# Re Vickers

**IN THE MATTER OF:**

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

**and**

**Bryan Andrew Vickers**

2015 IIROC 29

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

Heard: July 9, 2015 in Toronto, Ontario
Decision: August 27, 2015

**Hearing Panel:**
Hon. R. Jeffrey Flinn, Q.C. Chair, Daniel Iggers and Donald Lawson
**Appearances:**
Elissa Sinha, Senior Enforcement Counsel for IIROC
Jeremy Devereaux, Counsel for the Respondent

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# DECISION AND REASONS

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¶ 1 This hearing was directed by the Ontario Securities Commission ("OSC") after a Commissioner concluded that an earlier hearing by a panel convened by IIROC had erred in permitting evidence not in the agreed statements of facts to be considered in coming to their conclusion and directed the matter be reconsidered by a newly-constituted panel convened by IIROC. The hearing proceeded on an agreed statement entered into before the first hearing and referred to therein and as well before the OSC hearing. This agreed statement is found as Schedule "A" hereto.

## The Facts

¶ 2 The Respondent was at the material time the Branch Manager of the London Office of RBC Dominion Securities ("RBC DS") and responsible for supervising one Axford who was a Registered Representative employed by RBC DS. Early in 2010 Axford formed the opinion that stocks were overvalued and that the market would decline. He developed a strategy that he would recommend to several of his clients, being that they re-balance their portfolios by selling their long equity positions and investing the proceeds in a combination of a) cash, b) low risk securities, and c) inverse exchange-traded funds ("IETFs"). Prior to implementing his strategy, Axford discussed his strategy with the Respondent in detail. Both Axford and the Respondent were of the view that the IETFs were not high risk investments, and the Respondent believed that the IETFs were significantly less risky than leveraged ETFs. The Respondent did not advise against the strategy nor did he advise Axford of the risk statements in the respective prospectuses or that the IETFs might not be suitable for clients who had no tolerance for high risk as recorded in their NAAFs.

¶ 3 Both IETFs were described in their prospectuses as riskier or highly speculative. There was no evidence if this was known to Axford or the Respondent.

¶ 4 One AB was a client of Axford. Her NAAF at the time indicated that her risk factors were 0% high risk

and 20% medium-high. AB had opened a TFSA in 2009 and the NAAF for that account indicated 100% medium high in so far as risk. AB became concerned with the decline in value of the IETFs in 2010 but was advised by Axford to continue to hold the security. Subsequently in 2011 AB ordered him to sell all IETFs in 2011 at a loss. 57% of AB's portfolio was made up of IETFs. AB was compensated by RBC DS for the losses.

¶ 5 There were 37 clients of Axford who followed Axford's advice. Subsequent to the complaint of AB their positions were sold. None of the purchasers indicated tolerance for high risk in their NAAFs. The average loss per client was $17,303.18, but there were gains in other securities and the average net loss per client was $ 2,131.

**Contravention**

¶ 6 IIROC charged the Respondent "From April 2010 to August 2011...Vickers failed to adequately supervise a Registered Representative ("RR") and certain of his client accounts, when the RR recommended certain inverse exchange-traded funds to clients, contrary to IIROC Dealer Member Rule 38.4.

¶ 7 This contravention has been agreed to by the Respondent in the agreed statement of facts found as Schedule "A" to this decision in paras 5, 10, and 44.

**History**

¶ 8 Following the charge against the Respondent the matter came before a Hearing Panel convened by IIROC on June 10, 2014 and a decision was released on June 19th 2014. The decision is found at tab 3 in the Joint Hearing Book and published as 2014 IIROC 26. The Hearing Panel, for the reasons given in the decision determined that an appropriate penalty was

1. A fine of $30,000.00;
2. A suspension and prohibition on Vickers becoming a Supervisor for six months;
3. A requirement that Vickers re-write the Supervisors course before again becoming a Branch Manager; and
4. Both counsel agreed that the Respondent should pay $3000.00 for costs.

¶ 9 The Respondent applied to the OSC for a hearing and review of the Decision by the Commission on the grounds that,

1. The Panel erred in law and proceeded on incorrect principles in basing its decision to a significant extent on facts and conduct that were not admitted in the Agreed Statement of Facts and not otherwise admissible;
2. The panel's reasons are inadequate in the circumstances; and
3. The Panel erred in law and proceeded on incorrect principles in imposing sanctions that are disproportionate to the facts and conduct agreed upon in the Agreed Statement of Facts.

