Re Canaccord Genuity

IN THE MATTER OF:

The Rules of the Investment Industry Regulatory Organization of Canada

and

Canaccord Genuity Corp.

2021 IIROC 35

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

Heard: December 15, 2021 in Vancouver, British Columbia (by videoconference)
Decision: December 15, 2021
Written Decision: January 14, 2022

Hearing Panel:
Gary Snarch, Chair, Barbara Fraser and David Duquette
Appearances:
Stacy Robertson, Senior Enforcement Counsel
John Fabello, Counsel for the Respondent

DECISION ON THE ACCEPTANCE OF SETTLEMENT AGREEMENT

Introduction

¶ 1 This settlement hearing was convened to consider the joint recommendation of the parties to accept a settlement agreement ("Settlement Agreement") entered into between Enforcement Staff of the Investment Industry Regulatory Organization of Canada ("IIROC") and Canaccord Genuity Corp. (hereinafter referred to as the "Respondent"), pursuant to Section 8428 of the Consolidated Enforcement, Examination and Approval Rules of IIROC ("Consolidated Rules"). A copy of the Settlement Agreement is attached.

¶ 2 After considering the material filed and oral submissions of counsel and after reviewing the proposed Settlement Agreement, the Panel advised counsel at the end of the hearing that the Settlement Agreement was accepted. The Panel further advised counsel that written Reasons would be provided at a later date.

¶ 3 The Respondent is registered as a Dealer Member with IIROC. The Respondent engages in securities, options, managed account, futures contracts and future contract options trading activities. Neither the Respondent nor its affiliates manufactured any mutual funds or other structured products for the Canadian market prior to November 2019. Its head office is located in Vancouver, British Columbia.

¶ 4 The Respondent admitted to the following contraventions of the IIROC Dealer Member Rules:

> Between January 2010 and May 2019, the Respondent failed to establish and maintain a system of internal controls and supervision reasonably designed to achieve compliance with IIROC requirements, including to deal fairly with clients with regard to fees, contrary to Dealer Member Rules 38.1 and

2500.

¶ 5 More specifically, the Respondent agreed that it failed to have adequate internal systems and controls in place to detect and prevent instances where clients in fee-based accounts (hereinafter referred to as "fee-based accounts") were also charged a trailer or embedded fee associated with an exchange traded fund ("ETF") or structured product held in those client accounts.

¶ 6 The Respondent agreed to the following sanctions:

(a) a fine in the amount of $157,500; and

(b) costs of $50,000.

¶ 7 The explanatory background, agreed facts concerning the contravention, remedial steps taken and mitigating factors are set out in detail in the attached Settlement Agreement and in the written submissions provided by counsel for IIROC. They are summarized below with much of the following extracted directly from these two documents.

Explanatory Background

¶ 8 One of the account types that the Respondent and other Dealer Members offer/offered clients is a fee-based account where instead of paying a fee for each individual transaction made in their account, a client pays a quarterly or monthly fee that is calculated based on the market value of the securities held in the client's account. These accounts are referred to as fee-based accounts.

¶ 9 A trailer fee is a service commission paid to a Registered Representative by an issuer/manager of a mutual fund or an issuer of a structured product which can include ETF and other structured products that trade as common shares on an exchange. The type of fee paid on these structured products is also referred to as an embedded fee.

¶ 10 The trailer fee is paid to a Registered Representative of a client who holds the product paying such trailer fee for as long as the client holds the product. These fees generally range between 0.25% and 1.00% and are paid out of the product's management expenses. These trailer fees are meant to compensate the representative for providing their client, the purchaser of the product, with ongoing services such as answering questions about the makeup and performance of the mutual fund or structured product.

¶ 11 There are many different structured products which trade on an exchange with a standard stock symbol and where there are not two versions of the same product with one that pays a trailer fee and one that does not. The information about whether the product pays a trailer fee or has an embedded fee paid to a broker is not identifiable by the unique CUSIP code or included in the product name as is the case with mutual funds. There is no product management software or tools (such as Dataphile) to identify whether many ETFs or other structured products pay a trailer or embedded fee. This makes it difficult to search for and sort out these specific types of products to exclude them from account fee calculations in fee-based accounts. The fact that a trailer or embedded fee is paid is contained in the prospectus which requires some manual or other form of identification by firms.

¶ 12 It was important for the Respondent to ensure that all trailer-paying or embedded fee products were identified in fee-based accounts to ensure that the firm was not charging twice for the same service.

