

## **Re Duchaine**

**IN THE MATTER OF:**

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

**and**

**Steve Duchaine**

2015 IIROC 25

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

Hearing held on: April 27, 2015 and June 9, 2015  
Decision rendered on: July 27, 2015

### **Hearing Panel**

Me Jean-Pierre Lussier, Chair, Ms. Danielle Le May and Mr. Normand Durette

### **Appearances**

Me Myriam Giroux-Del Zotto, Enforcement Counsel, IIROC  
Mr. Steve Duchaine, representing himself

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## **PENALTY DECISION**

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¶ 1 Our Hearing Panel was seized of a complaint dated July 17, 2014 brought by IIROC against the Respondent. The complaint consisted of five accounts, as follows:

### **Count 1**

Between March and August 2010, the Respondent misrepresented to several clients that the principal amount of a corporate debenture was 100% guaranteed upon maturity, whereas it was in fact a non-guaranteed debenture, contrary to IIROC Dealer Member Rule 29.1;

### **Count 2**

On September 30, 2010, October 27, 2010 and April 29, 2011, the Respondent recommended and acquired securities that were unsuitable for a client's investment objectives and time horizon for the purpose of generating commissions, contrary to IIROC Dealer Member Rule 1300.1(q);

### **Count 3**

In August 2011, the Respondent recommended and substituted bonds in a client's portfolio for the purpose of generating commissions, preferring his own interests ahead of the client's, contrary to IIROC Dealer Member Rules 1300.1(q) and 29.1;

### **Count 4**

In April and August 2010, the Respondent executed transactions on clients' accounts, charging

commissions that were not within the bounds of good business practice, contrary to IIROC Dealer Member Rules 1300.1(o) and 29.1;

### **Count 5**

On or around February 23, 2011, the Respondent tried to forge a client's signature to complete a retirement savings plan application form, which was missing the signature, contrary to IIROC Dealer Member Rule 29.1.

¶ 2 On September 10, 2014, the Respondent appeared before us and entered a guilty plea on counts 1, 2 and 3. The following November 6 – the date set for the hearing on the merits on the other two counts – the Respondent entered a guilty plea on count 4, such that the hearing pertained solely to count 5.

¶ 3 On December 22, 2014, after hearing arguments by counsel and analyzing the evidence, our Hearing Panel found the Respondent guilty on count 5 and convened IIROC and the Respondent to a hearing in order to hear their respective representations on penalties. This hearing took place on April 27 and June 9, 2015.

¶ 4 Our decision on count 5<sup>1</sup> contains all the particulars of this count. For the reader's benefit, we reproduce below the particulars of the other counts for which the Respondent has entered a guilty plea. They are drawn from the Notice of Hearing.

#### **PARTICULARS OF COUNT 1:**

*Between March and August 2010, the Respondent misrepresented to several clients that the principal amount of a corporate debenture was 100% guaranteed upon maturity when it was in fact a non-guaranteed debenture, contrary to IIROC Dealer Member Rule 29.1;*

16. The Respondent began working for LBS on or around July 17, 2009 and his 90-day training period ended on or around October 16, 2009;
17. As at October 16, 2009, the Respondent had more than three (3) years of experience in the financial services sector, and had successfully completed the Canadian Securities Course;
18. The Respondent subsequently passed the Conduct and Practices Handbook Course in early January 2010;
19. According to the simplified prospectus dated June 15, 2007, the Ontario-based Prizm Income Fund ("Prizm") was offering the public a corporate debenture, convertible at the issuer's option, unsecured and subordinated to the payment of all of the fund's present and future debts (Prizm Corporate Debenture);
20. On or around September 5, 2010, Prizm had a \$66-million loan secured by the company's assets, maturing on December 31, 2010;
21. During the month of December 2010, the value of Prizm's unsecured debentures went from 70 cents to 20 cents. Prizm stopped paying interest on its unsecured debentures effective December 31, 2010;
22. On or around March 31, 2011, Prizm placed itself under the protection of the *Companies' Creditors Arrangement Act* (R.S.C., 1985, c. C-36) (CCAA). At the time, Prizm held a 60% interest in Prizm Limited Partnership. This company operated more than 400 establishments under the KFC, Taco Bell and Pizza Hut banners in seven (7) Canadian provinces;
23. The same day, the Toronto Stock exchange (TSX) halted all trading in the Prizm security;

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<sup>1</sup> Duchaine (Re), 2015 IIROC 1.

