

Unofficial English Translation

Re Buisson

IN THE MATTER OF:

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

and

Steeve Buisson, Respondent

2017 IIROC 31

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

Hearing held on May 9, 2017
Decision rendered on May 9, 2017
Decision published on May 31, 2017

Hearing Panel:

Robert Monette (Chair), Jacques Lemay, Jean Morin

Appearances:

Me Francis Larin, Counsel for IIROC

Me Sébastien C. Caron, Counsel for the Respondent

REASONS FOR DECISION ON SETTLEMENT

¶ 1 A hearing was held before a Hearing Panel of IIROC (the Hearing Panel) on May 9, 2017. On this occasion, the Hearing Panel heard the submissions of counsel for both parties (the parties) who requested the acceptance of the Settlement Agreement signed between them on February 24, 2017, pursuant to Enforcement Proceedings Rule 8200 and Rule 8428 of the Rules of Practice and Procedure¹.

¶ 2 The content of the Agreement complies with the formalities of Enforcement Proceedings Rule 8215. The Settlement Agreement is appended to this decision and forms an integral part hereof.

¶ 3 Following the submissions of counsel for both parties and after deliberation, the Hearing Panel accepted the settlement, reserving the right to publish its reasons at a later date.

¶ 4 The present decision explains the reasons for the acceptance of the Settlement Agreement.

¶ 5 We will begin with a summary of the facts described in the Settlement Agreement and then proceed to analyze the terms of the settlement.

The Agreement

¹ Unless otherwise specified, the Hearing Panel is referring to IIROC's Rules of Practice and Procedure.

¶ 6 From October 2001 to April 2016, the Respondent was a registered representative with Laurentian Bank Securities Inc. (LBS).

¶ 7 He carried out his duties at the Québec City branch, where he would hold the positions of Branch Manager, Vice-President and Regional Manager for Eastern Québec.

¶ 8 In addition to his clients, the Respondent supervised approximately 25 employees, including investment advisors in the Chicoutimi, Thetford Mines, Kamouraska and Drummondville sub-branches.

¶ 9 The parties agree with the following facts, which inform the first count.

¶ 10 On February 13, 2012, pursuant to a decision of the Québec District Council Approval Committee (Approval Committee), one of the conditions imposed with a view to reapproval of a registered representative was that the Respondent, as the designated supervisor responsible for the activities of this registered representative, must perform a site visit at the latter's place of work in Thetford Mines, every two weeks.

¶ 11 On September 7, 2012, the Approval Committee accepted an application to change the conditions of registration for this registered representative at LBS, namely that the Respondent's site visits to the registrant's place of work be conducted henceforth on a monthly basis, rather than every two weeks, notably because of the internal controls and the system for supervising the accounts of this registered representative.

¶ 12 On April 29, 2013, Staff of IIROC informed LBS that the conditions of registration that were the subject of the two decisions cited above were henceforth lifted.

¶ 13 In accordance with these decisions, the Respondent should have made at least fourteen (14) site visits to the registered representative's place of work between February 13, 2012 and the end of August 2012, and at least eight (8) site visits to the registered representative's place of work between September 7, 2012 and April 28, 2013.

¶ 14 Yet, it appears that during the period of February 13, 2012 to April 28, 2013, the Respondent failed to visit the registered representative's place of work on at least seven (7) occasions, even though they were in regular communication.

¶ 15 In addition to the events described in the motion, the parties informed the Hearing Panel that for a brief period, the Respondent was handicapped by an injury. Visits were scheduled with the registered representative in Québec City whenever the latter was going to be in town on routine business; the Respondent insisted on the prior approval of the compliance officers at LBS regarding this initiative.

¶ 16 Regarding the second count, the facts are as follows:

¶ 17 On or around June 28, 2011, the Respondent signed a form titled *90-Day Training Certificate*, certifying completion of the required 90-day training program by a registered representative under his supervision, and thus permitting the latter's registration with IIROC;

¶ 18 At no time did the Respondent make sure that this registered representative had actually completed this training, preferring to take for granted that the LBS registration department was handling this aspect;

¶ 19 Following an audit conducted by the IIROC Registration Department in 2012, it was noted that this registered representative had started the 90-day Training Program offered by CSI, but had not completed it.

¶ 20 To complete the facts in the motion, the parties added that no client was harmed and that no financial loss had resulted. Furthermore, the Respondent has no disciplinary history and cooperated, with his legal counsel, in the negotiation of the Settlement Agreement.