Agreed Facts Regarding the Contravention

¶ 13 The agreed facts are as follows:

(a) in 2013, investment advisors began to identify certain products with embedded fees that were included in the fee calculation in fee-based accounts (the "Charging Issue") and raised concerns about the Charging Issue with the Respondent. The Respondent did not institute any specific

policies and procedures designed to stop including all embedded fee products from being included in the calculation of account fees until November 2019. From 2013 to November 2019, the Respondent dealt with the Charging Issue in fee-based accounts under their existing policies and procedures, primarily the conflict of interest policies and through the investment management committee which reviewed managed accounts including fee-based managed accounts;

(b) when a Charging Issue was identified by the Respondent through their existing compliance polices and procedures or through a client or broker, the Respondent would follow one of the following remedial measures: if there existed a non-embedded fee version of the product, the brokers were advised to switch to the non-embedded fee version for fee based accounts; if there was no non-embedded fee version, the product could either be sold or removed from any fee calculation in fee based accounts which initially had to be done manually. Finally, the Respondent allowed some products which contained an embedded fee of approximately 40 basis points or less to remain in fee-based accounts unless individual conflicts of interest were identified with a specific broker, client or product;

(c) IIROC sent a letter to the Respondent and other Dealer Members in April 2017 which asked IIROC Dealer Members to investigate fee-based accounts to determine if there were any Charging Issues due to products in those fee-based accounts which also contained embedded or trailer fees. IIROC requested the Dealer Members to contact IIROC if they found any significant issues. The Respondent determined that their existing policies and procedures and compliance review adequately dealt with the issue and they did not report any significant findings to IIROC after receipt of the April 2017 letter;

(d) after the compliance review by IIROC in May 2019, the Respondent updated its policies and procedures as of November 2019 to specifically remove all trailer or embedded fee-paying products from the account fee calculation in clients' fee-based accounts and started the process to repay any excess fees charged to all current and former account holders. The Respondent identified 350 products that contained a trailer or embedded fees that were included in the fee calculation in fee-based accounts for some or all of the period between January 2010 and November 2019 (the "Period"). These products included ETF's and structured products;

(e) the Respondent's policies and procedures and compliance review prior to November 2019 did not adequately detect all the Charging Issues in fee-based accounts. The Respondent also did not have adequate policies and procedures and compliance review prior to November 2019 to detect Charging Issues in fee-based accounts when new accounts or brokers were onboarded to the Respondent. The Respondent relied on its existing compliance system to detect and resolve Charging Issues prior to November 2019;

(f) when it received large sum trailer fee payments in relation to products held in clients' accounts, the Respondent did not have an adequate procedure in place to check each security to determine if it was held in a fee-based account or coded in a way that would exclude them from the account fee calculation in fee-based accounts; and

(g) in total, the Respondent calculated the amount of embedded fees incurred in fee-based accounts during the period was $1,406,261.50 affecting over 6,000 clients.

Remedial Steps Taken by the Respondent and Mitigating Factors

¶ 14 As previously indicated, in September 2018, in response to a request for information by IIROC

compliance staff as part of a Business Conduct Examination, the Respondent described certain circumstances in which it permitted trailer or embedded fees to be paid to the Respondent and its Registered Representatives for certain holdings in clients' accounts which were also charged a fixed fee based on a percentage of market value of the holdings in the accounts. Thereafter, in May 2019, IIROC compliance staff identified issues with respect to such embedded fees. As a result, the Respondent implemented policies and procedures as of November 2019 to exclude from clients' account fee calculation in fee-based accounts all products that pay a trailer or embedded fee.

¶ 15 As it was difficult to identify whether many structured products paid a trailer or embedded fee, the Respondent had to create a system to identify these types of fees for structured products that were held in fee-based client accounts.

¶ 16 The Respondent created a weekly trailer fees paid report to identify those structured products that had already paid a trailer or embedded fee. Those products were then coded and excluded from the fee calculation in fee-based accounts in the Respondent's account fee management software program. This process ensures that any new product that pays a trailer or embedded fee to a registered representative is flagged and removed from fee calculation for fee-based accounts. These new procedures to identify trailer or embedded fee-paying products in fee-based accounts were initiated in November 2019 but were refined and automated over time with the current system implemented on June 21, 2021.

