

Re Barber

IN THE MATTER OF:

**The Investment Dealer and Partially Consolidated Rules of
the Canadian Investment Regulatory Organization**

and

Robert Barber

2023 CIRO 04

Canadian Investment Regulatory Organization
Hearing Panel (Pacific District)

Heard: May 26, 2023, in Vancouver, British Columbia
Decision: May 26, 2023
Reasons for Decision: June 27, 2023

Hearing Panel:

Lynn Smith, OC, KC (Chair), Nigel Potts and Bruce Maranda

Appearances:

Lorne Herlin, Senior Enforcement Counsel

Sean Boyle, for Robert Barber

Robert Barber (present)

REASONS FOR DECISION

INTRODUCTION

¶ 1 In a Statement of Allegations dated August 11, 2022, Enforcement Staff of the Investment Dealer Regulatory Organization of Canada (“IIROC”), the predecessor of the Canadian Investment Regulatory Organization (“CIRO”), alleged that Robert Barber (“the Respondent”) had contravened IIROC Rule 1400 between December 2017 and October 2018.

¶ 2 Enforcement Staff and the Respondent entered into a Settlement Agreement on May 10, 2023. Pursuant to a motion under sections 8215 and 8428 of the Investment Dealer and Partially Consolidated Rules (prior to January 1, 2023, IIROC Rules), Enforcement Counsel brought a motion before this Panel requesting acceptance of that agreement.

¶ 3 In the Settlement Agreement, Mr. Barber admits that between December 2017 and October 2018, he failed to fulfill his gatekeeper responsibilities, contrary to IIROC Rule 1400.

¶ 4 Rule 1402(1) provides that a Regulated Person (such as the Respondent):

- (i) in the transaction of business must observe high standards of ethics and conduct and must act openly and fairly and in accordance with just and equitable principles of trade, and
- (ii) must not engage in any business conduct that is unbecoming or detrimental to the public interest.

¶ 5 Rule 1402(2) further specifies that any business conduct may contravene the standards set by the Rule if it:

- (i) is negligent,

- (ii) fails to comply with a legal, regulatory, contractual or other obligation, including the rules, requirements, and policies of a Regulated Person,
- (iii) displays an unreasonable departure from standards that are expected to be observed by a Regulated Person, or
- (iv) is likely to diminish investor confidence in the integrity of securities, futures or derivative markets.

¶ 6 At the conclusion of a hearing by videoconference on May 26, 2023, and following due consideration, the Hearing Panel announced that it approved the Settlement Agreement, attached as Appendix “A”. These are the Panel’s Reasons for deciding to approve that agreement.

AGREED FACTS

¶ 7 The Settlement Agreement sets out in detail the facts that have been agreed upon between the parties. A summary of the Agreed Facts follows.

¶ 8 Mr. Barber, the Respondent, has been a Registered Representative since 2009, and has worked in that capacity at the Vancouver office of Research Capital Corporation since June 2015.

¶ 9 In January 2016, Northwest Marketing and Management Inc. (“Northwest”) opened accounts with Research Capital. The Respondent was the responsible Registered Representative for the Northwest accounts. The president and sole beneficial owner of Northwest was DT; her spouse/partner AM introduced her to Mr. Barber.

¶ 10 Although AM did not have formal trading authorization, he directed some of the trading in the Northwest accounts. The Respondent communicated with AM directly regarding the Northwest accounts. He believed AM provided consulting services and understood AM to be a stock promoter but did not know what companies he worked for or assisted. The Respondent was the only person at Research Capital who knew about AM’s involvement in the Northwest accounts.

¶ 11 AM had been convicted for market manipulation in Germany in October 2012, a matter that was reported in Canadian news outlets. The Respondent failed to conduct due diligence on AM and failed to disclose AM’s involvement in the Northwest accounts to Research Capital. This failure meant that Research Capital was unaware of possible concerns regarding the Northwest accounts arising from the fact that an unauthorized individual who had been convicted of market manipulation was involved with the accounts.