¶ 21 It should be noted that the Settlement Agreement describes the Respondent's contraventions as follows:

Count 1

Between February 12, 2012 and April 28, 2013, the Respondent failed to adequately supervise a registered representative under his responsibility, in accordance with supervision conditions imposed on

this registered representative by the Approval Committee of the Quebec District Council, contrary to IIROC Dealer Member Rule 38.4(a); and

Count 2

Between July 2011 and April 2012, the Respondent failed to ensure that a registered representative under his supervision met the training requirements stipulated in IIROC Dealer Member Rule 2900.3 concerning the 90-day Training Program, contrary to IIROC Dealer Member Rule 38.4(a).

¶ 22 Regarding the terms of settlement, the parties agree to the following:

- a) A fine in the amount of \$15,000;
- b) Successful rewrite of the Branch Manager's Course (BMC) exam within four (4) months following the acceptance of this Settlement Agreement; and
- c) The Respondent agrees to pay IIROC costs in the amount of \$2,500.

Discussion

¶ 23 It goes without saying that any conclusion reached by the Hearing Panel regarding the Settlement Agreement must be based on the facts in evidence and meet the criteria for appraisal of such matters.

¶ 24 Concerning the facts in evidence, we have already noted that the parties completed the factual background in their motion by adding complementary facts. We found these facts to be relevant to the motion and requested the parties' consent for their disclosure. Rule 8428 (6) having been met², the Hearing Panel may now proceed with its discussion, taking into account all of the proven facts.

¶ 25 Our case law has clearly defined the role of our Hearing Panel in the matter of the approval of a Settlement Agreement, by drawing inspiration from the rules set forth by the superior courts, for example in matters of the joint recommendation of a sanction or settlement in a class action³.

¶ 26 In *Poulin*⁴ and *Dumont*,⁵ the Québec Court of Appeal sums up the applicable principle:

[TRANSLATION] [12] Although the judge was not bound by the joint recommendation of the parties, she could not set it aside "unless it is unreasonable, contrary to the public interest or would tend to bring the administration of justice into disrepute" [5].

¶ 27 Thus, faced with a settlement agreement, the hearing panel's role is solely to determine whether the agreement is unreasonable or contrary to the public interest: it must avoid substituting its own discretion for that of the parties.

¶ 28 The hearing panel has two tests for determining the reasonable nature of a settlement agreement. The hearing panel verifies that the key considerations in the IIROC *Dealer Member Sanction Guidelines* (Guidelines) are taken into consideration and makes sure that the proposed penalty falls within a reasonable range of sanctions already rendered in similar offences; furthermore, such sanctions must serve as an adequate deterrent for both the individual and the industry.

¶ 29 First, the parties referred us to certain key factors identified by the Guidelines in the determination of sanctions. While we are not bound by the suggested list, we can however draw inspiration from it when analyzing the reasonableness of the Settlement Agreement.

¶ 30 In the matter before us, we certainly cannot conclude that the Respondent had a pattern of misconduct;

² Rule 8428 (6) reads: *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...*

³ Re Kloda 2016 IIROC 50; Re Gaudet 2010 IIROC 29 ; Re BMO Nesbitt Burns 2012 IIROC 21

⁴ Poulin c. R. 2010 QCCA 1854

⁵ Dumont c. R. 2013 QCCA 576

rather, these are isolated incidents that were not repeated over a long period.

¶ 31 No harm was caused to the clients or other market participants and no financial loss was reported; the Respondent did not attempt to obtain a financial benefit from his misconduct.

¶ 32 The Respondent has no disciplinary history; the Respondent and his legal counsel cooperated in the negotiation of this agreement.

¶ 33 It must be added, to the Respondent's credit, that for some of the alleged misconduct, namely the meetings with the registered representative outside the workplace, he was the one who sought out his superiors to find out whether this approach was valid. Therefore no malicious behaviour can be inferred on the part of the Respondent, whose responsibilities, moreover, at that time, seemed to be many and demanding.

¶ 34 We acknowledge that the Respondent, by reason of his duties, plays an important role in the securities industry self-regulation system and must execute his tasks wisely, but we cannot deduce that there has been a serious breach of this obligation. The Respondent's good faith is not in question.

¶ 35 We are satisfied that the key factors mentioned previously are appropriate given the alleged misconduct and the proposed sanctions.

