

# Re Abbott

IN THE MATTER OF:

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

**and**

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

**and**

**Karen Elizabeth Abbott**

2012 IIROC 2

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

Hearing: January 10, 2012  
Decision: January 16, 2012  
(11 paras.)

**Hearing Panel:**

Terrance Sweeney (Chair), Ronald Smith, Joe Pavao

**Appearances:**

Diana Iannetta, IIROC Enforcement Counsel

Kenneth Lo, IIROC Investigator

Bruce O'Toole, Counsel for the Respondent

Ms. Karen Elizabeth Abbott, the Respondent, in person

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## DECISION OF THE ONTARIO DISTRICT COUNCIL

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**BACKGROUND**

¶ 1 We were constituted as a Hearing Panel of the Ontario District Council of the Investment Industry Regulatory Organization of Canada (IIROC) to consider, pursuant to Dealer Member Rule 20.36, a Settlement Agreement, attached as Schedule "A", jointly recommended by Counsel for IIROC and the Respondent and signed by the parties on January 9, 2012.

¶ 2 In the Settlement Agreement the Respondent admitted that, in June and July 2011, she forged the signatures of over 40 clients on certain account opening documents, transfer documents and letter instructions contrary to IIROC Rule 29.1.

¶ 3 IIROC Staff and the Respondent agreed to the following terms of settlement:

- a. A suspension from approval in any registered capacity with IIROC for a period of six (6) months;
- b. A fine of \$25,000.00; and
- c. A requirement that the Respondent successfully complete the Conduct and Practices Handbook course prior to seeking re-registration.

¶ 4 The Respondent agreed to pay costs to IIROC in the sum of \$3,500.00.

### **SUBMISSIONS**

¶ 5 IIROC's Counsel stressed that forgery was serious and that the Respondent must be punished. She did, however, fairly raise a number of mitigating factors in the Respondent's favour. They included the following:

1. The Respondent has no previous disciplinary record.
2. She self reported her forgeries to her employer and IIROC.
3. She accepted responsibility and expressed remorse.
4. She cooperated with IIROC in its investigation.
5. She derived no financial gain and her clients suffered no financial loss.

¶ 6 Counsel for the Respondent addressed the Hearing Panel. He compared the Respondent's behaviour with that of another individual who had been permanently banned from the industry.<sup>1</sup> In that case the individual was caught forging signatures over a two year period. In this case the Respondent already had her clients sign the forms. It was only after she was asked to redo them that she resorted to forgery. She quickly regretted her behaviour and reported her forgeries to her employer and IIROC.

¶ 7 Counsel for IIROC referred the Hearing Panel to four cases<sup>2</sup> and the Dealer Member Disciplinary Sanction Guidelines and urged us to accept the Settlement Agreement as it was within the range of reasonableness.

### **REASONS, DECISION AND SETTLEMENT AGREEMENT**

¶ 8 The Hearing Panel is restricted by Dealer Member Rule 20.36. It may only accept or reject the Settlement Agreement.

¶ 9 We are well aware of the proper tests to employ in evaluating a Settlement Agreement. The Hearing Panel respects the settlement process and will not lightly interfere with a negotiated settlement. In *Milewski*<sup>3</sup> the Hearing Panel said:

... a District Council considering a settlement agreement will tend not to alter a penalty that it considers to be within a reasonable range, taking into account the settlement process and the fact that the parties have agreed. It will not reject a settlement unless it views the penalty as clearly falling outside a reasonable range of appropriateness. Put another way, the District Council will reflect the public interest benefits of the settlement process in its consideration of specific settlements.

### **DECISION**

¶ 10 The Hearing Panel has carefully considered the relevant case law, IIROC Dealer Member Disciplinary Sanction Guidelines and the submissions of Counsel and have unanimously concluded that the settlement is fair, reasonable and in the public interest.

### **SETTLEMENT AGREEMENT**

¶ 11 The Hearing Panel signed the Settlement Agreement, dated January 9, 2012, at the end of the hearing on January 10, 2012. The Chair of the Hearing Panel indicated that Reasons would follow. These are those Reasons.

Dated at Toronto, Ontario this 16th day of January 2012.