¶ 12 Between December 2017 and August 2018, the investment accounts of Northwest generated a number of indicators or red flags which suggested they may have engaged in activity that was suspicious. The red flags included the deposit of share certificates for four issuers with values ranging from \$165,000 to \$2,818,000; the sale of those securities in the days before and shortly after the share certificate deposits; and the immediate withdrawal of the majority of the proceeds of sale. For certain issuers, the trading was uneconomic. This activity was out of line with Northwest’s normal and historical account activity, and with its know-your-client (KYC) information. The activity was directed by AM.

¶ 13 Research Capital’s Compliance Department staff made a number of inquiries about the Northwest accounts beginning in December 2017.

¶ 14 It is agreed that the Respondent had the primary gatekeeper responsibility for the Northwest accounts, that he executed the client’s transactions without learning necessary facts related to the client and the orders accepted, and that by failing to make further inquiries, the Respondent failed to fulfill his gatekeeper responsibilities, contrary to IIROC Rule 1400.

TERMS OF PROPOSED SETTLEMENT

¶ 15 The Respondent agreed to the following sanctions and costs:

- (i) A fine in the amount of \$25,000;
- (ii) Disgorgement of \$27,776 in commissions; and
- (iii) Costs in the amount of \$5,000.

¶ 16 The Respondent also agreed to pay the amounts referred to above within 30 days of acceptance of the Settlement Agreement by the Hearing Panel, unless otherwise agreed between himself and Enforcement Staff.

¶ 17 Enforcement Staff agreed not to initiate any further action against the Respondent in relation to the Agreed Facts and Contraventions set out in the Settlement Agreement, subject to the proviso that if the Respondent fails to comply with any of the terms of the Settlement Agreement, Enforcement Staff may bring proceedings under Rule 8200 against him. Such proceedings may be based on, but are not limited to, the facts set out in Part III of the Settlement Agreement.

TEST TO BE APPLIED IN CONSIDERING A SETTLEMENT AGREEMENT

¶ 18 The Hearing Panel has two options under Rule 8215(5): accept the proposed settlement or reject it. The Panel may not replace the proposed sanctions with others. Its task is to decide whether the proposed sanctions fall within a reasonable range of appropriateness for the contraventions in question (*Re Kingsdale Capital & Prange* 2019 IIROC 34 at para 16-19). If the sanctions do not clearly fall outside that range, the Panel should accept the settlement.

¶ 19 Mr. Herlin in his submissions on behalf of Enforcement Staff also referred to the “public interest test”, developed in the context of joint submissions as to sentence in criminal proceedings and enunciated in *R. v. Anthony-Cook*, 2016 SCC 43. If applied, it would erect an even higher barrier against hearing panels’ departures from the terms of settlement agreements. We note the possibly significant differences between the context of a settlement agreement imposing penalties for regulatory infractions (as here) and joint submissions as to sentence following a guilty plea in an often-overburdened criminal justice system (as discussed in *Anthony-Cook*). We do not find it necessary to address whether it is appropriate to use the test from *Anthony-Cook* since we are confident that the Settlement Agreement in this case clearly meets the long-standing test used in *Re Kingsdale*.

¶ 20 Counsel also referred to the IIROC Sanction Guidelines. These set out general principles and key factors for the consideration of hearing panels in their exercise of discretion in determining appropriate sanctions.

¶ 21 The general principles emphasize that disciplinary sanctions are meant to be preventative, and to protect the investing public, strengthen market integrity, and improve overall business standards and practices. Respondents with prior disciplinary records should receive more severe sanctions. The total or cumulative sanction should appropriately reflect the totality of the respondent’s misconduct. The sanctions should ensure that a respondent does not financially benefit as a result of the misconduct. Suspensions or permanent bars should be considered in specified circumstances. Only when raised by the respondent, should inability to pay be considered as a factor. A respondent’s proactive and exceptional assistance in the investigation will be considered. Remedial sanctions tailored to the specific misconduct can be useful.