24. On or around May 6, 2011, Prizm's unsecured debentures were delisted out of the Toronto Stock Exchange at market close, when they were trading at around 9 cents.

**(i) Client A**

25. In early March 2010, following an ad that appeared in a local newspaper, client A contacted the Respondent to discuss her investment opportunities;

26. On or around March 5, 2010, Respondent met with client A to offer her various investments that paid a higher rate of interest than short-term investments, yet most importantly guaranteed the principal;

27. On or around March 8, 2010, the Respondent contacted client A and finally recommended that she invest \$10,200 in Prizm debentures, stating that the principal invested was guaranteed at maturity on June 30, 2012;

28. Client A was 75 years old at the time, retired, and her investment objectives were 90% income and 10% growth;

29. With the Respondent's verbal guarantee that the principal was guaranteed at maturity, client A agreed to purchase 11,000 Prizm debentures;

30. At no time prior to the maturity date did Respondent inform client A of Prizm's financial problems, nor that it had gone into creditor protection under the CCAA;

31. In mid-June 2012, client A contacted the Respondent to inquire about her investment in Prizm which was coming due on June 30, 2012. The Respondent did not then inform client A of Prizm's situation, and told her that he had to research the trading history, since he did not see the amount in client A's account anymore;

32. It was not until July 13, 2012, after repeated requests from his branch manager, that the Respondent contacted client A to inform her that Prizm had gone into creditor protection and that her investment was now worthless;

33. On or around July 17, 2012, client A filed a complaint with LBS, on grounds that Respondent had assured her that the principal invested in the Prizm debentures was guaranteed at maturity;

34. On or around August 20, 2012, LBS decided to compensate client A in full for her loss due to the Prizm debentures.

**(ii) Client B**

35. In late July 2010, Respondent contacted client B to inform him of his transfer from La Capitale to LBS and to suggest a meeting;

36. On or around August 4, 2010, Respondent did indeed meet with client B to discuss investing a sum of \$15,600 in a placement consistent with his conservative investor profile;

37. Client B was 69 years old at the time, retired, and his investment objectives were 80% income and 20% growth;

38. On or around August 9, 2010, Respondent contacted client B again and recommended that he invest the amount in Prizm debentures, noting that the invested capital was guaranteed at maturity on June 30, 2012;

39. On the basis of Respondent's verbal guarantee to the effect that the capital was guaranteed at maturity, client B agreed to purchase 17,000 Prizm debentures;

40. At no time prior to the maturity date did Respondent inform client B of Prizm's financial problems, nor that it had gone into creditor protection under the CCAA;

41. Client B twice attempted to contact the Respondent prior to the June 30, 2012 maturity date, to ask why the interest had not been paid out;
42. It was not until July 3, 2012, after repeated requests from his branch manager, that Respondent informed client B over the phone that Prizm had gone into creditor protection under the CCAA and that it was impossible for LBS to pay back the capital invested in the Prizm debentures;
43. On or around July 6, 2012, client B filed a complaint with LBS on grounds that the Respondent had misled him at the time of his investment in the Prizm debentures, telling him that this placement was safe;
44. On or around July 13, 2012, Respondent responded to client B's complaint, admitting that he had told him, when the Prizm debentures were purchased, that the company was guaranteeing the capital at maturity, that it had undertaken to pay interest twice a year and to repay the capital at maturity;
45. Respondent added that, in his view, the Prizm security was not "in danger" at the time of the placement. To his mind, it was the franchiser YUM Canada that had put Prizm in a precarious position, forcing the latter to go into creditor protection under the CCAA;
46. On or around September 20, 2012, LBS decided to compensate client B in full for the loss suffered due to the Prizm debentures.