¶ 17 Each trailer paying security is now flagged and a control is in place to systematically prevent the client from being charged a management fee when the security is held in a fee-based account. On a weekly basis, the Respondent manually reviews all exchange-traded trailer fees received to ensure that no account fees would be charged to clients in connection with these trailer fee paying securities.

¶ 18 The Respondent also implemented a program to locate and reimburse all clients for those fees from January 2010 to the present.

¶ 19 The Respondent has made voluntary efforts to repay this money to its current and former clients. As of the date of this Settlement Agreement, the Respondent has repaid $1,230,454.85 to approximately 5,200 clients, which includes repayment of all current clients of the Respondent.

¶ 20 The Respondent will continue with reasonable efforts to locate any former client in a fee-based account with a product that involved total embedded fees of more than $25 in the aggregate during the Period. In this regard, the Respondent, voluntarily and at its own expense, engaged Equifax to attempt to notify each former client who was owed a repayment.

¶ 21 The Respondent has identified $13,612.65 that has not been repaid to owners of closed fee-based accounts that were overcharged less than $25 in the aggregate from January 2010 to November 2019. The Respondent has agreed to pay this amount to a registered charity, without claiming the donations as a tax deduction.

¶ 22 None of the securities which generated trailers in fee-based client accounts were manufactured by the Respondent or its affiliates.

¶ 23 The Respondent's failure was inadvertent. There is no suggestion that the Respondent deliberately overcharged any client.

Analysis

¶ 24 Counsel for IIROC has provided the Panel with a number of cases regarding the proposed agreed upon sanctions as it relates to the issue before us.

¶ 25 Counsel for IIROC cited several Ontario Securities Commission no-contest settlement cases (where the firms self-reported) and which relied on the supervision provisions found in Section 11.1 of National

Instrument 31-103, which provision is similar to the Dealer Member Rules which we are dealing with presently:

(a) *Re Scotia Capital Inc. at al.,* 2016 ONSEC 27 (excess fees of $19,997,821 and a penalty of $800,000 in addition to costs of $50,000);

(b) *Re CIBC World Markets Inc. et al.,* 2016 ONSEC 34 (excess fees of $73,260,104 and a penalty of $3,000,000 in addition to costs of $50,000); and

(c) *Re TD Waterhouse*, 2014 ONSEC 34 (excess fees of $13,500,000 and a penalty of $600,000 and $50,000 in costs).

¶ 26 Counsel also referred to the British Columbia Securities Commission case of *HSBC Investment Funds (Canada) Inc. and HSBC Private Wealth Services (Canada) Inc.*, 2016 BCSECOM 185. The case involved excess fees of $7,097,272.34 and affected over 4,600 clients. The firm did not self-report. The British Columbia Securities Commission accepted a settlement agreement which contained a fine of $300,000 and $20,000 in costs. This was not a no-contest settlement.

¶ 27 Lastly, counsel referenced the following IIROC cases involving excess or double billing issues in fee-based accounts:

(a) *Re Worldsource Securities Inc.* 2018 IIROC 48 (excess fees of $148,904.40 and a penalty of $50,000 in addition to costs of $5,000). The firm did not self-report;

(b) *Re Peak Securities Inc.* 2020 IIROC 36 (excess fees of $190,000 and a penalty of $50,000). The firm did not self-report*;* and

(c) *Re Raymond James Ltd.* 2019 IIROC 08 (see particulars below).

¶ 28 IIROC Staff specifically referenced the case of *Raymond James Ltd.* as providing the closest comparison to the case before us in terms of representing a larger independent investment dealer in Canada.

¶ 29 In *Raymond James Ltd.,* the overcharge in fee-based accounts totalled $2,345,662 (versus $1,406,261.50 in the case before us) during the period between January 2010 and September 2016. The firm self-reported. Both cases affected between 5,000 to 6,000 clients. The panel in that case accepted a penalty involving a fine of $125,000 and costs of $5,000. However, counsel for IIROC indicated that there are the following aggravating factors in our case that were not present in *Raymond James Ltd.*:

(a) the Respondent did not self-report the issue to IIROC; and

(b) the Respondent entered into a repayment program for affected clients and changed its policies and procedures only after being prompted by a review by IIROC Staff.

