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Canadian Investment
Regulatory
Organization

Organisme canadien
de réglementation
des investissements

**IN THE MATTER OF
THE INVESTMENT DEALER AND PARTIALLY CONSOLIDATED RULES AND THE DEALER
MEMBER RULES
AND**

JAMES HARTWELL

NOTICE OF HEARING

An initial appearance will be held before a hearing panel of the Canadian Investment Regulatory Organization (“CIRO”)¹ pursuant to Rule 8200 of the Investment Dealer and Partially Consolidated Rules (the “Investment Dealer Rules”) to schedule a hearing in the matter of James Hartwell (the “Respondent”). The initial appearance and the hearing will be subject to Investment Dealer Rule 8400, as further referenced below, that governs the conduct of enforcement proceedings.

The initial appearance will be held by way of videoconference on Wednesday, January 08, 2025 at 10:00 a.m. MT

The purpose of the hearing will be to determine whether the Respondent has contravened CIRO requirements. The alleged contraventions are contained in the attached Statement of Allegations.

If the hearing panel finds that the Respondent contravened CIRO requirements alleged in the Statement of Allegations, the hearing panel may impose one or more of the following sanctions pursuant to section 8210 of the Investment Dealer Rules:

- (i) a reprimand,
- (ii) disgorgement of any amount obtained, including any loss avoided, directly or indirectly, as a result of the contravention,
- (iii) a fine not exceeding the greater of:
 - (i) \$5,000,000 for each contravention, and
 - (ii) an amount equal to three times the profit made or loss avoided by the person, directly or indirectly, as a result of the contravention.
- (iv) suspension of the person’s approval or any right or privilege associated with such approval, including access to a Marketplace, for any period of time and on any terms and conditions,

- (v) imposition of any terms or conditions on the person’s continued approval or continued access to a Marketplace,
- (vi) prohibition of approval in any capacity, for any period of time, including access to a Marketplace,
- (vii) revocation of approval,
- (viii) a permanent bar to approval in any capacity or to access to a Marketplace,
- (ix) permanent bar to employment in any capacity by a Regulated Person
- (x) any other sanction determined to be appropriate under the circumstances.

In addition, pursuant to section 8214 of the Investment Dealer Rules, a hearing panel may order the Respondent to pay any costs incurred by or on behalf of CIRO in connection with the hearing and any investigation related to the hearing.

The Respondent must serve a response to this Notice of Hearing in accordance with section 8415 within 30 days from the effective date of service of this Notice of Hearing. If the Respondent does not file a response in accordance with subsection 8415(1), the hearing panel may proceed with the hearing on its merits on the date of the initial appearance, without further notice to and in the absence of the Respondent, and the hearing panel may accept as proven the facts and contraventions alleged in the Statement of Allegations and may impose sanctions and costs.

If the Respondent files a response in accordance with subsection 8415(1), the initial appearance will be immediately followed by an initial prehearing conference, for which a prehearing conference form must be filed in accordance with subsection 8416(5).

The Respondent is entitled to attend the hearing and to be heard, to be represented by counsel or by an agent, to call, examine and cross-examine witnesses, and to make submissions to the hearing panel at the hearing.

DATED October 31, 2024.

“National Hearing Officer”

NATIONAL HEARING OFFICER
Canadian Investment Regulatory Organization
40 Temperance Street, Suite 2600
Toronto, Ontario, M5H 0B4

¹ The Canadian Investment Regulatory Organization (“CIRO”) 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.

Section 1105 (Transitional provision) of the Investment Dealer and Partially Consolidated Rules sets out CIRO’s continuing jurisdiction, including that CIRO shall continue the regulation of any person subject to the jurisdiction of the Investment Industry Regulatory Organization of Canada that was formerly conducted by the Investment Industry Regulatory Organization of Canada.



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**IN THE MATTER OF
THE INVESTMENT DEALER AND PARTIALLY CONSOLIDATED RULES
AND THE DEALER MEMBER RULES AND THE UNIVERSAL MARKET INTEGRITY RULES**

AND

JAMES HARTWELL

STATEMENT OF ALLEGATIONS

Further to a Notice of Hearing dated October 31, 2024. , Enforcement Staff make the following allegations:

PART I – REQUIREMENTS CONTRAVENED

Contravention 1

Between approximately November, 2017 and April, 2020, the Respondent failed to supervise the activities of Richard Yuck relative to client JP, contrary to Dealer Member Rules 38.4 and 38.7(h).

Contravention 2

Between approximately April, 2020 and February, 2023, the Respondent failed to use due diligence to learn and remain informed of the essential facts relative to client JP, contrary to Dealer Member Rule 1300.1(a) (after December 31, 2021 IIROC Rule 1300.1(a); after December 31, 2022 IDPC Rule 3202).