¶ 36 Secondly, the parties presented a book of authorities to establish that the terms of settlement determine penalties that fall within an acceptable range in similar matters.

¶ 37 The parties emphasized the distinctions and similarities between the cases cited and the Settlement Agreement. While it declares itself satisfied with the exercise as presented, the Hearing Panel wishes to highlight the following cases.

¶ 38 In *Brunet*⁶, a branch manager failed in his duty to provide supervision over a long period, and clients were harmed. The settlement agreement provided for a \$40,000 fine, costs in the amount of \$5,000 and a three-year temporary prohibition from approval.

¶ 39 In the contested matter of *Beaudouin*⁷, a branch manager committed two offenses; he failed in his duty to protect the investing public relative to transactions effected by a team of representatives and did not follow through on his supervisory controls. In the appraisal of the misconduct for penalty purposes, the mitigating factors were the respondent's lack of disciplinary history, his good faith, and the absence of financial losses. Moreover, the respondent's difficulty in reconciling his duties as a representative with his supervisory duties was specifically noted. The chosen penalties were an aggregate fine of \$10,000, costs in the amount of \$5,000 and rewriting an aptitude test for managers.

¶ 40 The Hearing Panel wishes to emphasize that this last matter is the one that has the closest connection with the motion before us.

¶ 41 Finally, in the contested case of *Sichiallaci*⁸, a branch manager was found guilty on two counts, namely inadequate supervision of the activities in clients' accounts and insufficient follow-up of the control and supervision procedures. The key factors were the respondent's lack of disciplinary history, his good faith, his cooperation, and the lack of support from his employer. The penalties imposed were a fine of \$15,000, costs in the amount of \$10,000 and a refresher course.

¶ 42 Taking into account the specific facts in each matter, the Hearing Panel concludes that the penalties indicated in this Settlement Agreement fall within the range of penalties imposed in similar matters; the sanctions imposed are proportionate to the conduct at issue and will have a general deterrent effect in accordance with industry expectations.

⁶ Re Brunet 2013 OCRCVM 34

⁷ Re Beaudouin 2011 IIROC 66

⁸ Re Sichiallaci [2007] I.D.A.C.D. No.6

Conclusion

¶ 43 The Agreement entered into between the parties is not unreasonable and the penalties it provides achieve the objectives sought by the disciplinary rules, notably protecting the public interest and the integrity of the investment industry.

FOR THESE REASONS:

The Hearing Panel accepts the Settlement Agreement signed by the parties on February 24, 2017.

Montréal, May 31, 2017

Robert Monette

Panel Chair

Jacques Lemay

Panel Member

Jean Morin

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 a settlement hearing will be held before a Hearing Panel (the Hearing Panel) to consider whether, pursuant to Rule 8215 of IIROC's Enforcement, Examination and Approval Rules, it should accept a settlement agreement (the Settlement Agreement) between Staff of IIROC (Staff) and Steeve Buisson (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 Part III of this Settlement Agreement.

SUMMARY

4. At the material time, the Respondent was employed as a branch manager.
5. The Respondent, by not making all of the visits required under the terms of the conditions of registration, failed to ensure that the conditions of registration were met for a registered representative under his supervision.
6. What's more, the Respondent did not verify that a new registered representative under his supervision had actually completed his 90-day Training Program in accordance with the applicable rule.

APPROVAL HISTORY

7. The Respondent was a registered representative at Laurentian Bank Securities Inc. (LBS) from October 2001 to April 2016, and acted as branch manager from February 2006 to April 2016;
8. As of 2011 and until termination of his registration with LBS, Respondent held the position of Vice-

President and Regional Manager for Eastern Québec;

9. At all material times, Respondent carried out his duties at the Quebec City branch of LBS;
10. The Respondent had approximately 300 clients under his management and supervised approximately 25 employees, 16 of whom were investment advisors in Quebec City, as well as investment advisors in the Chicoutimi, Thetford Mines, Kamouraska and Drummondville sub-branches.