¶ 10 Briefly the Commission concluded that the decision of the Hearing Panel did not meet the standard of transparency on the basis of the standard set by the court in Clifford v Ontario [2009] OJ No 3900 and referred to by the Commission in its reasons; that the Hearing Panel should not have considered what is referred to as the "Guidance Note" as it was not referred to in the Agreed Statement of Facts; and directed that the application should be reconsidered by a newly constituted Panel.

**Sanctions**

¶ 11 The Sanction Guidelines have been proposed by IIROC to assist in disciplinary proceedings involving behaviour and conduct in the investment industry, and are intended to promote consistency, fairness and transparency by providing a framework to guide the exercise of discretion in determining sanctions which meet the general sanctioning principles. The imposition of Sanctions as set out in the Guidelines states, "The determination of the appropriate sanction in any given case is discretionary and a fact specific process.....Hearing Panels retain the discretion to impose the sanctions they consider appropriate."

¶ 12 From the outset IIROC proposed in this case, sanctions as follows;

a) Be suspended from approval as a Supervisor for 18 months;

b) Pay a fine of $40,000.00;

c) Re-write the Branch Managers course, or equivalent, upon re-approval; and

d) Pay costs of $3,000.00.

¶ 13 The Respondent proposed that there be no suspension, that the fine be no more than $15,000.00, that the Respondent will re-write the Branch Managers exam, and will pay $3,000.00.

¶ 14 IIROC and the Respondent maintain their positions for this hearing.

**Argument**

¶ 15 Of interest in the argument counsel for IIROC seems to have downplayed any reference to the decision in the first hearing. Counsel seems to have changed course since advising the Commissioner that the sanctions were not inappropriate. Counsel for the Respondent says in argument that counsel for IIROC had in fact argued that they were proportionate when before the OSC, a word well used in assessing sanctions. Counsel in argument seemed to agree but argued that counsel for IIROC was wearing a different hat when before the OSC.

¶ 16 Similarly counsel for IIROC from beginning to end in the hearing before the Commission supported the decision of the first Hearing Panel and more particularly in arguing that the "Decision is justifiable, transparent and intelligible" and as noted the Commission faced with the inadmissible Guidance Note found otherwise.

¶ 17 Further in the current argument counsel for IIROC has introduced the word "reckless" in describing the conduct of the Respondent. It did not go unnoticed in perusing the written argument that it was a word used in para. # 5 of the Sanction Guidelines as giving rise to the consideration of suspension. Counsel takes the view that "reckless is to be inferred from the conduct of the Respondent."

¶ 18 Much of the argument on both sides dealt with suspension as a sanction in this case. Counsel for IIROC supported suspension as necessary for general deterrence. On questioning from the panel counsel argued that the publication of the decisions by IIROC to the investment industry required suspension to provide a bite (our words) to other branch managers as a deterrent to like behaviour. Specific deterrence in our view has been fully satisfied no matter the decision.

¶ 19 In Executive Director of the B.C. Securities Commission v. Hartvikson and Johnson, a case that went to the Supreme Court of Canada ([2004]1 SCR 672) the court said at page 21 "The weight given to general deterrence will vary from case to case and is a matter within the discretion of the Commission. Protecting the public interest will require a different remedial emphasis according to the circumstances. Courts should review the order globally to determine whether it is reasonable. No one fact should be considered in isolation because to do so may skew the textured and nuanced evaluation conducted by the Commission in crafting an order in the public interest." The court goes on to say that unreasonable weight given to general deterrence might render the order unreasonable.

¶ 20 As was said in Re Mills, [2001] IDACD No. 7, a case often cited for its consideration of the question of general deterrence, "Thus the responsibility of the District Council is to determine a penalty appropriate to the conduct and respondent before it, reflecting that its primary purpose is prevention, rather than punishment."

¶ 21 In Re Ahrens, a supervisory case with very unusual facts the Hearing Panel saw fit to caution "we trust our decision is read to be dealing only with the specific facts in this matter". Indeed this is what the introduction to the Sanction Guidelines suggests.