Contravention 3

Between approximately April, 2020 and February, 2023, the Respondent failed to use due diligence to ensure that investment recommendations were suitable for client JP, contrary

to Dealer Member Rule 1300.1(q) (after December 31, 2021 IIROC Rule 1300.1(q); after December 31, 2022 IDPC Rule 3402).

Contravention 4

In March, 2023, the Respondent attempted to interfere with Staff's investigation concerning the accounts of client JP, contrary to IDPC Rule 1400.

Contravention 5

Between March, 2019 and June, 2020, the Respondent failed to ensure that orders in a listed security on a marketplace was designated for the account of a person who was an insider of the security which is the subject of the order, contrary to UMIR 6.2(1)(b)(xiv).

PART II – RELEVANT FACTS AND CONCLUSIONS

Overview

1. At all material times, the Respondent, James Hartwell (Hartwell), was the President and Chief Executive Officer, Ultimate Designated Person (UDP), Chief Compliance Officer (CCO) and a Registered Representative (RR) with Emerging Equities Inc. (EEI).
2. EEI is a small Dealer Member firm in Calgary.
3. Between November, 2017 and April, 2020, RR Richard Yuck pursued a highly speculative investment strategy for client JP, a vulnerable client then in his late 80's. He recommended speculative holdings in numerous junior issuers. During this time, the total market value of JP's accounts declined from \$548,485 to \$40,508, reflecting a total loss of \$507,977 or 93%. Yuck passed away in July, 2023.

4. Between November, 2017 and April, 2020, Hartwell was the designated supervisor over the activities of Yuck, as well as the CCO and UDP of EEI. Hartwell failed to adequately supervise Yuck's handling of JP's accounts.
5. After Yuck left EEI in April, 2020, Hartwell took over as RR for JP's accounts. Between April, 2020 and February, 2023, Hartwell, as RR, failed to know his client and failed to ensure that his recommendations were suitable for JP. Hartwell had previously handled a margin account for JP beginning in 1997 while at another firm, and from 1999 until 2017 at EEI, when Yuck joined the firm.
6. Between April, 2020 and February, 2023, with Hartwell acting as RR, there were no updates to NCAF investment objectives and risk tolerance parameters, and they remained at the highest level of risk. There was minimal trading activity, and the total market value of JP's accounts declined from \$37,188 to \$18,310 when the accounts were transferred out (including a January, 2021 withdrawal of \$50,851 in sale proceeds from the sale of one high risk security).
7. In March, 2023, during the course of Staff's investigation and two months after an initial Staff interview of Hartwell concerning JP's accounts, Hartwell attempted to interfere with Staff's investigation. Hartwell sent an email to JP and his daughter in which he asked JP (then 91 years old) to sign a letter, which was attached to the email. The letter purported to absolve Hartwell, EEI and Yuck of responsibility in the handling of JP's accounts. Neither JP nor his daughter signed the letter.
8. On August 14, 2018, Hartwell and EEI opened a corporate account for WS Corp, an offshore corporation located in the Cayman Islands. RM was the beneficial owner of WS Corp. However, at this time, RM was also an insider of two publicly traded CSE junior issuers.
9. On September 18, 2019, Hartwell opened a personal TFSA and a Cash account for RM with EEI. That NCAF did disclose that RM was an insider of the issuers. However, the WS Corp account with EEI was not updated to reflect RM's insider status.

10. Between the review period of March 11, 2019 to June 29, 2020, Hartwell placed 126 orders for these two issuers in the WS Corp account. None of these orders were marked to reflect RM's insider status with these issuers.

Registration History

11. Hartwell first became an RR in 1981, and started EEI in 1998. He has been employed with EEI since that time as President and CEO, UDP, Director, and RR. He has also held the role of CCO and supervisor at different times.

Client JP

12. JP is a retired engineer who lives in Edmonton. He was born in 1931 and is now 93 years old.
13. JP first became a client of Hartwell in 1997 at another firm, and was an EEI client in 1999. In May, 2003 Hartwell had JP complete a new NCAF with EEI. At that time, he was retired and 72 years old. His stated net liquid assets were \$900,000 and net fixed assets were \$250,000. The annual income field is blank. His investment knowledge was listed as "sophisticated".
14. Despite his age and retirement status, JP's investment objectives and risk tolerance parameters for the margin account were recorded as "High Risk" and "100% Speculative". These stated objectives remained the same in all of JP's accounts, from 2003 until 2023, when the account was ultimately transferred out.

Yuck Joins EEI – Hartwell Supervises

15. In November, 2017, Rick Yuck, another RR, joined EEI from another investment dealer. Yuck brought JP as a client of his previous firm, where JP had a margin account, a TFSA and a RRIF. He consolidated the two margin accounts as one, leaving three accounts – the consolidated margin account, the TFSA and the RRIF.