¶ 22 The key factors from the Sanction Guidelines relevant to this case include, but are not limited to, the following :

- i. The number, size and character of the transactions at issue;
- ii. Whether the Respondent engaged in numerous acts and/or a pattern of misconduct;
- iii. Whether the Respondent engaged in the misconduct over an extended period of time;
- iv. Whether the misconduct was intentional, willfully blind, or reckless with respect to regulatory requirements;
- v. The extent of harm to clients or other market participants;
- vi. The extent of harm to market integrity or the reputation of the marketplace, or both;
- vii. The level of vulnerability of the injured or affected client(s);
- viii. The Respondent’s relevant disciplinary history;
- ix. The extent to which the Respondent obtained or attempted to obtain a financial benefit from the misconduct;

- x. Whether the Respondent accepted responsibility for and acknowledged the misconduct to his employer or the regulator prior to detection and intervention; and
- xi. Whether the Respondent made voluntary acts of compensation.

ANALYSIS

¶ 23 Enforcement Counsel's submissions focused on six factors:

1. *The number, size and character of the transactions at issue*

There were five red flags, over the period between December 2017 and August 2018, with respect to the trading in the Northwest accounts. The Respondent executed the transactions without learning necessary facts about the client or about the orders he accepted. He failed to make the appropriate inquiries and failed to fulfill his gatekeeper responsibilities.

2. *Whether there were numerous acts or a pattern of misconduct*

In this case, there was a single client account with respect to which the Respondent failed to fulfill gatekeeper responsibilities, rather than multiple accounts or a pattern of misconduct.

3. *Whether the misconduct occurred over an extended period of time*

Northwest's month-end account balances exceeded its documented liquid assets and net worth over an eight-month period, between December 2017 and October 2018. Other matters identified as raising red flags also occurred within that period.

4. *Whether the misconduct was intentional, wilfully blind, or reckless with respect to regulatory requirements*

The Agreed Facts are silent as to the Respondent's state of mind. Enforcement Counsel submits that the misconduct in this case can be more aptly characterized as negligent, but that it was nonetheless serious.

In the absence of evidence bearing on Mr. Barber's state of mind, we agree with Enforcement Counsel's submission that it would be inaccurate to characterize the misconduct as intentional, wilfully blind or reckless, rather than negligent.

5. *The Respondent's relevant disciplinary history*

Mr. Barber has been an Approved Person since 2008 and has no prior disciplinary history.

6. *The extent to which the Respondent obtained or attempted to obtain a financial benefit from the misconduct.*

As a result of the contraventions, the Respondent earned commissions of \$27,776. As part of the settlement, he has agreed to disgorge those commissions.

¶ 24 In addition, we note that there is no indication that Mr. Barber accepted responsibility for or acknowledged the misconduct prior to the inquiries from his employer's Compliance Department, or that he made voluntary acts of compensation. However, he did agree to settle the matter in April 2023, and thereby reduced the expenditure of resources entailed in taking it to a hearing.

¶ 25 Finally, we note that there were no submissions or agreed facts shedding light on harm to clients or other market participants, on the extent of harm to market integrity or the reputation of the marketplace, or on the level of vulnerability of the injured or affected client.

¶ 26 The proposed sanctions are consistent with prior IIROC approved settlements, such as those in *Re Rowlatt* 2020 IIROC 32 and *Re Martin* 2021 IIROC 32. Both of those cases involved Registered Representatives who failed to make inquiries when their clients' accounts showed indications of suspicious trading. Both individuals had no prior disciplinary history.

¶ 27 The fine in *Re Martin* was \$50,000 plus \$32,000 disgorgement of commissions. Five accounts had raised red flags, over a 29-month period.

