

Re Roland

IN THE MATTER OF:

THE INVESTMENT DEALER AND PARTIALLY CONSOLIDATED RULES

AND

LUCIE ROLAND

2024 CIRO 56

Hearing Panel of the Canadian Investment Regulatory Organization
(Quebec District)

Heard: March 11, 2024 (by videoconference)

Decision: June 7, 2024

Hearing Panel:

Guy Lemoine, Retired Lawyer, Chair
Danielle Le May, Industry Member
François Demers, Industry Member

Appearances:

Francis Larin, Enforcement Counsel
Lucie Roland, Respondent (present)

DECISION ON THE MERITS

INTRODUCTION

¶ 1 Between September 23 and October 12, 2021, Lucie Roland (**the Respondent**) was a registered representative of the Canadian Investment Regulatory Organization (**CIRO**) as well as of its predecessors, the Investment Industry Regulatory Organization of Canada (**IIROC**) and the Investment Dealers Association of Canada (**IDA**). She was employed by National Bank Financial (**NBF**).

¶ 2 The Respondent facilitated unauthorized transfers of funds to third parties from the accounts of three clients.

¶ 3 The hearing was to determine whether the Respondent engaged in conduct unbecoming when she facilitated the unauthorized transfers, thereby contravening Investment Dealer and Partially Consolidated Rule (**IDPC**) 1400. The Respondent said she had been misled by the people who requested the transfers, and that she had acted in good faith.

¶ 4 The Hearing Panel concluded that Ms. Roland did contravene Rule 1400 and engaged in conduct unbecoming when she facilitated the unauthorized transfers of funds to third parties.

THE ALLEGED CONTRAVENTION

¶ 5 The Hearing Panel was asked to rule on the following allegation:

Between September 23 and October 12, 2021, the Respondent engaged in conduct unbecoming when

she facilitated unauthorized transfers of funds to third parties from the accounts of three clients, contrary to Investment Dealer and Partially Consolidated Rule 1400.

THE PROCEEDINGS

¶ 6 The Respondent was not represented by counsel during the hearing. Her rights to appear, to be heard, to be represented by counsel or a representative, to summon, examine and cross-examine witnesses and to make submissions to the Hearing Panel were all outlined to her in the Notice of Hearing. At the start of the hearing, the Panel reminded her of her right to counsel, as it had when she first appeared.

APPLICABLE RULES

¶ 7 The Respondent was governed by the CIRO rules and those of her employer, NBF.

Rule 1400 Standards of conduct

¶ 8 CIRO (and its predecessors, IIROC and IDA) sets the standards of conduct for members in its Rule 1400.

1401. Introduction

Rule 1400 sets out the general standards of conduct that apply to Regulated Persons.

1402. Standards of conduct

(1) A Regulated person:

- (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.

(2) Without limiting the generality of the foregoing, any business conduct that

- (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 derivatives markets,

may be conduct that contravenes one or more of the standards set forth in subsection 1402(1).

The NBF rules

¶ 9 During the relevant period, NBF had a rule on transfers or withdrawals of funds from client accounts to third parties (Exhibit P-45). It required representatives to obtain [TRANSLATION] “verbal confirmation from the (recognized or properly identified) client in person or by telephone” and to document such conversations in the NBF logs. In addition, for any transfer or withdrawal of funds in favour of third parties, the representatives had to [TRANSLATION] “obtain a letter of authorization signed by the client for amounts greater than \$5,000 (CAD)” (Exhibit P-45, page 9).

FACTS AND ANALYSIS

¶ 10 The Respondent was a registered investment representative for over eleven years. During the relevant period, she was a senior investment assistant, working for another representative (GT) at NBF. Three clients of that representative were the victims of unauthorized fund transfers carried out by the Respondent without their knowledge. Those transfers were made from their NBF accounts to bank accounts held by third parties they did not know.

¶ 11 The three clients involved are independent of each other. The purpose of the hearing was to determine

whether the Respondent engaged in conduct unbecoming when she facilitated the unauthorized transfers or whether she herself was the innocent victim of fraudulent maneuvers carried out by third parties.

¶ 12 On or about September 13, 2021, a few days before the relevant events, the Respondent became bankrupt (Exhibit P-47).

A. Conduct in the case of the client MG

Timeline

¶ 13 What follows is a timeline of the events that occurred on September 23, 2021 in relation to the client MG.

¶ 14 At 3:18 p.m., the Respondent filled in an internal NBF form requesting a withdrawal of \$10,869.80 from MG's tax-free savings account (TFSA), with the amount to be transferred to his unregistered account (Exhibit P-11). After that internal transfer, MG's cash account balance stood at \$23,769.85.