**(iii) Client C**

47. On or around August 10, 2010, Respondent met with client C to propose an investment in Prizm debentures, stating that the capital was 100% guaranteed at maturity on June 30, 2012;
48. Client C, 57 years old, retired, with investment objectives of 80% income and 20% growth, accepted Respondent's recommendation with the certainty that Prizm debentures were safe and secure;
49. On or around August 16, 2010, client C therefore acquired 25,000 Prizm debentures for approximately \$23,750;
50. At no time prior to the maturity date, did Respondent inform client C of Prizm's financial problems, nor that it had gone into creditor protection under the CCAA;
51. It was only in summer 2012 that Respondent contacted client C to inform him that Prizm was unable to reimburse him;
52. On or around July 9, 2012, client C filed a complaint with LBS on grounds that the Respondent had represented to him that the capital invested in the Prizm debentures was 100% guaranteed at maturity;
53. On or around July 12, 2012, Respondent admitted that the facts mentioned in client C's complaint were accurate, but that, in his mind, the company could not be in default, considering the extent of the franchises and the reputation of the KFC and Taco Bell restaurants;
54. On or around September 14, 2012, LBS decided to compensate client C in full for the loss suffered due to the Prizm debentures.

**(iv) Client D**

55. On or around August 11, 2010, the Respondent suggested to client D that she invest a sum of \$15,200 in Prizm debentures, explaining that the principal was 100% guaranteed at maturity on June 30, 2012;

56. Based on this verbal guarantee from the Respondent, client D agreed to purchase 16,000 Priszm debentures;
57. Client D was 64 years old at the time, retired, and had investment objectives of 80% income and 20% growth;
58. At no time prior to the maturity date did Respondent inform client D of Priszm's financial problems, nor that it had gone into creditor protection under the CCAA;
59. On or around June 11, 2012, client D wrote to the Respondent to inform him that she wished to withdraw her investment from the Priszm debentures, and invest the money in another guaranteed-capital solution, as he had confirmed to her when she invested in Priszm;
60. On or around July 3, 2012, the client filed a complaint with LBS on grounds that the Respondent had assured her that this placement guaranteed the principal at maturity on June 30, 2012;
61. On or around July 12, 2012, Respondent confirmed that the facts alleged in client D's complaint were accurate, and explained that he had not intended to be dishonest, but that his error was in stating that Priszm, which at the time had 1,200 KFC and Taco Bell franchises across Canada, was a sound investment and that the placement would be reimbursed at maturity;
62. On or around September 14, 2012, LBS decided to compensate client D in full for the loss suffered due to the Priszm debentures.

## **PARTICULARS OF COUNT 2**

*On September 30, 2010, October 27, 2010 and April 29, 2011, the Respondent recommended and acquired securities that were unsuitable for a client's investment objectives and time horizon for the purpose of generating commissions, contrary to IIROC Dealer Member Rule 1300.1(q)*

63. Client E was 91 years old in 2010, his net worth was approximately \$250,000, and he had an annual income of \$40,000. His knowledge of investing was fair and his risk tolerance was very low. His time horizon in 2010 was 3 to 5 years. Client E had also given power of attorney to Ms. F for trading in his investment accounts at LBS;
64. On or around September 30, 2010, Respondent recommended to client E, via Ms. F, that he purchase shares in the SENTRY REIT Fund ("SENTRY Fund");
65. The SENTRY Fund is described in its public information documents as a medium risk investment, suitable for investors seeking a regular source of income, who are not concerned by short-term price fluctuations, and who plan to hold their investment for the long term;
66. The SENTRY Fund offers three (3) purchase options:
  - a) The 1st option is the Initial Sales Charge – ISC option, which varies from 0 to 5% of the invested amount at the discretion of the client and the representative, and which is deducted immediately upon purchase, as commission paid to the representative;
  - b) The 2nd option is the Deferred Sales Charge – DSC option, which is 6% if redemption occurs one (1) year after purchase, declining yearly until it reaches 3% in the sixth year following purchase, and then disappears after that. The representative's fee is therefore 5% of the purchase price;
  - c) The 3rd option is the Low Load Sales Charge – LL option, which is 3% if redemption occurs in the first 18 months following purchase, and then drops to 2%

for the next 18 months, and then disappears entirely 3 years after purchase. The representative's fee is therefore 3% of the purchase price;

