC 3,7% 16DEC07	99.43	n.d.
11	20-June-07	B	350	Top 10 CDN Fin.T/U	14.91	125.00
12	11-Dec-07	S	-2934	Sentry Select Div. Inc. trust	4.17	125.00
13	11-Dec-07	S	-10	Put Teck Cominco JAN40 EXP 01/16/09	6.45	150.00
14	28-Dec-07	B	53000	CIBC BA 14MR08	99.039	n.d
15	22-Jan-08	S	-10	Put Petrocan JAN45	4.80	150.00
16	06-Mar-08	S	-1500	Top 10 CDN Fin.T/U	7.35	125.00

**Client MJR**  
**Trades in CAD account**

#	Date	B/S	Qty	Description	Price (\$)	Commissions (\$)
17	19-Mar-08	B	54000	CIBC GIC 3,47% 18JN08	100.00	n.d.
18	08-Aug-08	B	58000	BNS Billet 28JAN09	98.60	n.d.
19	13-Nov-08	S	-39000	BNS Billet 28JAN10	99.49	n.d.
20	21-Nov-08	S	-2500	First Asset EQ WGHT Pipe & Power income Fd uts	5.21	125.00
21	03-Dec-08	S	-19000	BNS Billet 28JAN11	99.71	n.d.
22	03-Dec-08	S	-2500	Sentry Select Commodities Income Trust UTS	4.81	125.00
23	04-Dec-08	S	-300	Top 10 CDN Fin.T/U	9.48	55.00
24	04-Dec-08	S	-550	Top 10 CDN Fin.T/U	9.47	107.00
25	20-July-09	S	-10	Call Teck 26 01/16/10 (cover writing)	3.60	150.00
26	01-Dec-09	S	-10	Put Husky Energy Dec 28	0.55	125.00
27	17-Dec-09	S	-10	Put HSE 17/July/10 - 30	3.15	150.00
28	12-Jan-10	B	1000	Soc. en com. Gaz Métro/ Valener	16.40	125.00
29	15-Jan-10	S	-1000	Teck Resources Ltd.	26.00	125.00
30	01-Apr-10	B	10	Put HSE 17/July/10 - 30	1.40	150.00
31	14-June-10	B	1800	Manulife Fin. Corp.	16.59	125.00
32	14-June-10	B	1200	Manulife Fin. Corp.	16.59	50.00
33	29-July-10	S	-30	Call Manulife Fin. Corp. 22/Jan/11 - 15	2.20	125.00
34	20-Aug-10	S	-3000	Manulife Fin. Corp.	12.25	100.00
35	03-Sept-10	B	1400	Yamana Gold Inc.	10.80	87.50
36	03-Sept-10	B	600	Yamana Gold Inc.	10.80	37.50
37	20-Sept-10	B	30	Call Manulife Fin. Corp. 22/Jan/11 - 15	0.66	125.00
38	10-Aug-11	S	-600	Yamana Gold Inc.	14.73	45.00
39	10-Aug-11	S	-1400	Yamana Gold Inc.	14.73	105.00
40	08-Mar-13	S	-1000	Valener	16.25	-
<b>Total commissions:</b>						<b>3,912.00</b>

**USD Account**

<b>Client MJR Trades in USD Account</b>						
#	Date	B/S	Qty	Description	Price (\$)	Commissions (\$)
1	09-FEB-06	S	-70	Put General Motors Jun 12,5	0.75	150.00
2	12-Apr-06	S	-25	Put Intel Corp Jan 22,5 EXP 19Jan08	4.10	150.00
3	18-May-06	B	70	Naked	0.05	85.00
4	05-July-07	S	-50	Call CBOE Voltly JUL020	0.30	150.00
5	23-Jan-08	S	-2500	Intel Corp.	19.26	125.00
6	23-Jan-08	S	-26	Put Intel Corp JAN22.5 (Naked)	4.80	150.00
7	04-Nov-08	S	-26	Call intel Corp JAN14 (Naked)	3.00	125.00
8	04-Nov-08	S	-10	Put Proshares Ultr NOV070 (Naked)	6.00	125.00
9	06-Nov-08	B	10	Put Proshares Ultr NOV070	2.07	125.00
10	10-Nov-08	S	-10	Put Proshares Ultr NOV065 (Naked)	7.50	125.00
11	11-Nov-08	B	10	Put Proshares Ultr NOV065 (Naked)	5.20	160.00
12	21-Jan-09	S	-2600	Intel Corp.	12.69	125.00
13	18-Mar-09	S	-10	Put Direxion Shs MAR25 (naked)	0.70	125.00
14	23-Mar-09	S	-15	Put Direxion Shs MAR25	1.15	125.00
15	17-Apr-09	B	1500	Direxion Daily Financial Bear 3X shares	15.00	125.00
16	05-May-09	B	2000	Accuray Inc.	6.376	124.00
17	07-May-09	S	-1500	Direxion Daily Financial Bear 3X shares	5.71	125.00
18	09-Sept-09	S	-20	Call American Express SE036 (Naked)	0.20	125.00
19	29-Apr-10	S	-10	Put BP 22JAN11 - 50 (Naked)	4.00	146.00
20	08-June-10	B	10	Put BP 22JAN11 - 50	16.55	125.00