¶ 15 At 3:24 p.m., the Respondent scanned a previous transfer instruction letter from MG which had been kept by her dealer (Exhibit P-12). That was the scanned document she subsequently altered so as to keep the client's signature but add the instructions required to transfer \$22,000 from the client's account into a different bank account held by FE, a third party.

¶ 16 At 3:30 p.m., the Respondent received an email from an address similar to MG's (Exhibit P-14). However, the sender's email address contained a domain name that was different from the one belonging to MG in the NBF client file.

¶ 17 That email said it had an attachment titled "transfert.docx", purporting to be a request to transfer a certain amount of money from MG's NBF account to a third party's bank account. The Respondent later said that she was not able to open the "transfert.docx" document, which was why she created a false instruction letter (Exhibit P-13) authorizing the transfer of \$22,000 from MG's NBF account to FE's account in another bank.

¶ 18 In an email sent to IIROC in relation to the MG file on January 10, 2022, the Respondent stated:

[TRANSLATION]

[...] I was often asked to reuse letters that the client had already signed in order to facilitate transactions requested by the client and cut down on red tape. [...]

...]

Yes, I had done it before, it was always and solely to accommodate a client and IN NO WAY for malicious purposes.

[...]

As I remember it, the transfer was made two or three days after the first communication - so there was no sense of urgency in the first verbal communication with the client. The false [MG] knew the details about the investments held and the balance in the account. There was nothing to indicate that I was not speaking to the real client. [...] Since I had already spent a lot of time with that client, I suggested we reuse a letter we already had on file and record the transfer authorization in it.

(Exhibit P-5, pages 1 and 2)

¶ 19 Examined on October 5, 2022 by Nicolas D'Astous, investigator for CIRO (IIROC at the time), the Respondent said the following with regard to the fabrication of Exhibit P-13:

[TRANSLATION]

[...] so at one point I think I received an email and I wasn't able to open the [...]

[...]

[...] attachment, so then, it said well, you know, the money needs to be in there today, like, because we had had several calls on different days, ... so in the end, I could never open his attachment, so when I spoke to him I offered him [...] since we already had letters and he had made transfers to third parties, to his children, to other people, so I asked him, I said, "listen, if you are in a hurry, I understand you are having difficulties, I can reuse a letter we already have on file."

Mr. D'ASTOUS: OK. So... just let me sum this all up: September 23, 2021 was a Thursday.

Ms. ROLAND: OK.

Mr. D'ASTOUS: So you are telling me he had called you a few days before, or on that day?

Ms. ROLAND: We spoke on several days.

Mr. D'ASTOUS: On several days.

Ms. ROLAND: Yes, yes. I know we spoke on several days [...].

[...]

[...] around the end of the day I received an email with an attached file [Exhibit P-14], but, you know, I clicked on it and it indicated "Error," I'm not quite sure [...]

MR. D'ASTOUS: OK.

Ms. ROLAND: [...] what message it was sending me, but I wasn't able to open the file. So then I recontacted Mr. MG, or it was he who called to find out whether I had received his email, so in the end, I said: "Listen, it's not working, and the cut-off time is coming up," so I said, "listen, it will have to be tomorrow, can you come in?" He couldn't, so I think it must have been then that I suggested we reuse a letter in our file.

Mr. D'ASTOUS: OK. So you had already ... if I have this right, you used a letter you had in the file with his signature on it [...].

Ms. ROLAND: Well, he had already made transfers to other people ...

Mr. D'ASTOUS: Yes

Ms. ROLAND: [...] so we already had signed letters like that.

Mr. D'ASTOUS: So, you had a signed letter. What did you do after that? You took that letter and then you altered the ... body ...

Ms. ROLAND: Yes.

Mr. D'ASTOUS: ...of the letter with the instructions?

Ms. ROLAND: Right.

(Exhibit P-44, pages 26 to 29)

¶ 20 The Respondent went on to describe how she herself fabricated Exhibit P-13 (the transfer authorization letter):

[TRANSLATION]

Mr. D'ASTOUS: So, you scanned the letter, but is that the letter the client sent you?

Ms. ROLAND: No. Like, I'm telling you, for Mr. MG, I was the one who created the letter.

Mr. D'ASTOUS: OK. For that letter, you created the letter.

Ms. ROLAND: Yes.

Mr. D'ASTOUS: So, in the end, you kept ... what did you keep? The signature at the bottom?

Ms. ROLAND: Yes, exactly, and we changed the information.

Mr. D'ASTOUS: What did you do? Did you cut the signature off another letter and paste it in? Was it like that?

Ms. ROLAND: No. I printed a letter and then I pasted the ... banking information there.

Mr. D'ASTOUS: OK. You pasted the banking information, but how did you put the signature on the letter?

