

# Re Warkentin

IN THE MATTER OF:

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

**and**

**Douglas Michael Warkentin**

2012 IIROC 40

Investment Industry Regulatory Organization of Canada  
Hearing Panel (Manitoba District Council)

Heard: May 23, 2012, at Winnipeg, Manitoba

Decision: rendered orally May 23, 2012, written reasons July 5, 2012

**Hearing Panel:**

Michael F. C. Radcliffe, Q.C. (Chair), Claude M. Tetrault, William J. Welton

**Appearances:**

David McLellan & Tayen Godfrey, Enforcement Counsel

Robert Tapper, Q.C. Respondent's Counsel

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## DECISION

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¶ 1 A Hearing Panel appointed pursuant to Rule 20 of Investment Industry Regulatory Organization of Canada (the "Association") has imposed discipline penalties on Douglas Michael Warkentin, at all material times a registered representative employed by Wellington West Capital Inc. ("Wellington West"), a member of the Association.

¶ 2 The Respondent was charged with a violation of Rule 29.1.

¶ 3 The parties entered into an Agreed Statement of Facts dated May 4, 2012.

¶ 4 The Respondent admits to the following contravention of the Association's Rules:

1. In and during December 2010 the Respondent forged the statement for his personal account in order to inflate his net worth by \$340,000.00 in order to obtain a leveraged account with The National Bank.
2. On February 8 and 10, 2011, the Respondent failed to explain the discrepancies in his financial statements when questioned by the Complaints Officer and the Ultimate Designated Person at Wellington West.

¶ 5 The Respondent presented testimony to the panel outlining his personal circumstances leading up to his application for the leveraged account, his employment at Wellington West and subsequent employment at Nesbitt Burns. The Respondent cooperated openly with the facts surrounding his forgery of his account statements. Counsel argued that no member of the public was involved with the Respondent's conduct.

¶ 6 Counsel for the Association pointed out in argument that the securities business is one involving the utmost trust and integrity, and any penalty imposed must make a statement to the industry as a whole, as well as

the members of the public.

¶ 7 The principles or guidelines which a panel must consider in such a matter in determining a penalty are:

1. protection of the investing public;
2. protection of the Association's membership;
3. protection of the integrity of the Association's process;
4. protection of the integrity of the securities markets; and
5. prevention of a repetition of conduct of the type under consideration.

¶ 8 The panel must apply the above general principles to the individual facts in this case. A penalty should reflect the seriousness of the individual offence and also speak to general deterrence to the industry as a whole. The process must be transparent and fair.

¶ 9 In the case at hand we considered the following:

1. There was one serious transgression.
2. There was no pattern of misconduct although the Respondent did initially not admit to the forgery when confronted by his compliance officer.
3. The panel is not aware of any disciplinary history with respect to the Respondent.
4. While the forgery was submitted to National Bank, the Respondent was not granted the credit for which he was applying and therefore did not receive any personal benefit.
5. The forgery was discovered internally by Wellington West and while same impacts the industry as a whole, no member of the public was harmed.
6. The conduct in question was intentional, fraudulent and deceptive.
7. The conduct was executed by the Respondent.
8. The Respondent has acknowledged his conduct and accepted responsibility for his actions and shown remorse.

¶ 10 The panel has taken into account the submissions of counsel for the Association who presented the principles and facts summarized above; the panel also took into account the personal events in the life of the Respondent that were presented at the hearing. The panel further considered the representations made by counsel for the Respondent.

¶ 11 The panel has found and decided as follows:

1. The Respondent shall be fined the sum of \$25,000.00 together with costs of \$5,000.00, payable within twelve months of the signing of this decision.
2. The Respondent shall be suspended from his status as a Registered Representative with the Association for a period of six months commencing February 1, 2012.
3. The Respondent shall re-write and pass the entrance examination based on the Conduct and Practices Handbook for Securities Industry Professionals prior to being re-registered as a securities representative .

Dated this 5<sup>th</sup> day of July 2012.

Michael F. C. Radcliffe, Q.C.

William J. Welton

Claude M. Tetrault

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