¶ 22 The brief of counsel for the Respondent gives us a number of cases for comparison in the question of suspension and all with the exception of the oft quoted Mills are 2005 and later. While counsel for IIROC argued that suspensions are now more often provided as sanction it may well be that IIROC is seeking such sanction more often.

¶ 23 We return to the Guidelines that sanctions are fact specific and within the discretion of the Hearing Panel.

¶ 24 As to the monetary penalty there is an extensive review of cases dealing with that subject in Re Floyd and McDonald, 2013 IIROC 27. The Hearing Panel after reviewing these cases said "it is evident from the forgoing review of case authorities that the fines in these branch manager cases have ranged from $20,000.00 to $70,000.00. The fines differ because each case turns on its own particular facts."

**Aggravating Factors**

¶ 25 IIROC counsel cites the following aggravating factors.

a) The transactions were voluminous, impacted numerous clients, and occurred over a period of time.

b) The misconduct was reckless.

c) Harm to clients.

¶ 26 The fact is that the acts to be supervised were a strategy involving not only IETFs but other securities, the strategy to mature over a period of time. When the positions were sold out there was profit from other securities. The Respondent followed the strategy with the RR and in fact with the Compliance officers at RBC DS. So while the aggravating factor a) is technically correct, it must be examined closely. The supervisory failure in Vickers seems to concern the failure to identify that the investment strategy involved the use of instruments described in the prospectus as high risk. It is not clear that the strategy itself was high risk, and therefore in hindsight the Respondent in supervising Axford should have done more than he did.

¶ 27 As to b) we have earlier mentioned the new arrival of the conduct being described as "reckless". In the other hearings it is not used to describe the conduct and appears for the first time in the argument of counsel for IIROC. In our view it weakens the allegation and looks very much as a device to strengthen the request for suspension. Here while there were many transactions in putting the strategy in place it was one decision involving one strategy. This is a case where there was supervision not only at the outset but regularly. The compliance group with RBC DS seemed to be only concerned with the percentages of IETFs in the various portfolios and surely if the conduct was "reckless" they would have done more. This Hearing Panel does not "infer recklessness".

**Mitigating Factors**

¶ 28 The Respondent has been forthright throughout both to his employer and to IIROC. He assisted IIROC in its investigation of the AB complaint, admitted that his conduct was in violation of Dealer Member Rules and executed an Agreed Statement of Facts which not only assists IIROC in the prosecution of the complaint but saves the clients from having to partake in a hearing, which might have been embarrassing to them. His cooperation in all the circumstances was not unreasonable considering all the circumstances. The Respondent has been an employee with RBC DS and a Branch Manager for 13 years before his resignation as Branch Manager in 2011. He continued and continues as an RR since. He has no disciplinary record.

**Decision**

¶ 29 Returning once more to the first hearing, while the setup of the decision might for some be somewhat awkward the decision in the view of this Hearing Panel touched all the bases and the decision was overturned by the Commission mainly because of the use of the Guidance Note. We start with this being the closest precedent as it deals with the same facts and illustrates the exercise of the discretion referred to in the Sanction Guidelines. That Hearing Panel came to the conclusion that the Respondent's conduct was closer to negligence or an error of judgement. This Hearing Panel agrees.

¶ 30 Axford, the RR involved with this "strategy", was also charged by IIROC based on these facts. He executed an agreement with IIROC with respect not only to the facts but also the sanctions which were as follows;

a) A suspension from approval in any registered capacity with IIROC for a period of 4 months;

b) A fine of $30,000.00;

c) that he complete the CPH course prior to seeking registration;

d) that he be placed under close supervision for six months; and

e) That he pay costs of $2,500.00.

¶ 31 The Hearing Panel there concluded "we are satisfied that his conduct was wrong, was not manipulative nor fraudulent, and that he acted in what he believed to be the best interest of his clients." They noted that he had been registered with IIROC since 2002 and had no prior disciplinary history.

¶ 32 As stated in Ahrens (supra) and by many other Panels, the Hearing Panels in determining an appropriate penalty are:

a) Protecting the investing public;

b) Protecting IIROC's membership;

c) Protecting the integrity of IIROC's process;

d) Protecting the integrity of the securities markets; and

e) Preventing a repetition of conduct of the type under consideration.

¶ 33 This Hearing Panel is of the view that the first Hearing Panel imposed the appropriate penalty at the time, that is, six months suspension, a fine of $30,000.00 and the writing of the supervisory examination.