16. An NCAF was completed for these three accounts. At this time, JP was 86 years old. His stated net liquid assets were \$1,100,000, and his net fixed assets were \$500,000. His stated income was \$100,000, and his investment knowledge was listed as “sophisticated”. The stated investment objectives and risk tolerance parameters were listed as 100% speculative, and high risk in all accounts, including the RRIF.
17. Hartwell approved these NCAF’s on November 24, 2017, with his signature appearing above both “Branch Manager/UDP Approval” and “Compliance Department Approval”.
18. Although the net liquid assets were listed at \$1.1M in November, 2017, the December, 2017 account statements (after Yuck joined EEI) indicate total assets in the three accounts with a market value of \$441,000. There is no indication of investment accounts held by JP at other firms, or other liquid assets.
19. Between November, 2017 and April, 2020, Yuck handled the three JP accounts (margin, TFSA, RRIF). Hartwell was his supervisor, and also the CCO and UDP of EEI.
20. Yuck’s investment recommendations for JP’s accounts were very aggressive, and were focused on highly speculative junior issuers. For example, between April and August, 2019, Yuck purchased \$153,865 worth of common shares in Exmceuticals Inc. (CSE:EXM) in JP’s margin account. EXM had recently listed on the CSE and had no income generating assets, significant losses from operations, and was unable to finance day to day activities from operations. By June, 2022, the market value of JP’s EXM common shares was nil.
21. In July, 2019, JP’s daughter, CP, advised Yuck by telephone that JP had suffered a stroke. In August, 2019, an EEI staff member emailed JP asking for his current address as his mail was being returned. JP emailed them back and explained that he had experienced difficulty getting his mail because he was in the hospital due to

a car accident and a stroke. Despite this, there were no KYC changes made to reflect these health circumstances. They remained at the highest risk level.

22. In April, 2020, Yuck's employment with EEI was terminated.
23. Hartwell was responsible for the approval of NCAF's and updates, as well as supervision of Yuck including the review of daily and monthly trading activities. The purpose of these reviews was to identify suitability or other compliance concerns. In addition, as CCO, he was responsible for the overall compliance supervision function at EEI.
24. Between November, 2017 and April, 2020, the investment strategy employed by Yuck should have raised many red flags for Hartwell as supervisor and CCO, including the following:
 - a. JP was retired, in his late 80's, and was a vulnerable client who had experienced significant health problems;
 - b. the stated risk tolerances and investment objectives were 100% high risk, reflecting a highly speculative investment strategy and had remained the same for many years;
 - c. virtually all of the investments were highly speculative, junior issuers;
 - d. The total value of the accounts had sustained extraordinary losses between November, 2017 and April, 2020, from approximately \$548,000 to approximately \$40,000, a 93% loss;
 - e. The stated liquid assets appeared to be highly inconsistent with the value of the JP's actual investment holdings of with EEI.
25. Hartwell failed to adequately address these red flags, as he failed to:

- a. ensure that JP accounts' stated risk tolerances and investment objectives were consistent with JP's actual financial circumstances, investment knowledge and investment objectives;
 - b. make the necessary queries and ensure that Yuck provided adequate responses to any queries, for the purposes of ensuring that all of the trading and holdings in JP's accounts were suitable for him;
 - c. properly assess the risks of Yuck's investment strategy for JP, which ultimately resulted in very significant losses;
 - d. rely on his own personal knowledge of the client and his financial circumstances given his own previous experience with him as his RR.
26. Hartwell's failure to supervise Yuck's handling of JP's accounts constitutes a contravention of Dealer Member Rules 38.4 and 38.7(h).

Hartwell takes over JP's accounts

- (i) Failure to Know your Client
27. Following Yuck's departure from EEI in April, 2020, Hartwell became the designated RR for JP's three investment accounts for the period from April, 2020 until the end of the review period, February, 2023, when the accounts were transferred out.
28. Despite the substantial losses sustained as of April, 2020, Hartwell did not make any KYC updates and the investment objectives and risk tolerance parameters remained at 100% high risk. In fact, they remained the same as he had set them 17 years earlier. At this time in 2020, JP was 88 years old.
29. In 2022, JP was diagnosed as suffering from dementia. Hartwell still did not make any KYC updates and the investment objectives remained at 100% high risk.