¶ 28 The fine in *Re Rowlatt* was \$50,000, inclusive of commission disgorgement in an unstated amount. The suspicious trading by a group of clients took place over a 12-month period, and the panel noted that although Mr. Rowlatt did not knowingly participate with his clients in a scheme to manipulate the market, he had turned a blind eye to their dealings to the detriment of the integrity of the market (at para 13).

Conclusion

¶ 29 Having reviewed the Agreed Facts in the Settlement Agreement, the Sanction Guidelines, and the submissions of counsel, the Hearing Panel concluded that the proposed sanctions fall within a reasonable range of appropriateness for the contraventions in question. It is particularly significant that there is no evidence of intentional, wilfully blind or reckless conduct, that Mr. Barber has no previous disciplinary history, and that there was not a pattern of misconduct relating to multiple clients or over an extended period of time.

¶ 30 Taking all of the above into account, the Panel concluded that it is in the public interest to accept the Settlement Agreement.

Dated at Vancouver, British Columbia this 27th day of June 2023.

Lynn Smith, OC, KC, Chair

Bruce Maranda

Nigel Potts

SETTLEMENT AGREEMENT

PART I – INTRODUCTION

1. The Corporation* will issue a Notice of Motion to announce a settlement hearing pursuant to sections 8215 and 8428 of the Investment Dealer and Partially Consolidated Rules (the “Investment Dealer Rules”) to consider whether a hearing panel should accept this Settlement Agreement between Enforcement Staff and Robert Barber (the “Respondent”).

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Enforcement 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. Between December 2017 and August 2018, the investment accounts of one client for which the Respondent had responsibility generated a number of indicators or red flags which suggested that they may have engaged in activity that was suspicious.
5. The red flags included the deposit of share certificates for four issuers with values¹ ranging from \$165,000 to \$2,818,000; the sale of those securities in the days before and shortly after the share certificate deposits; and the immediate withdrawal of the majority of the proceeds of sale. For certain issuers, the trading was uneconomic. This activity was out of line with the client’s normal and historical account activity, and the client’s know-your-client (KYC) information.
6. Furthermore, the activity was directed by AM, who did not have formal trading authorization over the accounts, and who in October 2012 had been convicted of market manipulation in Germany, which was

¹ Value of shares at end of day on the date of deposit.

reported by Canadian news outlets.

7. The Respondent executed the client's transactions without learning necessary facts related to the client and the orders accepted. By failing to make inquiries, the Respondent failed to fulfil his gatekeeper responsibilities.

The Respondent

8. The Respondent is a Registered Representative (RR) who currently works at the Vancouver office of Research Capital Corporation, formerly Mackie Research Capital Corporation ("Research Capital"). He has been registered as an RR since 2009 and a RR with Research Capital since June 2015.

The Northwest Accounts and AM's Undisclosed Involvement

9. In January 2016, Northwest Marketing and Management Inc. ("Northwest") opened an investment account and a margin short account at Research Capital. At all material times, the Respondent was the RR who was responsible for the Northwest accounts.
10. DT was the president and sole beneficial owner of Northwest and was introduced to the Respondent by her spouse/partner, AM.
11. The Respondent understood Northwest to be a holding company for DT and her investments. However, AM directed some of the trading in the Northwest accounts although he did not have formal trading authorization.
12. The Respondent communicated with AM directly regarding the Northwest accounts. The Respondent believed AM provided consulting services and understood him to be a stock promoter, but the Respondent did not know what companies he worked for or assisted.
13. At Research Capital, AM's involvement in the Northwest accounts was known to the Respondent alone.
14. In October 2012, AM was convicted of market manipulation in Germany, which was reported by Canadian news outlets.
15. Given the extent of AM's involvement in the Northwest accounts, the Respondent ought to have conducted due diligence on AM and disclosed AM's involvement in the Northwest accounts to Research Capital. However, the Respondent did not and Research Capital was accordingly not aware of any possible concerns with the Northwest accounts in circumstances where an unauthorized individual who had been convicted of market manipulation was involved with the accounts.