¶ 30 Having said that, counsel for IIROC has also indicated that there were the following mitigating factors present in the case before us:

(a) the Respondent accepted that its conduct was in breach of the Dealer Member Rules and entered into a settlement agreement;
(b) the Respondent voluntarily developed and implemented the remediation plan as outlined above;
(c) none of the securities which generated trailers in the fee-based client accounts were manufactured by the Respondent or its affiliates;
(d) the Respondent has compensated clients and will make donations to charitable entities for any amounts that could not be returned to former account holders to ensure that it receives no profit or benefit from its failure as described above; and
(e) the Respondent's failure was inadvertent and there is no suggestion that the Respondent deliberately overcharged any client.

¶ 31 We have also considered the Dealer Member Disciplinary Sanction Guidelines published by IIROC in determining the appropriate penalty, having due regard to the aggravating and mitigating factors in assessing the appropriate penalty.

¶ 32 It is well established that the Panel's role is not to substitute what we may consider appropriate penalties but to determine whether the proposed sanctions are reasonable in all the circumstances. Panels are not privy to the give and take that is necessary in any settlement and we acknowledge the benefits that settlements have to offer. This is especially the case when dealing, as we are here, with very experienced counsel.

Re Deutsche Bank Securities Ltd. 2013 IIROC 07

Re Clark [1999] I.D.A.C.D. No. 40

Re Milewski [1999] I.D.A.C.D. No. 17

Re Edward Jones 2016 IIROC 42

Re Heakes 2019 IIROC 09

¶ 33 In all of the circumstances, the Panel is of the unanimous opinion that the penalties fall within the reasonable range of appropriateness in dealing with both personal and general deterrence and accepts the proposed Settlement Agreement.

Dated at Vancouver, British Columbia, this 14 day of January 2022.

Gary Snarch

Barbara Fraser

David Duquette

SETTLEMENT AGREEMENT

PART I – INTRODUCTION

1. The Investment Industry Regulatory Organization of Canada ("IIROC") will issue a Notice of Application to announce that it will hold a settlement hearing to consider whether, pursuant to Section 8215 of the Consolidated Enforcement, Examination and Approval Rules of IIROC, a hearing panel ("Hearing Panel") should accept the settlement agreement ("Settlement Agreement") entered into between the staff of IIROC ("Staff") and Canaccord Genuity Corp. ("Canaccord" or the "Respondent").

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff and the Respondent jointly recommend that the Hearing Panel accept this Settlement Agreement in accordance with the terms and conditions set out below.

PART III – AGREED FACTS

3. For the purposes of this Settlement Agreement, the Respondent agrees with the facts as set out in Part III of this Settlement Agreement

Overview

4. In September 2018 , in response to a request for information by IIROC compliance staff as part of a Business Conduct Examination, Canaccord described certain circumstances in which it permitted trailer or

embedded fees to be paid to Canaccord and its Registered Representatives for certain holdings in clients' accounts which were also charged a fixed fee based on a percentage of market value of the holdings in the accounts (herein referred to as "fee-based accounts"). Thereafter, in May 2019, IIROC compliance staff identified issues with respect to such embedded fees. As a result, Canaccord implemented policies and procedures as of November 2019 to exclude from clients' account fee calculation in fee-based accounts all products that pay a trailer or embedded fee. Canaccord also implemented a program to locate and reimburse all clients for those fees from January 2010 to the present.

5. In total, the Respondent calculated the amount of embedded fees incurred in fee-based accounts from January 2010 until the change in policy in November 2019 (the "Period") was $1,406,261.50 affecting over 6,000 clients.

6. The Respondent has made voluntary efforts to repay this money to its current and former clients. As of the date of this Settlement Agreement, the Respondent has repaid $1,230,454.85 to approximately 5,200 clients, which includes repayment of all current clients of the Respondent.

7. The Respondent will continue with reasonable efforts to locate any former client in a fee-based account with a product that involved total embedded fees of more than $25 in the aggregate during the Period.

8. Any amount not repaid to former clients will be donated to charity without issuance of a charitable receipt to the Respondent. As such, the Respondent will not benefit from the fees, which were charged to clients with fee-based accounts.

The Respondent

9. The Respondent is registered as a Dealer Member with IIROC. The Respondent engages in securities, options, managed account, futures contracts and future contract options trading activities. Neither the Respondent nor its affiliates manufactured any mutual funds or other structured products for the Canadian market prior to November 2019. Its head office is located in Vancouver, British Columbia.

Fee Based Accounts and Trailer/Embedded Fees

10. One of the account types that the Respondent offers clients is a fee-based account where instead of paying a fee for each individual transaction made in their account, a client pays a quarterly or monthly fee that is calculated based on the market value of the securities held in the client's account. These accounts are referred to as fee-based accounts.