PARTICULARS OF COUNT 1:

11. On February 13, 2012, an Approval Committee of the Quebec District Council (the Approval Committee) approved the reactivation and approval application of a registered representative at LBS, subject to conditions, since the latter was under investigation by Staff of IIROC at the time;
12. Pursuant to this decision of the Approval Committee, one of the conditions imposed was that the Respondent, as the designated supervisor responsible for the activities of this registered representative, must perform a site visit at the latter's place of work, every two weeks;
13. The Respondent was duly informed of this specific condition, which was his responsibility;
14. On September 7, 2012, the Approval Committee accepted an application to change the conditions of registration for this registered representative at LBS, namely that the Respondent's site visits to the registrant's place of work be conducted henceforth on a monthly basis, rather than every two weeks, notably because of the internal controls and the system for supervising the accounts of this registered representative;
15. On April 29, 2013, Staff of IIROC informed LBS that the conditions of registration that were the subject of the two decisions rendered by the Approval Committee on February 13 and September 7, 2012, were henceforth lifted, considering that the investigation of the registered representative was now closed;
16. Consequently, between February 13 and the end of August 2012, the Respondent should have made at least 14 site visits to the registered representative's place of work;
17. Following the Approval Committee's decision dated September 7, 2012, namely for the period from September 7, 2012 to April 28, 2013, the Respondent should have made at least eight (8) site visits to the registered representative's place of work;
18. Yet, between February 13, 2012 and April 28, 2013, during which period at least 22 site visits should have been made, and even though the Respondent was in regular communication with the registered representative, it appears that the Respondent failed to visit his place of work on at least seven (7) occasions.

PARTICULARS OF COUNT 2

19. IIROC Dealer Member Rule 2900.3 imposes a 90-day Training Program on all new registered representatives;
20. In accordance with Member Regulation Notice MR0359 published on July 13, 2005 by the Investment Dealers Association of Canada (IDA) and titled *Revised Guidelines for 90-Day Training Program*, this training program includes a firm-specific component, as well as a component that may include courses offered by the Canadian Securities Institute (CSI) (now CSI Global Education Inc.);
21. The firm-specific component covers the firm's proprietary products, services, systems and procedures notably;
22. On or around June 28, 2011, the Respondent signed a form titled *90-Day Training Certificate*, certifying completion of the required 90-day training program by a registered representative under his supervision, and thus permitting the latter's registration with IIROC;
23. At no time did the Respondent make sure that this registered representative had actually completed this

- training, preferring to take for granted that the LBS registration department was handling this aspect;
24. On or around February 24, 2012, the registered representative executed a trade in a client's account and, on or around April 19, 2012, LBS terminated the employment of this registered representative;
25. Following an audit conducted by the IIROC Registration Department in 2012, it was noted that this registered representative had started the 90-day Training Program offered by the CSI, but had not completed it.

PART IV – CONTRAVENTIONS

26. By reason of the above-described misconduct, the Respondent contravened the IIROC Dealer Member Rules as follows:

Count 1

Between February 12, 2012 and April 28, 2013, the Respondent failed to adequately supervise a registered representative under his responsibility, in accordance with supervision conditions imposed on this registered representative by the Approval Committee of the Quebec District Council, contrary to IIROC Dealer Member Rule 38.4(a); and

Count 2

Between July 2011 and April 2012, the Respondent failed to ensure that a registered representative under his supervision met the training requirements stipulated in IIROC Dealer Member Rule 2900.3 concerning the 90-day Training Program, contrary to IIROC Dealer Member Rule 38.4(a).

PART V - TERMS OF SETTLEMENT

27. The Respondent accepts the following penalties and costs:
- a) A fine in the amount of \$15,000;
 - b) Successful rewrite of the Branch Manager's Course (BMC) exam within four (4) months following the acceptance of this Settlement Agreement; and
 - c) The Respondent agrees to pay IIROC costs in the amount of \$2,500.
28. If the Hearing Panel accepts this Settlement Agreement, 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

29. 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 the paragraph below.
30. 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 – SETTLEMENT ACCEPTANCE PROCEDURE

31. This Settlement Agreement is conditional on acceptance by the Hearing Panel
32. The Settlement Agreement shall be presented to a Hearing Panel at a settlement hearing held 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.
33. 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.

34. 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.
35. 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.
36. The terms of this Settlement Agreement are confidential unless and until this Settlement Agreement has been accepted by the Hearing Panel.
37. 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.
38. 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.
39. 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 – SIGNATURE OF THE SETTLEMENT AGREEMENT

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

SIGNED this 16th day of February 2017.

(s) Witness

Witness

(s) Steeve Buisson

Steeve Buisson

Respondent

SIGNED this 24th day of February 2017.

(s) Linda Vachet

Witness

(s) Francis Larin

Francis Larin

Senior Enforcement Counsel, on behalf of Staff of IIROC

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