

Re Morrison

IN THE MATTER OF:

THE BY-LAWS OF THE INVESTMENT DEALERS ASSOCIATION OF CANADA

AND

TREVOR SCOTT MORRISON

2008 IIROC 18

Investment Industry Regulatory Organization of Canada
on behalf of the Investment Dealers Association of Canada
Hearing Panel (Pacific District)

Heard: October 2, 2008 in Vancouver BC

Decision: October 2, 2008

(16 paras.)

Hearing Panel:

Stephen D.Gill, Chair

James Harkness, Member

Chris Lay, Member

Appearances:

Barbara Lohmann, for the Association

Patricia A.A. Taylor, for the Respondent

DECISION

BACKGROUND

1. On June 22, 2008 the Investment Dealers Association of Canada (the "IDA") issued a Notice of Hearing (the "Notice") in respect of certain allegations against Trevor Scott Morrison (the "Respondent"). Count 1 of the Notice of Hearing was as follows:

COUNT 1

On or about January 10, 2008, the Respondent, having been, until September 24, 2007, an Approved Person of Union Securities Ltd. ("Union"), a Member firm, refused and/or failed to attend and give information in respect of an investigation into his conduct while he was an Approved Person being conducted by the Association's Enforcement Department, contrary to Association by-law 19.5

2. The matter was originally scheduled to be heard on August 19, 2008. Prior to the hearing, counsel for the Respondent delivered a Notice of Motion seeking an adjournment of the hearing, and time to permit the Respondent to file his Response to the Notice of Hearing.

First Hearing

3. The matter came on for hearing before the Panel on August 19, 2008. However, at the hearing, counsel for the Respondent indicated she had become aware of a series of decisions which she submitted raised a fundamental issue regarding the jurisdiction of the Panel to hear both the adjournment application and the matter raised in the Notice of Hearing. In the course of the hearing, the Panel were referred to the Dass decisions in British Columbia, the Taub decisions in Ontario, and a recent decision of another panel of the Pacific District in *Re Collias*.
4. The Panel were advised that the Dass decision had been appealed to the British Columbia Court of Appeal, and the Appeal was argued on May 14, 2008, and the decision was reserved. Reasons had not been delivered at the date of the hearing.
5. After hearing submissions of counsel, the Panel directed that the Respondent file an Amended Application, and both counsel provide the Panel with an Outline of their position, and any authorities.
6. The Panel directed that the hearing be adjourned to October 2, 2008.
7. Counsel provided the Panel with copies of the various decisions in Taub, Dass and Collias, which the Panel were able to review during the period of the adjournment.
8. In accordance with the directions of the Panel, counsel for the Respondent filed an Amended Notice of Motion dated September 5, 2008 seeking:
 1. A declaration that IIROC does not have jurisdiction over him and that the Notice of Hearing dated June 27, 2008 be set aside, or in the alternative,
 2. An order that the proceeding be stayed.
 3. In the further alternative if the matter is to proceed, that the hearing be adjourned for 20 days.
9. Counsel for the Association filed a Reply and both counsel filed Outlines

Second Hearing

10. The hearing was reconvened on October 2, 2008. It was common ground that the B.C. Court of Appeal decision in Dass has not been delivered.
11. Given the absence of the Court of Appeal decision, the Panel invited counsel for the parties to consider rather than proceeding with argument of the Amended Motion, that this case should be treated in the same manner as the Collias case. Having made the suggestion, the Panel adjourned to consider additional authorities that had been submitted.
12. When the hearing reconvened, counsel for the Association advised that she was able to get instructions over the break, and that the Association was prepared to consent to a temporary stay pending the outcome of the Court of Appeal decision in Dass. Counsel for the Respondent stated she also consented to a temporary stay.

DECISION

13. In the view of this Panel, this case is on all fours with the Collias decision. We do not believe there is significant prejudice to either the Association, or the Respondent, if a temporary stay is granted.
14. We adopt the reasons given in Collias with respect to the test for a temporary stay of proceedings, and the appropriateness of a temporary stay in these unusual circumstances.

CONCLUSION

15. In the unique circumstances present here, and given the consent of both the parties, and pursuant to Rule 20.2, we hereby order that a temporary stay be issued in this matter until the release of the decision of

the British Columbia Court of Appeal in the Dass matter. Following the release of that decision we direct the parties to arrange to appear in front of this Panel to determine the next steps in this process.

16. These reasons may be signed in counterpart.

Dated this 2nd day of October, 2008.

Stephen D.Gill
James Harkness
Chris Lay

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