Ms. ROLAND: Well, they were probably letters we already had in the file.

Mr. D'ASTOUS: OK. So there was only the client's signature?

Ms. ROLAND: No, there was a letter, but we pasted on top of it and then we scanned it like that.

Mr. D'ASTOUS: OK. You altered ... you altered it, like "Toronto Dominion," the bank's address, the account, you altered that on an old letter that you already had.

Ms. ROLAND: Yes.

Mr. D'ASTOUS: OK. That means you cut ... what did you do? You printed, you cut, you put this on top of it and then you rescanned?

Ms. ROLAND: That's right.

Mr. D'ASTOUS: OK.

Ms. ROLAND: But the client had been informed that I would reuse a letter, and like I told you, I was often asked to do things like that.

(Exhibit P-44, pages 38-39)

¶ 21 When asked about the practice of using previous client letters and copying previous client signatures to create a form in order to accommodate clients, GT, the representative for whom the Respondent worked, stated: [TRANSLATION] "That's not something we do in our practice, we don't do that. How can I put it? That is not done. It is unacceptable." (Transcripts, page 102)

¶ 22 It is hard to align the Respondent's explanations with the timeline of the email or phone exchanges that were found.

¶ 23 Why would she have made a transfer from MG's TFSA account into his regular account at 3:18 p.m. (Exhibit P-11) before she even received the 3:30 p.m. email (Exhibit P-14) with the attachment she could not open, purporting to authorize an external transfer?

¶ 24 Why would she have already scanned a previous transfer instruction letter (Exhibit P-12) at 3:24 p.m., a few minutes before receiving the 3:30 p.m. email (Exhibit P-14)? She had no way of knowing beforehand that she would not be able to open the "transfert.dox" document attached to Exhibit P-14 six minutes later. How could she have anticipated that the attachment could not be opened, even before receiving the email that supposedly contained the "transfert.dox" document, and consequently begun creating a transfer document that MG did not sign before she received that email?

¶ 25 When and how could she have obtained the name, home address and banking details of the transferee?

¶ 26 This is what she told IIROC on October 5, 2022 when asked about the timeline of events:

[TRANSLATION]

Mr. D'ASTOUS: What I am trying to explain is that you scanned the form letter you used 6 minutes before you received the client's letter; so does that mean you assumed you would not be able to have the client's attached letter?

Ms. ROLAND: No, I had to create the letter so that I could send it to him for him to sign it ...

Mr. D'ASTOUS: OK.

Ms. ROLAND: ...and return it to me.

Mr. D'ASTOUS: OK. So then, during that time, he sent you one.

Ms. ROLAND: Well, I ... I must have ... I think I tried to send it to him several times, and he told me it wasn't working, we maybe tried it in a different format. You know, as I recall it....

Mr. D'ASTOUS: Yes.

Ms. ROLAND: ...we went back and forth quite a bit. But usually, I would prepare the letter and send it to the client,

Mr. D'ASTOUS: OK.

Ms. ROLAND: ...he would sign it and send it back to me. It was easier that way. He would not have to compose it, put my name and address on it, etc.

(Exhibit P-44, pages 52 and 53)

¶ 27 To sum up, it was the Respondent who drafted the false document produced as Exhibit P-13 before 3:40 p.m. The document purported to be a request to the Respondent to transfer \$22,000 from MG's NBF investment account to a TD Bank account identified as belonging to FE, specifying [TRANSLATION] "Purpose: purchase of a car from an individual." The false document contained what appeared to be the client's signature on the left at the bottom.

¶ 28 A 3:40 p.m. the Respondent filled in an internal NBF form requesting a [TRANSLATION] "Bank transfer – Withdrawal of funds" in the amount of \$22,000 from MG to an external account belonging to a third party, namely FE at the TD Bank (Exhibit P-16). That form indicated that the transfer authorization letter had been signed by MG. The request was accompanied by Exhibit P-13, referred to above.

¶ 29 At 3:45 p.m. the Respondent sent an email apparently addressed to MG (Exhibit P-17), but it was sent to the email address shown in Exhibit P-14, which was not MG's actual address. That email contained a copy of the transfer instruction letter (Exhibit P-13) that she had fabricated in order to justify the transfer:

[TRANSLATION]

[...] It was a pleasure talking to you.

[...]

I did not receive the letter properly, so I am sending you the copy used to make the transfer since the deposit has to be made today without fail. I will call you back when I have the confirmation [...].

¶ 30 At 3:59 p.m. the Respondent sent an internal email to NBF Customer Service (Exhibit P-19), asking for the bank transfer to go through that same day on a "rush" basis, even though the cut-off time for that day's transfers had passed.