Unusual/Out of Line Account Activity

16. In January 2016, when Northwest opened its accounts, its New Client Account Form (NCAF) details included the following:

- Type of business: consulting/advisory
- Investment objectives: 100% short term trading
- Risk tolerance: 100% high
- Annual income: \$500,000
- Liquid assets: \$150,000
- Fixed assets: \$400,000
- Net worth: \$550,000

17. From account opening until April 2016, Northwest had no account activity.

18. Between May 2016 and November 2017, Northwest's:

- (a) month-end investment account value ranged between \$58,000 and \$245,000;

- (b) monthly stock receipts² ranged from \$5,000 to \$118,000 (occurring 7 times in 5 months of the 19-month period); and
 - (c) monthly cash withdrawals ranged between \$4,000 and \$110,000 (occurring 13 times in 6 months of the 19-month period).
19. In contrast to Northwest's account activity described at paragraph 18 above, between December 2017 and August 2018, Northwest's:
- (a) month-end investment account value ranged between \$673,000 and \$1,321,000;
 - (b) monthly stock receipts³ for shares of Abbatis Bioceuticals Corp, Affinor Growers Inc., Beleave Inc., and New Exploration Corp. ranged from \$165,000 to \$2,818,181 (occurring 11 times in 5 months of the 9-month period; and
 - (c) monthly cash withdrawals ranged between \$55,000 and \$5,250,000 (occurring in each month of the 9-month period).

Abattis Bioceuticals Corp (ATT)

20. In or around early December 2017, AM or Northwest instructed the Respondent to sell shares of ATT that were to be issued to Northwest.
21. On December 8, 2017 (settlement date December 12, 2017), the Respondent sold 300,000 ATT shares in the Northwest accounts valued at approximately \$68,790, net of commissions. Northwest held no shares of ATT in any of its accounts at that time.
22. On December 11, 2017, Research Capital's credit department flagged Northwest's ATT short position to the Respondent, who advised that a share certificate would be forthcoming. The Respondent then forwarded blank corporate resolution and power of attorney forms to Northwest which were required by Research Capital to be executed and delivered together with share certificate deposits.
23. On December 12, 2017, the Respondent accepted an unsolicited order to sell a further 800,000 ATT shares, valued at approximately \$453,945, net of commissions. Northwest held no shares of ATT in any of its accounts at that time. The Respondent sold the further ATT shares without confirming that Research Capital had received and cleared any certificates of ATT shares issued to Northwest.
24. On December 13, 2017, Research Capital's operations personnel notified the Respondent that Research Capital had received a certificate for 1,111,111 ATT shares issued to Northwest, together with corporate resolution and power of attorney forms. Notably, the share certificate was dated December 12, 2017 (settlement date of the initial sale), and the forms were signed but otherwise blank. The 1,111,111 ATT shares were deposited effective December 14, 2017 and valued at \$555,555 at the end of the day of deposit. The value of the deposited ATT shares was equivalent to Northwest's documented net worth.
25. Also on December 13, 2017, the Respondent sought a cheque to be issued to Northwest. A cheque in the amount of \$55,000 was issued to Northwest.
26. On December 13 and 14, 2017 (settlement dates December 15 and 18, 2017 respectively), the Respondent accepted unsolicited orders to sell a further 2,122,222 shares in the Northwest accounts. The value of those shares was approximately \$1,168,965, net of commissions.
27. On December 15, 2017, Research Capital's credit department again flagged Northwest's ATT short position to the Respondent, who advised that a further share certificate was going to be delivered. The further certificate for 1,000,000 ATT shares was delivered to Research Capital on December 15, 2017, and 1,111,111 warrants were exercised, while the Respondent sold another 1,700,000 ATT shares, unsolicited, in the Northwest accounts, valued at \$955,300, net of commissions. The share certificate was dated December 14, 2017, and the accompanying corporate resolution and power of attorney forms were signed but otherwise blank.