**Client MJR**  
**Trades in USD Account**

#	Date	B/S	Qty	Description	Price (\$)	Commissions (\$)
21	27-July-10	S	-2000	Accuray Inc.	6.53	125.03
22	18-Nov-10	B	2000	General Motors Co. N.I.	33.00	-
23	18-Nov-10	S	-2000	General Motors Co. N.I.	35.50	151.20
24	20-Dec-10	B	900	Nymox Pharma	6.83	112.70
25	20-Dec-10	B	100	Nymox Pharma	6.84	12.50
26	19-May-11	S	-1	Put Apple Inc 18JUN11 - 360 (naked)	20.60	150.00
27	01-June-11	B	1	Put Apple Inc 18JUN11 - 360	11.85	150.00
28	06-July-11	S	-1	Put Google Inc. 21JAN12 - 620 (Naked)	93.00	156.00
29	26-July-11	B	1	Put Google Inc. 21JAN12 - 620	43.80	150.00
30	26-July-11	S	-9	Put IDCC 19JAN13 - 75 (Naked)	15.00	150.00
31	10-Apr-12	B	1	Call Google 22SEP12 - 650	37.26	-
32	12-Apr-12	S	-1	Call Google 22SEP12 - 650	41.00	-
33	26-Apr-12	B	9	Put IDCC 19JAN13 - 75	47.88	-
34	02-May-12	B	1200	Kronos Worldwide Inc.	23.38	-
35	19-Dec-12	B	1	Call APPLE 22JUN13 - 560	39.50	-
<b>Total commissions:</b>						<b>4,813.98</b>

**RRSP Account**

**Client MJR**  
**Trades in RRSP account**

#	Date	B/S	Qty	Description	Price (\$)	Commissions (\$)
1	23-Feb-07	B	431,425	TD Global Dividend Fund	11.59	n.d.
2	28-Feb-07	B	260,849	TD Global Dividend Fund	11.50	n.d.
3	09-Mar-07	B	360,244	TD Global Dividend Fund	11.10	n.d.

**Client MJR**  
**Trades in RRSP account**

#	Date	B/S	Qty	Description	Price (\$)	Commissions (\$)
4	15-Mar-07	S	-389,859	RBC Monthly Income Fund	13.95	n/a
5	15-Mar-07	B	114	RBC Can. Dividend Fund	47.53	n.d.
6	15-Mar-07	B	199	RBC Can. Dividend Fund	47.53	n.d.
7	15-mas-07	S	734,69	RBC Balanced Fund	12.92	n.d.
8	19-Mar-07	S	-1 309,604	RBC Canadian Short-Term Income Fund	10.70	n/a
9	19-Mar-07	B	911,585	TD Global Dividend Fund	10.97	n.d.
10	17-Apr-07	B	350,545	TD Global Dividend Fund	11.41	n.d.
11	25-Feb-08	B	210,5	TD Global Dividend Fund	9.50	n.d.
12	24-Sept-09	S	-3,38	RBC Can. Dividend Fund	42.01	n/a
13	23-Sept-10	S	-18,392	TD Global Dividend Fund	7.61	n/a
14	30-Sept-11	S	-19,263	TD Global Dividend Fund	7.37	n/a
<b>Total commissions:</b>						-

**TFSA Account**

**Client MJR**  
**Trades in TFSA account**

#	Date	B/S	Qty	Description	Price (\$)	Commissions (\$)
1	19-Mar-10	B	11,101	Res. Telus Corporation 3JN13	90.08	n.d.
2	03-Aug-11	B	5000	Dundee Int'l REIT c/v deb. 5,5%	100.00	n.d.
3	01-Nov-12	S	-11101	Res. Telus Corporation 3JN13	99.07	n.d.
4	19-Nov-12	B	1000	Slate US opportunity REIT (New-iss.)	10.00	n.d.
<b>Total commissions:</b>						-