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<sup>1</sup> *Holowatiuk*, [2004 I.D.A.C.D. No. 64

<sup>2</sup> *Holowatiuk, ibid, Re Sklar*, [2001] I.D.A.C.D. No. 20; *Re Quimper*, [2004] I.D.A.C.D. No. 62

<sup>3</sup> [1999] I.D.A.C.D. No. 17 (decided on July 18, 1999 at p. 9)

Terrance A. Sweeney, Chair  
Ronald Smith, Panel Member  
Joe Pavao, Panel Member

## SETTLEMENT AGREEMENT

### I. INTRODUCTION

1. IIROC Enforcement Staff and the Respondent, Karen Elizabeth Abbott (the Respondent), consent and agree to the settlement of this matter by way of this settlement agreement (“the Settlement Agreement”).
2. The Enforcement Department of IIROC has conducted an investigation (“the Investigation”) into the conduct of Ms. Abbott.
3. On June 1, 2008, IIROC consolidated the regulatory and enforcement functions of the Investment Dealers Association of Canada and Market Regulation Services Inc. Pursuant to the Administrative and Regulatory Services Agreement between IDA and IIROC, effective June 1, 2008, the IDA has retained IIROC to provide services for IDA to carry out its regulatory functions.
4. The Respondent consents to be subject to the jurisdiction of IIROC.
5. The Investigation discloses matters for which the Respondent may be disciplined by a hearing panel appointed pursuant to IIROC Transitional Rule No.1, Schedule C.1, Part C (“the Hearing Panel”).

### II. JOINT SETTLEMENT RECOMMENDATION

6. Staff and the Respondent jointly recommend that the Hearing Panel accept this Settlement Agreement.
7. The Respondent admits to the following contravention of IIROC Rules, Guidelines, IDA By-Laws, Regulations or Policies:

In June and July 2011, the Respondent forged the signatures of over 40 clients on certain account opening documents, transfer documents and letter instructions contrary to IIROC Rule 29.1.

8. Staff and the Respondent agrees to the following terms of settlement:
  - a) A suspension from approval in any registered capacity with IIROC for a period of six (6) months;
  - b) A fine of \$25,000; and
  - c) A requirement that the respondent successfully complete the Conduct and Practices Handbook (CPH) course prior to seeking re-registration.
9. The Respondent agrees to pay costs to IIROC in the sum of \$3,500.

### III. STATEMENT OF FACTS

#### (i) Acknowledgment

10. Staff and the Respondent agree with the facts set out in this Section III and acknowledge that the terms of the settlement contained in this Settlement Agreement are based upon those specific facts.

#### (ii) Overview

11. The Respondent was required to re-do client account documentation for certain clients. She was required to contact clients and advise them of the need to complete the new documentation. Rather than do so, she forged the signatures of over 40 clients on certain client account documents.

#### (iii) Factual Background

12. The Respondent’s registration history is as follows:

<b>Date</b>	<b>Firm</b>	<b>Position</b>
June 2011-September 2011	Manulife Securities Incorporated	Registered Representative (RR)
November 2008-June 2011	BMO Nesbitt Burns Inc.	RR
November 2005 – November 2008	TD Waterhouse Canada Inc.	RR

13. From November 2001 to November 2005, the Respondent was registered with the MFDA.
14. The Respondent has no disciplinary history with IIROC.
15. During the material time, the Respondent was an RR at Manulife Securities Incorporated (Manulife).
16. The Respondent commenced her agency relationship with Manulife in June 2011. She was joined at Manulife by two of her colleagues from her previous firm – GG, an RR and EJ, an administrative assistant.
17. The conduct at issue took place shortly after her arrival at Manulife.

### **The Opening of Client Accounts**

18. Upon her arrival at Manulife, the Respondent began the process of opening client accounts for those clients whose accounts would be transferred to Manulife from her previous employer firm.
19. During the latter half of June, 2011, the Respondent met with clients and filled out the appropriate new client account documentation and/or transfer authorization forms. Clients would generally sign the forms in their meeting with the Respondent.
20. The account documents filled out in the latter half of June indicated a joint RR code which reflected both the Respondent and GG.
21. In late June, the Respondent was advised by Manulife that she was required to re-do the account opening and transfer authorization forms she had previously completed. This exercise was to be done to amend client account documents so that only the Respondent's RR code was reflected on the accounts. The RR (GG) with whom Abbott shared a joint code, had been subsequently placed on leave by Manulife.
22. By this point, the Respondent had completed account opening documents and/or transfer authorization forms for approximately 200 accounts (70 households). In total, she was expecting to transfer in approximately 150 households.