² Excluding warrants.

³ Excluding warrants.

28. On December 20, 2017, a further certificate for 2,713,178 ATT shares issued to Northwest was delivered to Research Capital, with a blank signed power of attorney form.
29. On or about December 20, 2017, the Respondent arranged for a cheque in the amount of \$1,500,000 to be issued to Northwest.
30. Between December 20 and 27, 2017, the Respondent continued to accept unsolicited orders to sell a total of 1,113,178 ATT shares from the Northwest accounts. The value of those shares was approximately \$534,774, net of commissions. On December 28, 2017, a further \$150,000 cheque was issued to Northwest.
31. On January 3, 2018, the Respondent sold 500,000 ATT shares (settlement date January 5, 2018) unsolicited from the Northwest accounts. The value of those shares was approximately \$411,815, net of commissions. The Respondent also arranged for a cheque in the amount of \$1,000,000 to be issued to Northwest.
32. On January 4, 2018, a certificate dated January 4, 2018 for 2,558,139 ATT shares issued to Northwest, together with blank signed corporate resolution and power of attorney forms, was delivered to Research Capital.
33. On January 5, 2018, the Respondent sold 2,050,000 ATT shares that were in the account unsolicited from the Northwest accounts. The value of those shares was approximately \$1,386,738, net of commissions.
34. On January 8, 2018, the Respondent sold a further 1,814,500 ATT shares (settlement date January 10, 2018) unsolicited from the Northwest accounts. The value of those shares was approximately \$1,332,152, net of commissions.
35. Between January 9 and 12, 2018, the Respondent sold 2,739,093 ATT shares unsolicited (settlement dates January 11 and 16, 2018) from the Northwest accounts. The value of those shares was approximately \$1,864,620, net of commissions. A certificate for 4,545,454 ATT shares issued to Northwest was deposited to the Northwest account on January 11, 2018.
36. The Respondent then requested cheques to be issued to Northwest on January 16, 22 and 26, 2018, in the amounts of \$1,400,000, \$400,000 and \$350,000 respectively.
37. All of the above ATT trading and related account activity was out of line with Northwest's historical account activity and its KYC information.

Affinor Growers Inc. (AFI)

38. In or around early March 2018, AM or Northwest instructed the Respondent to sell shares of AFI that were or were going to be issued to Northwest.
39. On March 6, 2018, the Respondent sold 446,500 AFI shares (settlement dates March 8, 2018), unsolicited, in the Northwest accounts valued at approximately \$77,328, net of commissions. Northwest held no shares of AFI in any of its accounts at that time.
40. Between March 7 and 9, 2018, (settlement dates March 9 and 13, 2018) the Respondent sold a further 860,500 AFI shares, unsolicited, valued at approximately \$147,353, net of commissions.
41. On March 7 and 8, 2018, Research Capital's credit department flagged Northwest's AFI short position to the Respondent.
42. On March 9, 2018, a certificate dated March 9, 2018 for 2,333,333 AFI shares issued to Northwest, together with blank signed corporate resolution and power of attorney forms, was delivered to Research Capital.
43. Between March 12 and 28, 2018, (settlement dates March 14 to April 2, 2018) the Respondent sold a further 4,084,500 AFI shares unsolicited from the Northwest accounts, valued at approximately \$715,832, net of commissions. On March 14 and March 15, 2018, certificates for 3,000,000 AFI shares issued to Northwest, valued at \$505,000, were deposited into the Northwest accounts. The Respondent arranged for a cheque in the amount of \$350,000 to be issued to Northwest on March 22, 2018.

44. All of the above AFI trading and related account activity was out of line with Northwest's historical account activity and its KYC information.