¶ 31 At 4:30 p.m. Ms. Roland was informed that the transfer would go through the next day (Exhibit P-19).

¶ 32 Before continuing with the timeline of events, we need to address two specific issues, namely the phone calls and the Respondent's knowledge of the rules relating to external transfers.

The phone calls

¶ 33 The Respondent stated that there were several phone calls to do with the transfer between herself and MG over several days (Exhibit P-44, pages 25 to 28). The dealer's call log for the Respondent's phone extension (Exhibit P-21) confirmed that she received four incoming calls displaying MG's phone number. The first call was received at 3:49 p.m. on September 23, 2021, and the other three came in the next day.

¶ 34 In the Respondent's email at 3:45 p.m. on September 23 (Exhibit P-17), she referred to a discussion with MG, but it was impossible to find the call with MG she referred to in her email in the call log, because the first call she received, displayed as coming from MG's phone number, was logged at 3:49 p.m. on September 23.

¶ 35 That call on September 23 lasted 48 seconds (Exhibits P-7 and P-21). However, it came in after the essence of the transaction had already taken place, so it could not have been the originating factor for the funds transfer. It is also hard to understand how, in a call that lasted only 48 seconds, she could have:

- 1) exchanged the usual greetings
- 2) identified the client sufficiently to initiate the transfer of a large amount out of his account and to a third party
- 3) retrieved his account number
- 4) accessed that account
- 5) realized that, in order to make the \$22,000 transfer she would first have to withdraw \$10,869.80 from the TFSA account and transfer it to the client's unregistered account
- 6) prepared for the transfer to a third party by putting together:
 - a) identification of the bank to which the transfer was to be made
 - b) the address of the bank branch to which the transfer was to be made
 - c) the intended transit number
 - d) the intended account number
 - e) the recipient's name
 - f) the recipient's address
 - g) the reason for the transfer
- 7) exchanged the usual farewell greetings

¶ 36 The Respondent received three other calls displaying MG's phone number on September 24 (Exhibit P-21). Two of them lasted four seconds each. The third call, which came in at 9:13 a.m., lasted 30 seconds. Although hard to explain, those calls could not have been the basis for the transfer request because they took place after the transfer instructions had been fabricated (Exhibits P-13 and P-16). The Hearing Panel noted that the only calls in the log with regard to MG were incoming calls.

¶ 37 The Respondent stated that she sometimes had trouble with the headphones provided by her employer. She said she sometimes used her personal cell phone for professional transactions (Exhibit P-44, page 50). The Respondent's personal cell phone records were checked (Exhibit P-42), revealing no communications between herself and MG.

¶ 38 To sum up, neither the NBF call log (Exhibits P-7 and P-21) nor the Respondent's cell phone call log (Exhibit P-42) showed any calls concerning MG before the Respondent made the bank transfer requests.

Knowledge of the rules applicable to external transfers

¶ 39 The Respondent knew her employer's requirements for making transfers from client accounts to third parties. She explained that, for a transfer to an external account in favour of a third party, the representative was obliged to have a conversation [TRANSLATION] "aloud with the client. In addition, if the amount of the transfer exceeded \$5,000 there also had to be a letter signed by the client." (Exhibit P-44, page 15)

¶ 40 She stated that when an external transfer was requested she had to:

[TRANSLATION]

[...] make sure that the client we were speaking to, it was the same phone number we had in the system, so, bottom line ... you know, with emails we had to do more checks, anyway, we had to call; if the client called us, I would check with the display, then I would go into my system to make sure it really was the right phone number of the person who was calling me, then with the information, the portfolio questions.

Mr. D'ASTOUS: Then, you said there was a different procedure with emails. What did you have to do?

Ms. ROLAND: So, basically, if I received a request by email I had to call the client. I had to talk to him. But when I received a call, my procedure was to check with our Crésus system, where we have all the client information ...

Mr. D'ASTOUS: OK.

Ms. ROLAND: ...to make sure it was really the same number we had on file.

Mr. D'ASTOUS: And for the email addresses, did you also have a register of those addresses in the file?

Ms. ROLAND: Uh... it wasn't always up to date, but, you know, we had our habits. I would look at the client history, basically, yes, we had email addresses in the system and we were supposed to check them.

Mr. D'ASTOUS: All right. Did it happen would a client sometimes ask for a bank transfer directly by email without calling?

Ms. ROLAND: Yes. Yes, often.

(Exhibit P-44, pages 18 et seq.)

Subsequent Events

¶ 41 At 3:38 p.m. on September 24, 2021 the Respondent entered the following call note:

[TRANSLATION]

Mr. MG called me to request a transfer of \$22,000\$ to a third party. He is buying a car from an individual. We will use the cash in hand plus a \$10,000 withdrawal from the TFSA.