### **The Forgeries**

23. The Respondent felt she was under time pressure to transfer 80 additional households' accounts along with the prospect of meeting with 70 households for a second time, in order to re-do the account documentation.
24. Instead of speaking and meeting with clients to advise of the RR code change, and obtain new documentation, the Respondent completed certain account opening and transfer documents herself. In circumstances where a client signature was required on a form, she signed the client's signature.
25. No information other than the RR code and newly assigned account number were changed on the documentation.
26. At no time prior to signing a client's signature did the Respondent contact that client.
27. The Respondent signed approximately 40 client signatures.

28. The Respondent also signed approximately 6 letters on behalf of her clients to her former firm, for the purposes of expediting the transfers of those client accounts to Manulife. However, the Respondent did not send those letters to her former firm.

### **The Self-Reporting**

29. On August 8, 2011, the Respondent met with her employer and admitted that she had forged client signatures on certain documents.
30. By this date, Manulife had already been looking into the irregularities in some of the account opening documents, but had not yet advised the Respondent of their concerns.
31. The Respondent was placed under strict supervision effective August 8, 2011. The Respondent was subsequently suspended by Manulife on August 10, 2011.
32. The next day, the Respondent, through her counsel, advised IIROC Enforcement Staff that she had forged client signatures on certain documents and had already admitted her wrongdoing to her employer.
33. On August 15, 2011 at Manulife's request, the Respondent attempted to identify those client documents which contained a forged signature. On August 17, 2011, Respondent's counsel provided a listing of affected clients to Manulife.
34. Manulife subsequently wrote to the clients whose signatures the Respondent identified as those which were forged, and advised them of what had happened.
35. Through Manulife's internal investigation, additional client account documentation were found to contain forged signatures and/or dates. Although these were not contained on the Respondent's original list, the Respondent states that this was as a result of her inability to recall which documents contained the forgeries.
36. In late September, the Respondent resigned her position at Manulife. The Respondent is not currently employed with an IIROC Member Firm.
37. The Respondent has cooperated with IIROC throughout its investigation.

### **IV. TERMS OF SETTLEMENT**

38. This settlement is agreed upon in accordance with IIROC Dealer Member Rules 20.35 to 20.40, inclusive and Rule 15 of the Dealer Member Rules of Practice and Procedure.
39. The Settlement Agreement is subject to acceptance by the Hearing Panel.
40. The Settlement Agreement shall become effective and binding upon the Respondent and Staff as of the date of its acceptance by the Hearing Panel.
41. The Settlement Agreement will be presented to the Hearing Panel at a hearing ("the Settlement Hearing") for approval. Following the conclusion of the Settlement Hearing, the Hearing Panel may either accept or reject the Settlement Agreement.
42. If the Hearing Panel accepts the Settlement Agreement, the Respondent waives his/her/its right under IIROC rules and any applicable legislation to a disciplinary hearing, review or appeal.
43. If the Hearing Panel rejects the Settlement Agreement, Staff and the Respondent may enter into another settlement agreement; or Staff may proceed to a disciplinary hearing in relation to the matters disclosed in the Investigation.
44. The Settlement Agreement will become available to the public upon its acceptance by the Hearing Panel.
45. Staff and the Respondent agree that if the Hearing Panel accepts the Settlement Agreement, they, or anyone on their behalf, will not make any public statements inconsistent with the Settlement Agreement.

46. Unless otherwise stated, any monetary penalties and costs imposed upon the Respondent are payable immediately upon the effective date of the Settlement Agreement.
47. Unless otherwise stated, any suspensions, bars, expulsions, restrictions or other terms of the Settlement Agreement shall commence on the effective date of the Settlement Agreement.

AGREED TO by the Respondent at the City of London in the Province of Ontario, this 22<sup>nd</sup> day of December, 2011.

“Witness”

Witness

“Karen Abbott”

Respondent

AGREED TO by Staff at the City of Toronto in the Province of Ontario, this 9<sup>th</sup> day of January, 2012.

“Witness”

Witness

Diana Iannetta

Diana Iannetta

Senior Enforcement Counsel on behalf of Staff of the  
Investment Industry Regulatory Organization of Canada

ACCEPTED at the City of Toronto in the Province of Ontario, this 10<sup>th</sup> day of January, 2012, by the following Hearing Panel:

Per: “Terrance Sweeney”

Panel Chair

Per: “Ron Smith”

Panel Member

Per: “Joe Pavao”

Panel Member