67. On or around September 30, 2010, Respondent executed a solicited purchase transaction of 850,051 units in the SENTRY Fund, for an amount of \$10,000, with Deferred Sales Charge (DSC), in the account of client E. In return, Respondent was paid a 5% commission, namely the sum of \$500;
68. On or around October 27, 2010, Respondent executed two other solicited purchase transactions for 2,082,812 and 2,749,312 units in the SENTRY Fund, for amounts of \$25,000 and \$33,000 respectively, with deferred sales charges (DSC) in client E's account. In return, Respondent received 5% in commissions, namely the sums of \$1,250 and \$1,650;
69. On or around October 28, 2010, the LBS Compliance Department questioned Respondent about the soundness of the trades he executed in client E's account, considering the client's circumstances, objectives and time horizon;
70. That same day, the branch manager also questioned the Respondent about his transactions, on grounds that client E, a former client of the branch manager, always had a profile and history that was 100% oriented towards municipal bonds. According to the branch manager, this latest investment was unsuitable for client E, or at minimum, the Low Load (LL) option should have been proposed to the client;
71. On or around November 2, 2010, Respondent responded to his branch manager that his personal financial circumstances were driving him "to take a few risks";
72. Following the admonitions of his branch manager, the Respondent confirmed in writing on November 4, 2010, that he "was not placing his personal interests ahead of his clients", and that if he had done so in the past, "it would not happen again";
73. On or around November 22, 2010, the transactions executed on September 30 and October 27, 2010 in SENTRY securities with DSC option were canceled by LBS and replaced with SENTRY securities with Low Load (LL) option. Respondent's commissions, a cumulative amount of \$3,400, were also canceled and replaced with a cumulative commission of \$2,040, namely a 40% cut;
74. Yet, five (5) months later, namely on or around April 29, 2011, Respondent again solicited client E, via Ms. F, to purchase SENTRY Fund units with a six(6)-year DSC, for an additional sum of \$10,000, and a commission of 5% or \$500;
75. The LBS Compliance Department did not catch the transaction;
76. Client E's personal and financial circumstances did not change between November 22, 2010 and April 29, 2011, and there is nothing in his investor profile, risk tolerance and time horizon to justify such an investment;
77. All of client E's units in SENTRY were in fact sold on or around April 4, 2012, namely 18 months after the initial transaction with 3% redemption fee, and less than a year before the last transaction with 6% redemption fee;
78. In all, client E was forced to pay cumulative redemption fees of \$2,476.65. The reason invoked for the sale was client E's and his mandatary's discomfort over fluctuations in the Fund's value;
79. The SENTRY fund was unsuitable for client E, as much because of the risk level and client E's very low tolerance, as for the price fluctuations given his short time horizon. Nonetheless, the security enabled the Respondent to collect commissions of 3 to 5%.

**PARTICULARS OF COUNT 3:**

*In August 2011, the Respondent recommended and substituted bonds in a client's portfolio for the purpose of generating commissions, preferring his own interests ahead of the client's, contrary to IIROC Dealer Member Rules 1300.1(q) and 29.1;*

80. Between September 9, 2009 and September 7, 2010, client E acquired various fixed income securities in his portfolio, principally municipal bonds (Montmagny, Roberval, Kativik, Ste-Julie), as well as a new issue from Yellow Media, all of them with yields to maturity ranging from 3.15% to 5.85%:

<b>Table 1 Original Cost of Fixed Income Securities Sold to Client E's Account in August 2001</b>						
<b>Settlement Date</b>	<b>Securities</b>	<b>Face Value in (\$)</b>	<b>Price in (\$)</b>	<b>Purchase Price in (\$)</b>	<b>Commissions in (4)</b>	<b>Yield to Maturity</b>
07-Sept-10	Yellow Med S3 5.85% 18NV19 (New Issue)	20,000	100.00	20,000.00	544	5.85%
3-Feb-10	St-Brig. ICS 3.1% 26JA15	10,000	99.75	9,975.00	51	3.15%
22-June-10	Montmagny ICS 3.4% 22JN15	10,000	99.75	9,975.00	111.00	3.45%
20-May-09	Roberval ICS 3.2% 20MI14	10,000	99.75	9,975.00	n/a	3.25%
09-Sept-09	AR Kativik ICS 3.15% 9SP14	10,000	99.75	9,975.00	n/a	3.20%
20-Apr-10	Ste-Julie ICA 3.3% 20AV15	29,000	99.75	28,927.50	n/a	3.35%