He did not want to sell other investments so he cancelled the purchase of ticket nbc24003.

(Exhibit P-20)

¶ 42 The transfer finally went through on September 24, 2021 (Exhibit P-10, page 16, and Exhibit P-16).

¶ 43 A document (Exhibit P-15) was found in the Respondent's office in the Joliette branch. That document corresponded more or less to Exhibit P-13, but did not mention the purchase of a car. Exhibit P-15, however, included a pasted signature of MG inside a rectangle in the bottom right-hand part.

¶ 44 GT, the representative who employed the Respondent, testified before us. He affirmed that transfers from a client account to a third party in a bank were not frequent. He had been on vacation from September 17 to September 27, 2021 (Transcripts, page 94).

¶ 45 The Respondent testified that she received phone calls from people she believed to be clients because some of the calls appeared to come from the phone numbers indicated in the clients' files (Transcripts, pages 116-117). She added that she had not received any training about how a number displayed in Caller ID window could be falsified. She said that she was allowed – and sometimes even asked – to use previous letters from client files to justify new transactions (Transcripts, pages 120 and 121).

¶ 46 We should point out that the \$22,000 transfer was subsequently cancelled and the client got his money back. It was the same for the transfers of the other two clients (Transcripts, page 19).

Conclusion with regard to MG

¶ 47 In light of the facts and the applicable rules, the Panel ruled that CIRO Enforcement Staff had established that:

- neither the NBF call logs (Exhibits P-7 and P-21) nor those of the Respondent's cell phone (Exhibit P-42) showed any phone calls to do with MG before the Respondent made her requests for bank transfers;
- the Respondent demonstrated negligence when she failed to check whether the requester's email address was really the one listed for MG in the NBF files;

- the Respondent did not obey the NBF rule which required her to [TRANSLATION] “obtain a letter of authorization signed by the client for [transfers] greater than \$5,000 (CAD)”;
- the Panel did not accept the Respondent’s explanation that there was a tolerated practice of falsifying documents to get around the NBF requirement to obtain a letter of authorization signed by the client for transfers of amounts greater than \$5,000. That assertion was denied by GT, who quite rightly described such a practice as unacceptable. “Accommodating” a client can never be used as an excuse for fabricating a false document;
- the Respondent fabricated a false document, namely an authorization letter requesting the transfer of \$22,000 from MG’s account to the bank account of a third party (Exhibit P-13);
- the Respondent used the false document (Exhibit P-13) at NBF as part of a request for a “Bank transfer – Withdrawal of funds” (Exhibit P-16), specifying that the person who signed the authorization letter (Exhibit P-13) was the client MG;
- the Respondent engaged in conduct unbecoming by facilitating an unauthorized transfer of funds from MG’s account to FE’s bank account.

B. Conduct in the case of the client FB

Timeline

¶ 48 What follows is a description of the events that took place on September 28, 2021.

¶ 49 At 2:26 p.m. the Respondent received a call on her work phone extension displaying FB’s phone number; it lasted 1 minute 19 seconds (Exhibit P-28).

¶ 50 At 2:59 p.m. the Respondent received an email requesting a transfer of funds from FB’s account to the bank account of a third party (Exhibit P-25):

[TRANSLATION]

I need you to transfer an amount of \$20,850 to my niece [FE] to help her with the purchase of her house.

Transfer the money from my investment account in your institution to her bank account at td canada trust (xxxxx xxx xxxxxxxx) (sic)

Thanks

¶ 51 However, the address of the sender of that email was very different from the email address in that client’s NBF file. The first part of the address was incorrect and the domain name did not match the client’s domain name in the NBF files (Exhibit P-4, page 5, testimony of Mr. D’Astous, March 11, 2024, pages 18, 54 and 56).

¶ 52 At 3:03 p.m. the Respondent received a call on her work phone extension displaying FB’s phone number; it lasted 52 seconds (Exhibit P-28).

¶ 53 At 3:19 p.m. the Respondent filled in a “Bank transfer – Withdrawal of funds” form requesting a transfer of \$20,850 from FB’s NBF account to FE’s bank account at Toronto Dominion Bank (Exhibit P-26). It should be noted that in the form the Respondent spelled the recipient’s name differently from the name that appeared in the email requesting the transfer (Exhibit P-25). She wrote it differently, changing the third letter from “l” to “i” and deleting the fifth letter, “n”.

¶ 54 The designated recipient of this second transfer, FE, is the same person who benefitted from the earlier transfer out of MG’s account, and the transfer was made to the same bank account. This time the recipient was identified as FB’s niece. First, MG transferred money from his account in order to buy a car from FE, while, second, FB transferred money out of her account to help FE buy a house. Both those transfers were made by the same NBF representative within four days of each other.