¶ 34 What has changed? The Respondent has been deprived of the opportunity of being branch manager and whatever benefits might be derived therefrom, for over a year; his conduct has been the subject of at least four publications from IIROC to its members (not a criticism but a fact); and he has faced the costs of three hearings, being successful in the second. This Hearing Panel agrees that the usual embarrassment and costs are part of the result of the conduct involved and generally should not be considered, as mitigating factors. (Re Johnson 2007 LNBCSC 345).

¶ 35 Bearing in mind all of the facts and the cases cited in the two volumes of Hearing Books as well as those added at the hearing and the circumstances of this particular case, the assessment of this Hearing Panel as to what penalties are proportionate and appropriate are:

a) No suspension;

b) A fine of $20,000.00;

c) He write the supervisory exam before seeking approval for promotion; and

d) He pays the costs of $3,000.00 as agreed for the first hearing and which we understand is still agreed.

¶ 36 This Hearing Panel wishes to emphasize that as was said in Ahrens (supra) "this decision is read to be dealing only with the specific facts in this matter".

¶ 37 This Hearing Panel is grateful to both counsel for the helpful material provided to its members as well as the more than competent argument presented at the hearing.

Dated at Toronto this 27th day of August, 2015.

Hon. R. Jeffrey Flinn, Q.C. Chair,

Daniel Iggers, Panel Member

Donald Lawson, Panel 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, Bryan Andrew Vickers ("Vickers").

2. The Respondent consents to be subject to the jurisdiction of IIROC.

3. 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").

4. IIROC staff ("Staff") and the Respondent admit and agree to the facts outlined below.

### II. CONTRAVENTIONS

5. From April 2010 to August 2011, in the manner described herein, Vickers failed to adequately supervise a registered representative ("RR") and certain of his client accounts, when the RR recommended certain inverse exchange-traded funds to clients, contrary to IIROC Dealer Member Rule 38.4.

### III. STATEMENT OF FACTS

### A. Overview

6. Vickers was at all material times, a Branch Manager employed with RBC Dominion Securities ("RBC DS") at a branch located in London, Ontario.

7. Derek Axford was a Registered Representative employed by RBC DS in the same London, Ontario branch. Vickers was the Branch Manager responsible for supervising Axford during the material time.

8. Axford recommended the purchase of certain inverse exchange-traded funds (the "IETFs"), which were described in their prospectuses at the time as riskier or highly speculative securities, to clients who had only a medium or medium high risk tolerance noted on their New Account Application form ("NAAF").

9. Axford discussed the proposed strategy with Vickers before recommending it to clients. Vickers did not advise against the strategy, and as a result, 37 clients with only medium or medium-high risk tolerance recorded on their NAAFs purchased the IETFs.

10. For the reasons set out herein, Vickers failed to ensure that, during the relevant period, Axford's recommendation to his clients to purchase the IETFs was suitable for those clients, and as a result, Vickers failed to adequately fulfill his responsibilities to supervise Axford.

### B. Registration History

11. Vickers was first registered with the IDA in 1994 and became a registrant of IIROC on June 1, 2008.

12. Vickers was employed with CIBC Wood Gundy Inc. from January 1994 to July 1995. Since July 1995, he has been employed with RBC DS, first as a Registered Representative and then as a Branch Manager.

13. Vickers was registered as a Branch Manager from 1998 to 2011. He chose to cease being a Branch Manager in November 2011. Since that date he has been employed as a Registered Representative/Portfolio Manager with RBC DS.

### C. IETFs and Axford's Strategy

14. Exchange-Traded Funds ("ETFs") are securities that trade on an exchange that track the performance of an underlying benchmark or index. The underlying assets of the benchmark or index may be stocks, bonds or other assets such as commodities.

15. "Inverse" or "short" ETFs, seek to deliver the inverse or opposite of the performance of the index or benchmark they track. The holdings in these funds include equities, but can also include derivatives including swaps and forward contracts.

16. The IETFs at issue are the Horizons BetaPro S&P/TSX 60 Inverse ETF (the "Horizons IETF"), and the ProShares Short S&P 500 (the "ProShares IETF").