30. For the period of April, 2020 to February, 2023, the stated investment objectives and risk tolerance parameters were far too aggressive for JP, and completely incongruent with his actual life and financial circumstances, as he was a vulnerable and retired senior.
31. Hartwell failed to know his client as he failed to ensure that the stated investment objectives and risk tolerance parameters in JP's accounts were consistent with his true financial situation, investment knowledge, investment objectives and risk tolerance. As such, his conduct constitutes a contravention of Dealer Member Rule 1300.1(a) (after December 31, 2021 IROC Rule 1300.1(a); after December 31, 2022 IDPC Rule 3202).
 - (ii) Suitability
32. JP relied on Hartwell for investment advice and recommendations.
33. Between April, 2020 and February, 2023, there was minimal trading activity in JP's accounts. The vast majority of the positions held were in a significant loss position. With the exception of the sale of one security in January 2021 – DMG Blockchain – which was sold for \$50,851 (effectively the same price originally paid for the security), Hartwell did not make any material changes in JP's accounts, even in the face of these significant declines, and continued to hold the same speculative junior issuers.
34. Between April, 2020 and February, 2023, the total market value of JP's accounts declined from \$37,188 to \$18,310 when the accounts were transferred out (including the January, 2021 withdrawal of \$50,851 in sale proceeds from the DMG Blockchain sale).
35. The continued pursuit of a highly aggressive and speculative investment strategy in JP's accounts involved a high degree of risk which was not suitable for him in light of his personal and financial circumstances.

36. As such, his conduct constitutes a contravention of Dealer Member Rule 1300.1(q) (after December 31, 2021 IIROC Rule 1300.1(q); after December 31, 2022 IDPC Rule 3400).

Interference with Staff Investigation

37. On October 1, 2021, as updated on March 17, 2022, CIRO Staff advised Hartwell by letter that it had began an investigation into his conduct into, among other things, his handling of JP's accounts.
38. On January 31, 2023, Staff interviewed Hartwell and asked him questions about the handling of JP's account.
39. On March 31, 2023, Hartwell sent an email to JP and CP. The email contains a draft letter attachment, which Hartwell asks that JP sign. The draft letter, addressed "To Whom it may concern" but under JP's name and address, seeks to have JP confirm in writing that the speculative nature of the securities purchased were "suitable for a person of my age". It also states that "Mr. Hartwell has been very helpful in attempting to reduce the risk profile of my various accounts at Emerging Equities Inc."
40. Neither JP or CP signed the letter. CP subsequently provided a copy of the email and attachment to Staff.
41. Hartwell's communication with client JP, which occurred during the course of an investigation into his conduct concerning the accounts of JP, was an overt and intentional attempt to interfere with Staff's investigation. As such, his conduct constitutes conduct unbecoming contrary to IDPC Rule 1400.

WS Corp Account – Failure to Designate Orders as Insider

42. On August 14, 2018, Hartwell opened a corporate account for new client WS Corp with EEI. WS Corp was a Cayman Islands based corporation owned and controlled by RM.
43. At this time, RM was an insider, of two CSE Reporting Issuers – Appx Crypto Technologies Inc, (later known as Softlab9 Software Solutions Inc., and also Softlab9 Technologies Inc. (“SOFT”)); and Marapharm Ventures Inc. (later known as LIHT Cannabis Corp, and also Citation Growth Corp (“CGRO”).
44. Between August, 2017 and September, 2021, RM was the CEO and a Director of SOFT.
45. Between August, 2018 and February, 2020, RM was also a Director of CGRO and for nearly all of this time that he was the CEO and President of CGRO.
46. However, the August 14, 2018 WS Corp NCAF, completed with Hartwell, does not disclose that its principal, RM, was also an insider of these two issuers.
47. One year later, on September 18, 2019, Hartwell opened a personal TFSA and a Cash account for RM with EEI. That NCAF does disclose that RM is an insider of both SOFT and CGRO.
48. Despite this insider disclosure, Hartwell did not:
 - a. update or amend the WS Corp NCAF to indicate RM’s insider status with reporting issuers;
 - b. file Regulatory Marker Correction Reports (RMCR) with IIROC for any Orders placed by WS Corp involving SOFT or CGRO;
49. Between the review period of March 11, 2019 to June 29, 2020, Hartwell placed 126 orders (103 SOFT; 23 CGRO) in the WS Corp account. None of these orders were marked to reflect RM’s insider status with these issuers. 48 of these orders (38 SOFT; 10 CGRO) were placed prior to September 18, 2019 (date of RM personal NCAF for

TFSA and Cash accounts disclosing insider status), and 78 of these orders (65 SOFT; 13 CGRO) were placed after September 18, 2019.

50. Hartwell placed unmarked orders for these issuers for client WS Corp, an offshore corporation controlled by RM, when he knew or ought to have known that the orders needed to be marked for insider status. The placement of these orders without the required designation and identifier of insider of the security constitutes a contravention of UMIR 6.2(1)(b)(xiv).

DATED at Calgary, Alberta this October 31, 2024.