81. On August 8 and August 16, 2011, Respondent recommended and proceeded to sell these securities, and to reinvest the proceeds in corporate debentures with actual yields to maturity ranging from 0.655% to 3.085%, but which earned him cumulative commissions of \$2,147:

<b>Sale of Securities in August 2011</b>					
<b>Settlement Date</b>	<b>Securities</b>	<b>Face Value in (\$)</b>	<b>Price in (\$)</b>	<b>Net Proceeds of Sale</b>	<b>Commissions</b>
08-Aug-11	Yellow Med S3 5.85% 18NV19	\$20,000	75.00	\$15,000	\$0
16-Aug-11	St-Brig. ICS 3.1% 26JA15	\$10,000	101.66	\$10,166	\$0
16-Aug-11	Montmagny ICS 3.4% 22JN15	\$10,000	101.30	\$10,130	\$137
16-Aug-11	Roberval ICS 3.2% 20MI14	\$10,000	102.00	\$10,200	\$0
16-Aug-11	AR Kativik ICS 3.15% 9SP14	\$10,000	101.89	\$10,189	\$0
16-Aug-11	Ste-Julie ICA 3.3% 20AV15	\$29,000	101.21	\$29,351	\$290
	<b>Total</b>	<b>\$89,000</b>		<b>\$85,036</b>	<b>\$427</b>

82. The reason for proceeding with the bond substitution, as invoked by the Respondent at the time, was to obtain a higher yield for client E's portfolio. However, the coupon rates on the debentures acquired at a high premium were misrepresented as the actual yield to

maturity, which in fact was considerably lower:

Acquisition of Corporate Debentures						
Settlement Date	Securities	Face Value in (\$)	Price in (\$)	Purchase Price (\$)	Commissions (\$)	Yield to Maturity
17-Aug-11	Bell Canada 4.4% 16MR18	\$14,000	107.764	15,086.96	280.00	3.085%
17-Aug-11	BMO 4.78 % 30AV14	\$14,000	110.07	15,409.80	280.00	0.978%
17-Aug-11	Telus Corp. 5.95% 15AV15	\$13,000	114.084	14,830.92	260.00	1.932%
17-Aug-11	BCIC CB-13 5.15%- TV 6JN18 redeemable 2013	\$15,000	107.983	16,197.45	300.00	0.655%
17-Aug-11	Hydro One 5.18% 18OC17	\$13,000	116.779	15,181.27	260.00	2.25%
17-Aug-11	BRC Bill Dép. 3.66% 25JA17	\$17,000	107.331	18,246.27	340.00	2.215%
	<b>Total</b>	<b>\$86,000</b>			<b>\$1720.00</b>	

83. The transactions of August 8 and August 16, 2011 were not carried out in client E's interest, but in that of the Respondent, to earn sales and procurement commissions.

**PARTICULARS OF COUNT 4:**

*In April and August 2010, the Respondent executed transactions on clients' accounts, while charging commissions that were not within the bounds of good business practice, contrary to IIROC Dealer Member Rules 1300.1(o) and 29.1;*

84. On April 15, 2010, Respondent executed a buy order for Prizm debentures in the account of client G, for an amount of \$6,300, to which he added a commission of \$560, namely 8.88% of the acquisition cost or 8% of the face value of the debentures maturing in 26 months;
85. On August 16, 2010, Respondent executed a buy order for Prizm debentures in the account of client C, for an amount of \$21,250, to which he added a commission of \$2,500, namely 11.76% of the acquisition cost or 10% of the face value of the debentures maturing in 22 months;
86. On August 16, 2010, Respondent executed a buy order for Prizm debentures in the account of client D, for an amount of \$13,600, to which he added a commission of \$1,600, namely 11.76% of the acquisition cost or 10% of the face value of the debentures maturing in 22 months;
87. On August 16, 2010, Respondent executed a buy order for Prizm debentures in the account of client H, for an amount of \$5,100, to which he added a commission of \$600, namely 11.76% of the acquisition cost or 10% of the face value of the debentures maturing in 22 months;
88. On August 16, 2010, Respondent executed a second buy order for Prizm debentures in the account of client H, for an amount of \$3,400, to which he added a commission of \$400, namely 11.76% of the acquisition cost or 10% of the face value of the debentures

maturing in 22 months;