17. The prospectus for the Horizons IETF describes the fund as highly speculative and involving a high degree of risk.

> *Units of the ETFs are highly speculative and involve a high degree of risk, some not traditionally associated with mutual funds. No ETF by itself constitutes a balanced investment plan. An investor may lose a portion or even all of the money that he or she places in an ETF.*
>
> …
>
> *The risk of loss in trading derivatives can be substantial. In considering whether to buy Units of an ETF, the investor should be aware that trading derivatives can quickly lead to large losses as well as large gains. Such trading losses can sharply reduce the net asset value of an ETF and consequently the value of an investor's Units in the ETF. Market conditions may also make it difficult or impossible for an ETF to liquidate a position.*

18. The prospectus for the ProShares IETF at the relevant time stated that this IETF seeks investment returns that correspond to the inverse of the S&P 500 Index.

> *The Fund is different from most exchange-traded funds in that it seeks inverse returns and only on a daily basis… Accordingly, the Fund may not be suitable for all investors and should be used only by knowledgeable investors who understand the potential consequences of seeking daily inverse investment results. Shareholders should actively monitor their investments.*

19. In or about early 2010, Axford formed the view based on research and analysis he had undertaken that stocks were overvalued and that the market was going to decline. As a result of his analysis, Axford recommended to clients that they re-balance their portfolios by selling their long equity positions and investing the proceeds in a combination of: (a) cash; (b) low risk securities; and (c) the IETFs. Pursuant to this strategy the positions in the IETFs were the largest of the three categories, often comprising over 50% of the client's account.

20. In Axford's view, this strategy would decrease his clients' risk exposure.

21. Despite the statements in the prospectuses and other research, Axford was of the view that the IETFs were not riskier or highly speculative products.

22. Prior to executing his strategy, Axford discussed the strategy and the basis for the strategy in detail with Vickers. Axford advised Vickers that he intended to implement the strategy in the accounts of several of his clients. Vickers agreed with Axford that the IETFs were not high risk investments. Vickers believed that the IETFs were significantly less risky than leveraged ETFs.

23. Vickers did not advise against the strategy, or advise Axford of the statements in the prospectuses quoted above regarding risks, or that these IETFs may not be suitable for clients who had no tolerance for high risk as recorded on their NAAFs.

**D. AB's Accounts**

24. One of the clients to whom Axford recommended the purchase of the IETFs was AB.

25. AB is currently 77 years old, and retired from paid employment. Prior to retirement, she was a registered nurse for 45 years.

26. In late 2003, AB opened a Registered Retirement Investment Fund (RRIF) account with RBC DS. Axford was her investment advisor. In early 2005, she opened a cash account with RBC DS, also with Axford as her investment advisor.

27. In May 2008, Axford asked AB to update her NAAF. The NAAF for the RRIF account indicated that AB had "limited" investment knowledge, and recorded her Investment Objectives and Risk Factors as

follows:

*Investment Objectives*:

20% Income

0% Long Term Growth

40% Medium Term Growth

40% Short Term Growth

*Risk Factors*:

20% Low

60% Medium

20% Medium-High

0% High Risk

28. In January 2009, AB opened a Tax Free Savings Account (TFSA). The NAAF for this account recorded her Investment Objectives and Risk Factors as follows:

*Investment Objectives*:

50% Long Term Growth

50% Short Term Growth

*Risk Factors*:

100% Medium-High

29. In April 2010, based on the analysis described above, Axford recommended his strategy to AB, including the purchase of the IETFs in AB's RRIF and TFSA accounts.

30. As a result, in April 2010, the IETFs comprised approximately 57% of AB's RRIF account. Horizons IETF, which was purchased in the TFSA, comprised approximately 95% of that account.

31. Four to six months after the purchase, both IETFs began to decline in value. AB became concerned about the decline and Axford advised her to continue to hold the IETFs as he viewed them as longer-term investments.

32. In or around April 2011, AB instructed Axford to sell the IETFs in both accounts. By this date, she had held them in her account for almost one year.

33. AB suffered losses on the sales of the IETFs but achieved a positive annualized return on her overall portfolio for the period of time that Axford was her Registered Representative. AB was compensated by RBC DS for the losses on the sales of the IETFs.

34. Both IETFs were described in their prospectuses at the time as riskier or highly speculative securities. Each involved taking a view that the market would generally decline. Large positions in these securities were not suitable for AB based on the risk tolerance recorded on her NAAFs.