Uneconomic Trading – Beleave Inc. (BE)

45. Between July 3 and 9, 2018, the Northwest account sold 250,000 shares of BE at a weighted average sale price per share of \$1.42479.
46. On July 4, 2018, the Northwest account deposited 250,000 shares of BE that were acquired at a price per share of \$2.00.
47. This trading activity resulted in a loss of \$143,801 before gross commissions of \$3,640. The loss represented over 25% of Northwest's documented annual income and net worth.
48. The Respondent was aware or ought to have been aware that the trading in BE was uneconomic.

Uneconomic Trading – New Point Exploration Corp. (NP)

49. Between August 9 and 13, 2018, the Northwest account sold 5,000,000 shares of NP at a weighted average sale price per share of \$0.07141.
50. On August 10, 2018, the Northwest account deposited 5,000,000 shares of NP that were acquired at a price per share of \$0.125.
51. This trading activity resulted in a loss of \$267,913 before gross commissions of \$3,650. The loss represented approximately 50% of Northwest's documented annual income and net worth.
52. The Respondent was aware or ought to have been aware that the trading in NP was uneconomic. However, the Respondent did not ask Northwest any questions about the trading in NP.

Assets in Accounts Greatly Exceeded Northwest's Documented Assets

53. Between December 2017 and August 2018, Northwest's month-end account balances significantly exceeded Northwest's documented liquid assets of \$150,000 and net worth of \$550,000.
54. On January 11, 2018, after Northwest deposited shares in ATT, the Respondent's Branch Manager asked the Respondent how Northwest was able to purchase \$2 million worth of shares given Northwest's KYC information. The Respondent was aware that Northwest's documented KYC information was no longer consistent with Northwest's account activity. The Respondent advised his Branch Manager that he would update Northwest's KYC but did not do so.
55. In May 2018, the Respondent updated Northwest's KYC to reflect an address change but failed to make any other changes to Northwest's KYC.
56. A summary of Northwest's activity in respect of the four issuers is detailed in Schedule "A".

Compliance Inquiries

57. Beginning in December 2017, Research Compliance Department Staff made a number of inquiries with respect to the Northwest accounts.

Failure to Fulfill Gatekeeper Responsibilities

58. The Respondent had the primary gatekeeper responsibility for the Northwest accounts.
59. The Respondent executed the client's transactions without learning necessary facts related to the client and the orders accepted.
60. By failing to make further inquiries, the Respondent failed to fulfill his gatekeeper responsibilities.

PART IV – CONTRAVENTION

61. By engaging in the conduct described above, the Respondent committed the following contravention of Corporation requirements:

Between December 2017 and August 2018, the Respondent failed to fulfill his gatekeeper

responsibilities, contrary to IIROC Rule 1400.

PART V – TERMS OF SETTLEMENT

62. The Respondent agrees to the following sanctions and costs:
- (i) a fine in the amount of \$25,000;
 - (ii) disgorgement of \$27,776 in commissions; and
 - (iii) costs in the amount of \$5,000.
63. 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 Enforcement Staff and the Respondent.

PART VI – STAFF COMMITMENT

64. If the hearing panel accepts this Settlement Agreement, Enforcement 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.
65. If the hearing panel accepts this Settlement Agreement and the Respondent fails to comply with any of the terms of this Settlement Agreement, Enforcement Staff may bring proceedings under Investment Dealer Rule 8200 against the Respondent. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement.