¶ 55 At 3:21 p.m. the Respondent filled in a call report (Exhibit P-27) saying that she had received a call

from FB who wanted to help her niece acquire a property and requested a transfer of \$20,850 directly into her niece's account.

¶ 56 The transfer of funds took place on September 28, 2021 (Exhibits P-24, page 12 and P-26, page 2).

¶ 57 Examined by Mr. D'Astous, the Respondent said she did not remember what happened with that transfer very well, but she was sure she had spoken to FB (Exhibit P-44, page 58). She was then asked how she had identified the person she spoke to:

[TRANSLATION]

Mr. D'ASTOUS: OK. So, when you talk aloud to clients, do you do what they sometimes do when you call an insurance company or a bank, they ask your date of birth, the last transaction you did, your mother's maiden name... do you ask those kinds of identification questions?

Ms. ROLAND: They never made us do those things at NBF, to make it easier. We were supposed to know our clients well.

Mr. D'ASTOUS: OK.

Ms. ROLAND: So, in the end, since I didn't know the voices or anything else very well, you know, I made sure the person was really calling me from the number we had on file. That was what was required of us. I never had any training or anything else, or requests from NBF to make more efforts to identify callers.

(Exhibit P-44, pages 58-59)

¶ 58 The Respondent admitted that she could not have recognized FB's voice because FB was not a client who called often (Exhibit P-44, page 62).

¶ 59 She did not remember asking any identifying questions to make sure she was really talking to FB.

¶ 60 She said she looked at the Caller ID display to make sure the phone number shown during the calls matched the one in the client files. She could not confirm whether she had checked the validity of the email address (Exhibit P-44, pages 57 to 65).

¶ 61 In her testimony before the Panel the Respondent reiterated how she worked:

[TRANSLATION]

What I wanted to make clear was that, throughout this process, it really was to the best of my knowledge. I really, I received calls, I spoke to people, you know, clearly, since the beginning of the proceedings, with the evidence that was submitted, the documents Mr. D'Astous was able to bring out, clearly, we were able to identify that the people I talked to were not in fact the clients.

On the other hand, when it was happening I had no way of knowing. For sure, we investment assistants had access to some training about maybe possible frauds. You know, I mean, I don't have a lot of knowledge about that. The training we had was really about email phishing. So, even the security people from Laurentian Bank sometimes sent us false emails; we had to point out "oh no, I think that's a fraud." That was the only training we had about those things. Our way of identifying the clients was really to make sure the phone number that called us came out of the clients' files. The Caller ID display was really our identifier, and that's what they taught us, that's how we were trained.

(Transcripts, pages 116-117)

¶ 62 FB testified before us. She did not know the Respondent. She never did business with her, never spoke to her and never sent her any emails. She did not request the transfer that is at issue. FB also testified that she did not own the email address used in Exhibit P-25 and that FE was not her niece (Transcripts, pages 111 and 112).

Conclusion with regard to FB

¶ 63 The Panel did not accept the Respondent's explanation that she herself was the victim of a third party

and committed no negligence. The Respondent demonstrated recklessness and negligence when she failed to check whether the email address of the sender of the transfer request really was that of FB in the NBF files and made the transfer without having [TRANSLATION] “recognized or duly identified” the person she was speaking to as being FB during the phone calls.

¶ 64 The Respondent was negligent on more than one front. There were several indicators that should have prompted her to be more vigilant:

- the amount was high, i.e. \$20,850
- with regard to the phone calls:
 - she was unable to recognize the voice of the person who had requested the transfer
 - she did not remember asking the person she was speaking to any identification questions
 - all she did was match the number displayed in the window to that of her client, concluding that she was speaking to her client FB
- the transfer was to be sent to the same person who had received the MG transfer a few days earlier
- the Respondent herself made spelling corrections to the recipient’s name

¶ 65 Identifying the origin of a call is not enough to recognize the identity of the person one is speaking to. Apart from the fact that a phone number can be “spoofed”, anyone with access to a client’s phone can send a call from that number. The NBF rules went beyond identifying the origin of a call. They required that callers be [TRANSLATION] “recognized or duly identified” as the clients. The Panel concluded that the Respondent did not obey the NBF rule requiring her to obtain [TRANSLATION] “verbal confirmation from the (recognized or properly identified) client in person or by telephone.”

¶ 66 In light of the facts and applicable rules, the Panel ruled that the CIRO Enforcement Staff had established that the Respondent engaged in conduct unbecoming by facilitating an unauthorized transfer of funds from FB’s account to FE’s bank account.