89. On August 16, 2010, Respondent executed a buy order for Prizm debentures in the account of client I, for an amount of \$2,250, to which he added a commission of \$200, namely 7.84% of the acquisition cost or 6.6% of the face value of the debentures maturing in 22 months;
90. On August 28, 2010, Respondent executed a buy order for Prizm debentures in the account of client J, for an amount of \$9,130, to which he added a commission of \$770, namely 8.43% of the acquisition cost or 7% of the face value of the debentures maturing in 22 months;
91. Throughout the material period, the commissions paid on buy orders for Prizm debentures in the accounts of other clients ranged between 2% and 3% of the face value of the debentures maturing in approximately 2 years;
92. When asked about his commission amounts, Respondent declared that when a client bought a discount bond “one could charge a bit more”, because “the client was getting a good deal and, at bottom, was not really being penalized”;
93. Respondent also stated that he “never calculated what it represented as a percentage” and “to be honest... it was somewhat guesstimated”;
94. When confronted with commission rates of 12%, Respondent declared “That makes no sense, that’s unacceptable. It doesn’t matter whether the client is making \$1 million in return.” Only a careless mistake could, in his opinion, account for inputting a \$2,500 commission representing 11.76% of the bond purchase or 10% of the transaction’s face value;
95. Respondent also claimed that he never noticed his commissions, whereas on the day of August 16, 2010 alone, he managed to accumulate \$5,300 on five (5) transactions. In comparison, Respondent’s gross commissions for the months of August 2010 through October 2010 came to approximately \$12,500;
96. On or around November 2, 2010, Respondent admitted to his branch manager that his personal financial circumstances were pushing him to “take a few risks”;
97. At no time does a representative’s financial position justify working against his clients’ interests, and the purchase of unsecured discount debentures cannot justify commission rates of 7.84% to 11.76%.

¶ 5 At the penalty hearing, Counsel for IIROC – relying on the Disciplinary Sanction Guidelines and the case law – recommended that our Hearing Panel impose the following penalties:

- 1) **Reimbursement of the commissions** earned by the Respondent in connection with the first four counts of the Notice of Hearing, in the amount of **\$5,004**;
- 2) An aggregate fine of **\$60,000**, which breaks down as follows:
  - i. **COUNT 1: \$15,000;**
  - ii. **COUNT 2: \$10,000;**
  - iii. **COUNT 3: \$10,000;**
  - iv. **COUNT 4: \$20,000;**
  - v. **COUNT 5: \$5,000.**
- 3) A **one-year suspension**;
- 4) In the event of reapproval, the requirement to **successfully rewrite the Conduct and**

**Practices Handbook Course examination** before seeking reapproval;

- 5) In the event of reapproval, **12 months of strict supervision** with a supervisor in the Respondent's branch, with mandatory submission of monthly supervision reports to the IIROC Registration Department;
- 6) **IIROC costs** in the amount of **\$10,000**.

¶ 6 Given the facts underlying each count, our Hearing Panel considers these suggested penalties highly reasonable, on the whole. The Respondent himself does not object, in principle, except to emphasize that because of his financial circumstances, he considers himself unable to pay fines in this range.

¶ 7 In this regard, he submitted his income statements for the years 2012, 2013, 2014<sup>2</sup>, some mortgage statements and a consumer proposal. He had also undertaken to submit a copy of his life insurance policy, his financial statements, and to answer any questions that might be asked regarding these various documents at the hearing of June 9, 2015. However, not only did he not submit all of the required documents, he also did not attend the hearing, stating in an email that he did not have the means to make the trip from Québec City to Montréal.

¶ 8 If our Hearing Panel had found that the Respondent had respected his commitments and supplied the required documents, it would have been inclined to impose lower fines.

¶ 9 Keep in mind that, as the IIROC Sanction Guidelines emphasize, determination of the appropriate sanction is discretionary and depends on the particulars of each case. The desired aim is primarily the protection of the public. This consideration implies that sanctions must have a deterrent effect on the Respondent and on all industry members.