**E. The IETFs Recommended to Other Clients**

35. In addition to AB, pursuant to his strategy, Axford recommended and purchased the IETFs in a significant number of other accounts for clients who did not have a stated tolerance for high risk, or had a minimal tolerance for high or higher than medium risk recorded on their NAAFs. The purchases were made as part of the strategy discussed above. In most cases, this resulted in large concentrations of the IETFs in these accounts.

36. Thirty-six other clients with no tolerance for high risk investments recorded on their NAAFs purchased

the IETFs.

37. A number of these clients suffered losses on the IETFs that they purchased, although the clients also achieved gains from other investments in the accounts (such as government bonds, GICs and money market funds). The average loss per client on their purchases of the IETFs was $17,303.18. While some of the clients ended up with an overall account gain and some ended up with an overall account loss, the average net loss per client was $2,131.38.

**F. Steps Taken and the Failure to Supervise**

38. As stated above, prior to Axford executing his strategy, he had discussions with Vickers regarding the strategy and his reasoning for implementing the strategy. Although the strategy involved the two IETFs which were described in their prospectuses at the time as high risk or speculative securities, Vickers did not advise Axford against the strategy for any of his clients.

39. In April 2010, shortly after Axford began executing his strategy and purchasing the IETFs in client accounts, RBC DS' Compliance department made inquiries of branch management and noted that most, if not all, of Axford's accounts were now concentrated in the two IETFs and in a fixed income fund. The Compliance department further noted that approximately 41% of Axford's book of business was invested in the Horizons IETF.

40. In response, Vickers' Assistant Branch Manager on behalf of Vickers, advised the Compliance department that he and Vickers were aware of these issues and were continuing to review them with Axford.

41. Vickers had a detailed discussion with Axford wherein Axford again explained his strategy. In response to an inquiry from Compliance, Axford explained his strategy in writing. Vickers reviewed the written explanation and asked that Axford add to it the explanation he gave to his clients. The explanation offered by Axford did not refer to the statements in the prospectuses for the IETFs regarding risk.

42. Based on that written explanation, neither Vickers nor the Compliance department asked Axford to recommend to any of the clients that they discontinue the strategy he had recommended to them. This is despite the fact that several of Axford's clients had no tolerance for high risk investments recorded on their NAAFs.

43. The Compliance department made no further inquiries of Axford or Vickers at that time.

44. Based on the foregoing, during the material time, Vickers failed to use due diligence to ensure that Axford's recommendations to certain of his clients were suitable based on those clients' investment objectives and risk tolerance as recorded on their NAAFs, contrary to Dealer Member Rule 38.4.

**H. Mitigating and Other Factors**

45. Vickers and his Assistant Branch Manager, working under his supervision, discussed the strategy with Axford on several occasions after it was implemented. Vickers and his Assistant Branch Manager reviewed Axford's client accounts as part of their daily and monthly supervision of all branch accounts.

46. Vickers responded promptly to an inquiry from the Compliance department regarding Axford's trading. While he advised the Compliance department that he was likely going to call some of Axford's clients directly, he only spoke about these issues with two or three clients, in the course of other discussions.

47. At no time did Vickers fail to provide any information requested by the firm nor did he fail to take any steps required by the firm regarding the trading.

48. In 2012, prior to any investigation or review by IIROC, RBC DS instructed Axford to recommend to clients that they discontinue the strategy.

49. Vickers has been registered with IIROC and its predecessor since 1994, first as a securities trader, then as a Registered Representative, then a Branch Manager. He has no prior disciplinary history.

50. Vickers has cooperated with IIROC throughout its investigation.

**THE FOREGOING FACTS ARE ADMITTED AND AGREED TO** by the Respondent at the City of Toronto in the Province of Ontario, this _____ day of _____ , 2014.

| | |
|---|---|
| **"witness"** | **Bryan Andrew Vickers"** |
| **Witness** | **Bryan Andrew Vickers** |
| | Respondent |

**AGREED TO** by IIROC staff at the City of Toronto in the Province of Ontario, this 9th day of June, 2014.

| | |
|---|---|
| **"witness"** | **"Diana Iannetta"** |
| **Witness** | **Diana Iannetta** |
| | Senior Enforcement Counsel on behalf of staff of the Investment Industry Regulatory Organization of Canada |