11. A trailer fee is a service commission paid to a broker by an issuer/manager of a mutual fund. Trailer fees can also be paid to a broker by an issuer of a structured product which can include exchange traded funds and other structured products that trade as common shares on an exchange. The type of fee paid on these structured products is also referred to as an embedded fee.

12. The trailer fee is paid to the representative of a client who holds the product paying such trailer fee for as long as the client holds the product. These fees generally range between 0.25% and 1.00% and are paid out of the product's management expenses. These trailer fees are meant to compensate the representative for providing their client, the purchaser of the product, with ongoing services such as answering questions about the makeup and performance of the mutual fund or structured product.

13. Mutual funds, ETFs and other structured products all have a CUSIP code which is a unique product identifier. Mutual funds which do not pay a trailer fee may be identified as "F class". The class of mutual fund is usually also identified in the product name of the mutual fund. Not all mutual funds had an F class. An A class mutual fund that was the same underlying product as the F class, except that it would pay a trailer fee to the broker, would have a different CUSIP number and have the class letter in the product name. These two components, unique CUSIP and class description in the product name, make it possible

for firms to identify trailer paying mutual funds from the F class non-trailer fee paying funds. These F class mutual funds are appropriate to hold in fee-based accounts where the client is already paying the broker a service fee based on the value of the holdings in the account.

14. However, there are many different structured products which trade on an exchange with a standard stock symbol where there are not two versions of the same product with one that pays a trailer fee and one that does not. The information about whether the product pays a trailer fee or has an embedded fee paid to a broker is not identifiable by the unique CUSIP code or included in the product name as it is with mutual funds. There is no product management software or tools (such as Dataphile) to identify whether many ETFs or other structured products pay a trailer or embedded fee. This makes it difficult to search for and sort out these specific types of products to exclude them from account fee calculations in fee-based accounts. The fact that a trailer or embedded fee is paid is contained in the prospectus which requires some manual or other form of identification by firms.

15. It was important for the Respondent to ensure that all trailer-paying or embedded fee products were identified. Failure to do so could mean that clients, to the extent they were paying a trailer or embedded fee, in addition to the firm-assessed account fee, were being charged twice for the same service provided by the broker and firm.

History

16. In 2013, investment advisors began to identify certain products with embedded fees that were included in the fee calculation in fee-based accounts (the "Charging Issue") and raised concerns about the Charging Issue with Canaccord. Canaccord did not institute any specific policies and procedures designed to stop including all embedded fee products from being included in the calculation of account fees until November 2019. From 2013 to November 2019, Canaccord dealt with the Charging Issue in fee-based accounts under their existing policies and procedures, primarily the conflict of interest policies and through the investment management committee which reviewed managed accounts including fee-based managed accounts.

17. When a Charging Issue was identified by Canaccord through their existing compliance policies and procedures or through a client or broker, Canaccord would follow one of the following remedial measures: if there existed a non-embedded fee version of the product, the brokers were advised to switch to the non-embedded fee version for fee based accounts; if there was no non-embedded fee version, the product could either be sold or removed from any fee calculation in fee based accounts which initially had to be done manually. Finally, Canaccord allowed some products which contained an embedded fee of approximately 40 basis points or less to remain in fee-based accounts unless individual conflicts of interest were identified with a specific broker, client or product.

18. IIROC sent a letter to Canaccord and other Dealer Members in April 2017 which asked IIROC Dealer Members to investigate fee-based accounts to determine if there were any Charging Issues due to products in those fee-based accounts which also contained embedded or trailer fees. IIROC requested the Dealer Members to contact IIROC if they found any significant issues. Canaccord determined that their existing policies and procedures and compliance review adequately dealt with the issue and they did not report any significant findings to IIROC after receipt of the April 2017 letter.

19. After the compliance review by IIROC in May 2019, Canaccord updated its policies and procedures as of November 2019 to specifically remove all trailer or embedded fee-paying products from the account fee calculation in clients' fee-based accounts and has started the process to repay any excess fees charged to all current and former account holders.

Control and Supervision Issues

20. Canaccord's policies and procedures and compliance review prior to November 2019 did not adequately

detect all the Charging Issues in fee-based accounts. Canaccord also did not have adequate policies and procedures and compliance review prior to November 2019 to detect Charging Issues in fee-based accounts when new accounts or brokers were onboarded to Canaccord. Canaccord relied on its existing compliance system to detect and resolve Charging Issues prior to November 2019.