PART VII – PROCEDURE FOR ACCEPTANCE OF SETTLEMENT

66. This Settlement Agreement is conditional on acceptance by the hearing panel.
67. This Settlement Agreement shall be presented to a hearing panel at a settlement hearing in accordance with sections 8215 and 8428 of the Investment Dealer Rules, in addition to any other procedures that may be agreed upon between the parties.
68. Enforcement Staff and the Respondent agree that this Settlement Agreement will form all 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.
69. If the hearing panel accepts this Settlement Agreement, the Respondent agrees to waive all rights under the Rules of the Corporation and any applicable legislation to any further hearing, appeal and review.
70. If the hearing panel rejects this Settlement Agreement, Enforcement Staff and the Respondent may enter into another settlement agreement or Enforcement Staff may proceed to a disciplinary hearing based on the same or related allegations.
71. The terms of this Settlement Agreement are confidential unless and until this Settlement Agreement has been accepted by the hearing panel.
72. This Settlement Agreement will become available to the public upon its acceptance by the hearing panel and the Corporation will post a copy of this Settlement Agreement on the Corporation website. The Corporation will publish a notice and news release of the facts, contraventions, and the sanctions agreed upon in this Settlement Agreement and the hearing panel's written reasons for its decision to accept this Settlement Agreement.
73. If this Settlement Agreement is accepted, the Respondent agrees that neither they nor anyone on their behalf, will make a public statement inconsistent with this Settlement Agreement.
74. This Settlement Agreement is effective and binding upon the Respondent and Enforcement Staff as of the date of its acceptance by the hearing panel.

PART VIII – EXECUTION OF SETTLEMENT AGREEMENT

75. This Settlement Agreement may be signed in one or more counterparts which together will constitute a binding agreement.
76. An electronic copy of any signature will be treated as an original signature.

DATED this 9th day of May, 2023.

“Witness”

Witness

“Robert Barber”

Respondent

DATED this 10th day of May, 2023.

“Witness”

Witness

“Lorne Herlin”

Lorne Herlin

Senior Enforcement Counsel

on behalf of Enforcement Staff of the Corporation

The Settlement Agreement is hereby accepted this 26 day of May, 2023 by the following Hearing panel:

Per: “Carol Lynn Smith”

Chair

Per: “Bruce Maranda”

Industry Member

Per: “Nigel Potts”

Industry Member

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*On January 1, 2023, IIROC and the MFDA were consolidated into a single self-regulatory organization recognized under applicable securities legislation. The New Self-Regulatory Organization of Canada (the “Corporation”) has adopted interim rules that incorporate the pre-amalgamation regulatory requirements contained in the rules and policies of IIROC and the by-law, rules and policies of the MFDA (the “Interim Rules”). The Interim Rules include (i) the Investment Dealer and Partially Consolidated Rules, (ii) the UMIR and (iii) the Mutual Fund Dealer Rules. These rules are largely based on the rules of IIROC and the rules and certain by-laws and policies of the MFDA that were in force immediately prior to amalgamation. Where the rules of IIROC and the rules and by-laws and policies of the MFDA that were in force immediately prior to amalgamation have been incorporated into the Interim Rules, Enforcement Staff have referenced the relevant section of the Interim Rules.

Abattis Bioceuticals Inc. (ATT)

	December 2017	January 2018
Deposit Volume	6,035,400 ⁴	7,103,593
Acquisition Cost	\$1,998,944 ⁵	\$3,100,000
Sell Volume	6,035,400	7,103,593
Net Sell Proceeds	\$3,181,774	\$4,995,324
Cheque Withdrawals	\$1,705,000	\$5,250,000

Affinor Growers Inc. (AFI)

	March 2018
Deposit Volume	5,391,500 ⁶
Acquisition Cost	\$853,333 ⁷
Sell Volume	5,391,500
Net Sell Proceeds	\$940,521
Cheque Withdrawals	\$350,000

Beleave Inc. (BE)

	July 2018
Deposit Volume	250,000
Acquisition Cost	\$500,000
Sell Volume	250,000
Net Sell Proceeds	\$352,559
Cheque Withdrawals	\$100,000

New Point Exploration (NP)

	August 2018
Deposit Volume	5,000,000
Acquisition Cost	\$625,000
Sell Volume	5,000,000
Net Sell Proceeds	\$353,437
Cheque Withdrawals	\$450,000

⁴Including 100,000 open market buy and warrant exercise of 1,111,111.

⁵Value of 100,000 open market buy and warrant exercise of 1,111,111 = \$327,278.

⁶Including 58,167 open market buy.

⁷ Value of 58,167 open market buy = \$8,845.