C. Conduct in the case of the client LB

The first transfer attempt

Events of October 5, 2021

¶ 67 A 3:08 p.m. the Respondent received a first email (Exhibit P-32) that apparently came from her client LB. However, LB’s first name was spelled incorrectly in the email address. What is more, that client does not have an email address. A letter was attached to the said email, starting with the words [TRANSLATION] “As requested...”, indicating that there had been previous communications between the client and the Respondent. But no call between them appeared on either the NBF’s call logs (Exhibits P-7 and P-41) or those of the Respondent (Exhibit P-42) before 3:14 p.m. The letter authorized the transfer of \$18,400 from the client’s NBF account into the bank account of a first recipient, DB, in order to finalize the purchase of a chalet.

¶ 68 Strangely enough, that letter was an almost identical reproduction of Exhibit P-13, which the Respondent had fabricated in the MG case. It contained the same information, presented in the same order, with the same formatting, spelling mistakes, inverted letters and missing accents in the same places:

À partir **de** compte en placement :

Vers :

Banque ...

Adresse **baq**ue ...

Compte ...

Transit ...

Beneficiaire ...

Adresse ...

En vous remerciant d'avance pour l'attention **porté** à cette requête. » (sic)

(note: emphasis added by the Hearing Panel)

¶ 69 When asked about Exhibit P-32, she stated:

Mr. D'ASTOUS: Do you remember if it was you who created that letter or her?

Ms. ROLAND: I don't remember. It looks like the templates I made, so it's likely that I sent it to her.

(Exhibit P-44, pages 81 and 82)

¶ 70 At 3:14, 3:25 and 3:27 p.m. the Respondent received three incoming calls displaying LB's phone number on her work phone extension. They lasted 1 minute 9 seconds, 20 seconds and 51 seconds respectively (Exhibit P-41). The log showed that the 3:14 p.m. call came from "Sorel" while the others came from "St Gab Bra."

¶ 71 Ms. Roland said that she would not recognize LB's voice. According to her, the only way to identify the caller was to check whether the number displayed in the Caller ID window matched the phone number in the client's files (Exhibit P-44, pages 85 and 86).

¶ 72 At 3:28 p.m. the Respondent filled in a "Bank transfer – Withdrawal of funds" form requesting that \$18,400 be withdrawn from LB's account and sent to DB's bank account (Exhibit P-33).

¶ 73 At 3:34 p.m. that first request was refused: "No wire with Tangerine" (Exhibit P-33).

Events of October 6, 2021

¶ 74 At 8:44 a.m. the Respondent filled in a call note (Exhibit P-34) stating that she had made a call to LB to tell her the transfer had been refused, and that she had left a voice message in anticipation of a callback. Neither the NBF call logs for the Respondent's extension nor those for her cell phone show any such outgoing call (Exhibits P-41 and P-42).

The second transfer attempt

On October 8, 2021 the following events occurred:

¶ 75 At 3:13 p.m. the Respondent received a second email that apparently came from LB (Exhibit P-48). That email, dated October 8, read: [TRANSLATION] "... here is the signed letter for the purchase of my chalet." It came with a transfer request dated October 5, 2021, that one indicating that the transfer was intended for a second person, NM. The request included some of NM's banking details, but not his home address.

¶ 76 However, the sender's email address was different from the one that had been used previously (Exhibit P-32). Two significant differences could be seen:

- the sender's first name had been corrected and now matched that of LB
- the new email address no longer included any numbers.

¶ 77 At 3:27 p.m. the Respondent received an incoming call on her work phone extension displaying LB's number; that call lasted 1 minute 9 seconds (Exhibit P-41).

¶ 78 At 3:27 p.m. the Respondent filled in a "Bank transfer – Withdrawal of funds" form for a bank transfer to the second recipient, NM, giving the details of the bank account into which the transfer was to be made (Exhibit P-36). In that document she added information that did not appear in Exhibit P-48, namely:

- NM's home address
- the address of NM's bank branch

¶ 79 In addition, in the "Bank transfer – Withdrawal of funds" form (Exhibit P-36), the Respondent indicated that the authorization letter was dated October 8, 2021, whereas the transfer authorization letter was dated

October 5, 2021 (Exhibit P-48).

¶ 80 At 3:39 p.m. the Respondent wrote a call note about an incoming call (Exhibit P-37). In it she stated: [TRANSLATION] “Ms. [LB] returned my call – she is sending another signed letter for the purchase of her chalet since it is impossible to make the transfer through Tangerine [...]”

¶ 81 At 3:42 p.m. the Respondent emailed the Credit Department asking that the transfer requested at 3:27 p.m. be made that same day.

¶ 82 At 3:48 p.m. NBF indicated that the transfer to NM had been refused, pointing out that the latest time for a transfer to TD was 3:30 p.m. (Exhibit P-36).