21. When it received large sum trailer fee payments in relation to products held in clients' accounts, the Respondent did not have an adequate procedure in place to check each security to determine if it was held in a fee-based account or coded in a way that would exclude them from the account fee calculation in fee-based accounts.

Remedial Steps Taken by the Respondent

22. After November 2019, Canaccord changed its policies and procedures to remove any trailer or embedded fee-paying product from the calculation of fees in fee-based accounts. As it was difficult to identify whether many structured products paid a trailer or embedded fee, Canaccord had to create a system to identify these types of fees for structured products that were held in fee-based client accounts.

23. Canaccord created a weekly trailer fees paid report to identify those structured products that had already paid a trailer or embedded fee. Those products were then coded and excluded from the fee calculation in fee-based accounts in Canaccord's account fee management software program. This process ensures that any new product that pays a trailer or embedded fee to a registered representative is flagged and removed from fee calculations for fee-based accounts. These new procedures to identify trailer or embedded fee-paying products in fee-based accounts were initiated in November 2019 but were refined and automated over time with the current system implemented on June 21, 2021.

24. Each trailer paying security is now flagged and a control is in place to systematically prevent the client from being charged a management fee when the security is held in a fee-based account. On a weekly basis, the Respondent manually reviews all exchange-traded trailer fees received to ensure that no account fees would be charged to clients in connection with these trailer fee paying securities.

25. Canaccord identified approximately 350 products that contained a trailer or embedded fee that were included in the fee calculation in fee-based accounts for some, or all, of the period from January 2010 to November 2019. These products included ETFs and structured products.

26. In June 2020, Canaccord made the voluntary decision to reimburse current and former clients who held fee-based accounts from January 2010 to November 2019 for any fees associated with products paying a trailer or embedded fee. After November 2019 Canaccord's new compliance system removed any trailer or embedded fee-paying product from the fee calculation in fee-based accounts.

27. Reimbursement payments totaling $460,102.60 to current or existing clients began on July 31, 2020 and were completed in December 2020. The remaining amount of $946,158.90 includes $750,368.36 owed to Canaccord's former clients; $182,177.89 owed to clients where Canaccord is now the carrying broker; and $13,612.65 in relation to former clients where the aggregate amounts owed are under $25. Reimbursement payments to former clients totaling $932,546.25 began on February 2, 2021 and as of September 22, 2021, $240,775.49 was still outstanding to be repaid.

28. The $932,546.25 overcharged to former clients of closed fee-based accounts required the Respondent to locate the legal account owners. The Respondent focused its effort on locating the owners of accounts that were overcharged more than $25 in the aggregate during the period from January 2010 to November 2019. For these accounts, the Respondent, voluntarily and at its expense, engaged Equifax in order to utilize their extensive database of contact information. Equifax was provided the full list of former Canaccord clients who were owed a payment. Using their more up to date contact data, Equifax sought to notify each former client that a payment was owed to them by Canaccord. Each client was asked to call in to an Equifax call

center in order to verify their contact details and authorize the release of this information to Canaccord.

29. Equifax would then periodically transfer a list of updated and verified contact information to Canaccord at which time Canaccord would issue a cheque by mail to all clients on the verified list. Initial attempts to contact former clients were made by email, and shortly thereafter, posted letter. Once it was determined that responses to these communications had slowed, Equifax agents began contacting the remaining former clients by telephone.

30. Once Canaccord determines that the initiative with Equifax has run its course it will make a decision whether to renew the service agreement with Equifax and repeat the process described above or begin efforts to contact the remaining former clients in-house.

31. As of the date of this Settlement Agreement, the Respondent has repaid all but $162,194.00 of the $ 1,406,261.50 that was overcharged.

32. Canaccord has identified $13,612.65 that was not repaid to owners of closed fee-based accounts that were overcharged less than $25 in the aggregate from January 2010 to November 2019. Canaccord will pay this amount to a registered charity, without claiming the donation as a tax deduction.

33. The Respondent will continue to reimburse former clients who contact its office after the publication of this Settlement Agreement. It is expected that publication of this Settlement Agreement will encourage former clients who had fee-based accounts from January 2010 to November 2019 to contact the Respondent. These former clients can telephone the Respondent at its head office to see if their account was one of the accounts that was overcharged.

