

Re Wilson

IN THE MATTER OF:

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

and

The By-Laws of the Investment Dealers Association of Canada (IDA)

and

Brian Vaughn Wilson

2011 IIROC 36

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

Hearing: June 10, 2011
Decision: June 10, 2011
(3 paras.)

Hearing Panel:

Mr. Frederick Webber (chair), Mr. Charlie Macfarlane and Mr. F. Michael Walsh

Appearances:

Ms Natalija Popovic, Enforcement Counsel

DECISION

¶ 1 On June 8th, the Respondent faxed a letter to counsel for IIROC which was immediately made available to the panel members. In this letter, the Respondent clearly stated that he would “not attend the hearing on June 10, 2011 nor will I be attending any other proceedings related to” this matter. The Respondent cited poor health as one of the reasons for his refusal to attend, notwithstanding that he could have attended by telephone conference call set up by IIROC. The Respondent has cited health concerns in the past, as is evident from the affidavit of service filed in this matter, but despite numerous requests by IIROC counsel for medical corroboration, the Respondent has never provided medical evidence to substantiate his health concerns. This panel wants the Respondent to have every reasonable chance to present his case in a properly constituted hearing; however, the panel wishes to make it clear to the Respondent that health concerns will not be accepted as an excuse for not attending the hearing on the merits unless proper medical evidence is presented in advance to corroborate his inability to participate.

¶ 2 The Respondent’s letter then went on for a number of pages largely denying the allegations in the Notice of Hearing (NOH). If the Respondent were to raise any question about proper service of the NOH, it is this panel’s decision that the Respondent’s letter waives any such irregularity and further, that the letter will be deemed to be a validly served Response, pursuant to the Rules. However, the Respondent must understand that such letter Response does not constitute evidence of the matters stated in the Response, and if the Respondent wishes to make his case, he must appear before the panel when the hearing is reconvened, as stated below, and present proper evidence. In the Response, the Respondent has asked that “justice is properly served”. This panel

urges the Respondent to participate in these disciplinary proceedings in order to present his position, personally or through counsel. Otherwise, the panel will make its decisions in his absence.

¶ 3 The sole purpose of this session was to set a date for the hearing of this matter. After a discussion among counsel for IIROC and the panel regarding the likely amount of evidence and the number of witnesses, as well as the schedules and availability of counsel and the panel members, it was decided that the hearing would be scheduled for the full day of July 26th 2011. The panel also decided that a copy of this ruling be served on the Respondent and be posted on the IIROC website.

Dated as of the 10th day of June, 2011

Fred Webber- Chairman

Charlie Macfarlane-Member

F. Michael Walsh- Member

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