¶ 83 At 3:56 p.m. Ms. Roland was informed that the transfer had been refused (Exhibit P-36).

The third transfer attempt

¶ 84 The following events occurred on October 12, 2021, after the Thanksgiving holiday.

¶ 85 A third false transfer request appearing to contain LB’s signature and dated October 5, 2021 was sent to the Respondent (Exhibit P-39). It was a request to transfer \$18,400 out of her account to a third recipient, DM. That request contained DM’s banking details but not his home address.

¶ 86 When asked about that letter (Exhibit P-39) by IIROC, she stated:

[TRANSLATION]

Mr. D’ASTOUS: Is it possible that it was you who created that letter?

Ms. ROLAND: It’s possible. If it got too complicated, if it was going to take too much time...

Mr. D’ASTOUS: Do you remember ...

Ms. ROLAND: To make it easier for the client, if she was outside, it is possible that I was the one who did it, yes.

(Exhibit P-44, page 101)

¶ 87 A 1:38 p.m. the Respondent received an incoming call on her work phone extension displaying LB’s phone number; it lasted 2 minutes 34 seconds (Exhibit P-41).

¶ 88 At 1:48 p.m. the Respondent filled in an internal NBF “Bank transfer – Withdrawal of funds” form, this time to transfer \$18,400 to the third recipient, DM (Exhibit P-38). In that form the Respondent entered a home address for DM even though no such information was contained in Exhibit P-39.

¶ 89 At 1:50 p.m. the Respondent filled in an incoming call note with regard to a call from LB (Exhibit P-40). In it she stated that LB told her [TRANSLATION] “we have to make the transfer to another recipient, namely Mr. DM, who is a joint owner of the chalet with NM.”

¶ 90 At 2:38 p.m. the transfer was completed (Exhibit P-38).

¶ 91 LB testified before us and declared that she did not know the Respondent and had never talked to her (Transcripts, page 106). LB had no computer and no email address. Nor did she have a chalet. She did not know any of the three recipients to whom transfer attempts had been made. She never requested any transfer out of her NBF account to a third party.

Conclusion with regard to the client LB

¶ 92 The Panel did not accept the Respondent’s explanation that she herself was the victim of a third party and committed no negligence. The Respondent demonstrated negligence when she failed to check whether the email address of the sender of the transfer request really was that of LB in the NBF files, and she made the transfer without having [TRANSLATION] “recognized or duly identified” the person she was speaking to as being LB.

¶ 93 As we pointed out in the case of the previous client, identifying where a call comes from is not enough to recognize the identity of the caller. The NBF rules went beyond identifying the origin of a call. They required

that callers be [TRANSLATION] “recognized or duly identified” as clients.

¶ 94 The Respondent was negligent on more than one front. There were several indicators that should have prompted her to be more vigilant:

- the amount to be transferred was high, i.e. \$18,400
- with regard to the phone calls:
 - o she was unable to recognize the voice of the person who had requested the transfer
 - o she did not remember asking the person she was speaking to any identification questions
 - o all she did was match the number displayed in the Caller ID window to that of her client, concluding that she was speaking to her client LB,
- with regard to the emails:
 - o the Respondent failed to check whether LB had an email address in the NBF files
 - o she used two different email addresses for that supposed client, whereas the real client did not have any
 - o the first name shown in one of the addresses was not the same as the client’s
- with regard to the attempts:
 - o she made three attempts to finalize the transfer
 - o the three letters requesting transfers were all dated October 5, 2021
 - o the attempts were made for three different recipients
- the Respondent added or corrected details that did not appear in the emails when requesting transactions in the internal NBF “Bank transfer – Withdrawal of funds” forms.

¶ 95 In light of the facts and applicable rules, the Panel ruled that CIRO Enforcement Staff had established that the Respondent engaged in conduct unbecoming by facilitating an unauthorized transfer of funds from LB’s account, first to DB’s bank account, then to NM’s bank account, and lastly to DM’s bank account.

D. Subsequent Events

¶ 96 On October 13, 2021 the Respondent was suspended with pay for the duration of the investigation (Exhibit P-4, page 2).

¶ 97 On December 21, 2021 the Respondent was fired (Exhibit P-6).

CONCLUSION

¶ 98 In light of the facts and applicable rules, the Panel ruled that the Respondent engaged in conduct unbecoming between September 23 and October 12, 2021 by facilitating unauthorized transfers of funds from three clients’ accounts to third parties, thereby contravening IDPC Rule 1400.

DATED at Montreal, Quebec, this 7th day of June 2024.

“Guy Lemoine” _____
Guy Lemoine, Chair

“Danielle Le May” _____
Danielle Le May, Industry Member

“François Demers” _____
François Demers, Industry Member