34. To ensure that it receives no financial benefit from the Charging Issue, the Respondent will, on May 31, 2022, donate the equal amount of any unreimbursed funds to a registered charity in Canada, without claiming the donation as a tax deduction.

35. Notwithstanding any charitable donation made in respect of the Charging Issue, the Respondent will still repay the owner of any closed fee-based account that was overcharged any amount of money related to this overcharging error.

Mitigating Factors

36. The Respondent voluntarily developed and implemented the remediation plan outlined above in paragraphs 22 to 35.

37. None of the securities which generated trailers in in fee-based client accounts were manufactured by the Respondent or its affiliates.

38. The Respondent has compensated clients and will make donations to charitable entities for any amounts that could not be returned to former account holders to ensure that it receives no profit or benefit from its failure.

39. The Respondent's failure was inadvertent. There is no suggestion that the Respondent deliberately overcharged any client.

PART IV – CONTRAVENTIONS

40. By engaging in the conduct described above, the Respondent committed the following contravention of IIROC's Rules:

> Between January 2010 and May 2019, the Respondent failed to establish and maintain a system of internal controls and supervision reasonably designed to achieve compliance with IIROC requirements, including to deal fairly with clients with regard to fees, contrary to Dealer

Member Rules 38.1 and 2500.

PART V – TERMS OF SETTLEMENT

41. The Respondent agrees to the following sanctions and costs:

    a) Fine of $157,500; and

    b) Costs of $50,000.

42. If this Settlement Agreement is accepted by the Hearing Panel, the Respondent agrees to pay the amounts referred to above within 30 days of such acceptance unless otherwise agreed between Staff and the Respondent.

PART VI – STAFF COMMITMENT

43. If the Hearing Panel accepts this Settlement Agreement, Staff will not initiate any further action against the Respondent in relation to the facts set out in Part III and the contraventions in Part IV of this Settlement Agreement, subject to the provisions of the paragraph below.

44. If the Hearing Panel accepts this Settlement Agreement and the Respondent fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Rule 8200 against the Respondent. These proceedings may be based on, but are not limited to, the facts set out Part III of this Settlement Agreement.

PART VII – PROCEDURE FOR ACCEPTANCE OF SETTLEMENT

45. This Settlement Agreement is conditional on acceptance by the Hearing Panel.

46. This Settlement Agreement shall be presented to a Hearing Panel at a settlement hearing in accordance with the procedures described in Sections 8215 and 8428, in addition to any other procedures that may be agreed upon between the parties.

47. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing, unless the parties agree that additional facts should be submitted at the settlement hearing. If the Respondent does not appear at the settlement hearing, Staff may disclose additional relevant facts, if requested by the Hearing Panel.

48. If the Hearing Panel accepts the Settlement Agreement, the Respondent agrees to waive all rights under the IIROC Rules and any applicable legislation to any further hearing, appeal and review.

49. If the Hearing Panel rejects the Settlement Agreement, Staff and the Respondent may enter into another settlement agreement or Staff may proceed to a disciplinary hearing based on the same or related allegations.

50. The terms of this Settlement Agreement are confidential unless and until this Settlement Agreement has been accepted by the Hearing Panel.

51. The Settlement Agreement will become available to the public upon its acceptance by the Hearing Panel and IIROC will post a full of copy of this Settlement Agreement on the IIROC website. IIROC will also publish a summary of the facts, contraventions, and the sanctions agreed upon in this Settlement Agreement.

52. If this Settlement Agreement is accepted, the Respondent agrees that neither it nor anyone on its behalf, will make a public statement inconsistent with this Settlement Agreement.

53. The Settlement Agreement is effective and binding upon the Respondent and Staff as of the date of its acceptance by the Hearing Panel.

PART VIII – EXECUTION OF SETTLEMENT AGREEMENT

54. This Settlement Agreement may be signed in one or more counterparts which together will constitute a binding agreement.

55. A fax or electronic copy of any signature will be treated as an original signature.

DATED this 15th day of December, 2021.

"Witness"	"Respondent"
Witness	Respondent
"Witness"	"Stacy Robertson"
Witness	Stacy Robertson Senior Enforcement Counsel on behalf of Enforcement Staff of the Investment Industry Regulatory Organization of Canada

The Settlement Agreement is hereby accepted this 15th day of December, 2021 by the following Hearing Panel:

Per: "Gary Snarch"
Panel Chair

Per: "Barbara Fraser"
Panel Member

Per: "David Duquette"
Panel Member