¶ 10 Had our Hearing Panel been convinced by the evidence that the financial penalties suggested by IIROC would have had the unavoidable consequence of forcing the Respondent into bankruptcy, we would certainly have reduced the amounts of these penalties, compensating for this reduction, for instance, by increasing the length of his suspension. However, the documents submitted by the Respondent, as well as those that he did not submit, along with other documents in the case (for example his new account application form to LBS, in which he declared assets of \$600,000) are a long way from convincing us that his financial circumstances are as precarious as he claims. Our Hearing Panel even questions the veracity of his consumer proposal. Indeed, the document indicates that he has no RRSP savings, whereas another document (from the La Capitale insurance company) mentions that he does hold units in an RRSP. In short, the Respondent's credibility is negatively impacted upon examination of the documents filed in evidence.

¶ 11 That said, we repeat, sanctions must make respondents, as well as industry members in general, cognizant of the possible consequences of ethical misconduct in the securities industry.

¶ 12 Getting back to the penalties suggested by IIROC, we consider them justified, except in respect of count 5. Not that an attempt to forge a client's signature shouldn't be liable to a fine of this nature, but the facts in the matter demonstrate that the client concerned had neglected to sign the appropriate form to open an RRSP account, whereas the deadline for completing an RRSP transaction was just days away. The Respondent was only trying to save his client, who was also a friend and former coworker, an extra trip. The Respondent's intention was not dishonest. Although this did not justify forging a signature, the fact remains that the circumstances surrounding this action must be taken into consideration when determining the penalty.

¶ 13 With respect to count 5 in this matter, it seems to us that a more appropriate measure would be nearer to those applied in *Re Sklar*<sup>3</sup> and *Re Gee*<sup>4</sup>, in which the fines imposed were for \$2,500 and \$5,000 respectively.

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<sup>2</sup> Although he had a very long time to supply his tax returns, he only submitted his 2014 tax return by email at 9:46 AM on June 9, 2015 after declaring that he would not be at the hearing set precisely for that day at 10 AM.

<sup>3</sup> *Re Sklar*, (2001) IDACD n° 20, bulletin 2889.

<sup>4</sup> *Re Gee*, (2004) IDACD n° 58, bulletin 3358.

In other cases where the fines were heavier, the contravention involved multiple clients.

¶ 14 This led us to conclude that a lower fine than that suggested by IIROC should be imposed on count 5.

¶ 15 We also took into account the fact that, at the material time, the Respondent was a relative neophyte in the industry. He lost his job and no longer works in the securities industry.

***FOR THESE REASONS, THE HEARING PANEL:***

¶ 16 ***IMPOSES*** on the Respondent the reimbursement of the commissions generated on the transactions in connection with counts 1 through 4 in the Notice of Hearing, in the amount of \$5,004. Such reimbursement shall be made within 30 days from the date of this decision;

¶ 17 ***IMPOSES*** on the Respondent an aggregate fine of \$57,500, apportioned as follows:

Count 1: \$15,000

Count 2: \$10,000

Count 3: \$10,000

Count 4: \$20,000

Count 5: \$2,500

¶ 18 ***IMPOSES*** on the Respondent a suspension of approval for a period of one year from the date of this decision;

¶ 19 ***IMPOSES*** on the Respondent, in the event of reapproval, the obligation to successfully rewrite the *Conduct and Practices Handbook Course* examination, before seeking reapproval;

¶ 20 ***IMPOSES*** on the Respondent, in the event of reapproval, 12 months of strict supervision with a supervisor in the Respondent's branch, with mandatory submission of monthly supervision reports to the IIROC Registration Department;

¶ 21 ***ORDERS*** costs in the amount of \$5,000;

¶ 22 ***GRANTS*** the Respondent the following timeframe for payment of the financial penalties and costs (\$62,500):

- One year from the date of this decision to pay the sum of \$22,500;
- One additional year to pay another installment of \$20,000;
- Another additional year to pay the final installment of \$20,000.

***DECLARES*** that, should the Respondent default on the reimbursement of the commissions or the payment of any of the installments on the financial penalties, the entirety of the amounts owed by him shall fall due immediately.

***IN WITNESS WHEREOF WE HAVE SIGNED:***

July 27, 2015

Danielle Le May, Member of the Hearing Panel

Normand Durette, Member of the Hearing Panel

Me Jean-Pierre Lussier, Chair of the Hearing Panel

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