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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 O'REILLY**

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 O’Reilly (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, April 24, 2024 at 10:00 a.m. ET

The purpose of the hearing will be to determine whether the Respondent has contravened CIRO requirements. The alleged contravention is 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 February 28, 2024.

“National Hearing Officer”
NATIONAL HEARING OFFICER
Canadian Investment Regulatory Organization
40 Temperance Street, Suite 2600
Toronto, Ontario, M5H 0B4

¹The 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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JAMES O'REILLY

STATEMENT OF ALLEGATIONS

Further to a Notice of Hearing dated February 28, 2024, Enforcement Staff make the following allegations:

PART I – REQUIREMENTS CONTRAVENED

During 2021 and 2022, the Respondent James O'Reilly engaged in personal financial dealings with clients, contrary to IIROC Dealer Member Rule 43.1 (in 2021) and IIROC Rule 3115 (in 2022).

PART II – RELEVANT FACTS AND CONCLUSIONS

Overview

1. In 2021 and 2022, the Respondent, directly or indirectly through corporate entities, used clients' funds in three real estate development projects, without ACM knowledge of this activity. The Respondent asked clients for funds for the purchase and renovation of various commercial and/or residential real estate properties. The clients agreed to lend or provide him with funds to invest in the renovation of these real estate projects.

Background

2. At the relevant time, the Respondent was a Registered Representative with Assante Capital Management Inc. (“ACM”). The Respondent has not been a CIRO registrant since November 30, 2022.

The Three Projects

3. The three real estate projects managed by the Respondent which used client funds were known as:
 - (a) 1-7 Grosvenor Avenue in Hamilton, Ontario (the “Grosvenor Project”);
 - (b) 573-577 Barton Street in Hamilton, Ontario (the “Barton Project”);and,
 - (c) 24-26 King Street in Omemee, Ontario (the “Omemee Project”).

A. The Grosvenor Project

4. JN and his spouse BDN (the Ns or JN and BDN) were clients of the Respondent. The Ns are also officers and directors of a holding company known as NII, which was incorporated on June 20, 2007. Around the spring of 2021, the Ns had sold a property owned by NII. They asked the Respondent how best to invest some of the sale proceeds.
5. The Respondent suggested that the Ns provide funds towards what he described as an alternative investment. He suggested purchasing a commercial real estate property with the goal of renovation and eventual sale at a profit, with the clients continuing to receive rental income in a property which had increased in value.

6. Specifically, the Respondent indicated in an April 23, 2021 email to the Ns, that he had come across an opportunity he wanted to discuss, which would require about \$425,000 upfront, with the money coming back to the Ns within a year.
7. In a subsequent email dated May 21, 2021, the Respondent advised the Ns that he had just put an offer in on a property in Hamilton and was looking for \$475,000 to \$500,000 from the Ns, which would give them a 25% stake. He also indicated that he expected to return their funds in about twelve months, plus they would still have a 25% equity position and 25% of cashflow, which he estimated at \$10,000 per year.

Grosvenor Project Shareholder's Agreement

8. The Respondent was a director of 13161901 Canada Inc. ("1316"). 1316 was incorporated on July 6, 2021 with the Respondent, his friend and accountant SA and JN as the directors. The Respondent and SA's share in 1316 was through a company they controlled known as For Dayzz Holdings Inc. ("For Dayzz"). Further to the Shareholder's Agreement dated July 20, 2021, For Dayzz was a two thirds shareholder of 1316, while NII was a one third shareholder.

Funds Provided by the Ns in Two Tranches

9. On the Respondent's instructions, BDN and JN provided funds from NII to For Dayzz's bank account on July 21, 2021, in the amount of \$106,000.
10. On the Respondent's instructions, BDN and JN provided funds from NII to 1316's bank account on August 16, 2021, in the amount of \$494,000.
11. The Ns were provided with two promissory notes prepared by the Respondent or SA, for the above amounts, dated July 20, 2021 and August 4, 2021. (the "Grosvenor Notes"). The Grosvenor Notes indicate that no interest was payable.

1316 Purchases the Grosvenor Project

12. A Land Registry search indicates that 1316 purchased the Grosvenor Project on September 21, 2021 for \$2,075,000. The search also indicates that 1316 granted a charge to the TSX Trust Company for \$2,200,000 on January 6, 2022.

Funds Not Returned to the Ns

13. Despite their requests, the Ns have not received the return of any of the principal amount of \$600,000 invested by their corporation NII in the Grosvenor Project.

B. The Barton Project

14. On or about early 2022, the Respondent discussed with clients purchasing another commercial real estate property for renovation purposes. The Respondent proposed that JN and BDN, as well as other clients the Ks, the Ls and the Respondent's partner AO, all contribute to a joint venture project involving 573-577 Barton Street East, in Hamilton. As with the Grosvenor Project, the plan was for the Respondent to manage the property.
15. The Respondent is the sole director of 13785840 Canada Inc. ("1378") which was incorporated on February 17, 2022.
16. A Joint Venture Agreement dated April 12, 2022 was signed by the clients and the Respondent on behalf of 1378 (the "JVA"). The JVA indicates that 1378 and the clients paid the following amounts as "initial working capital" towards the Barton Project:
 - 1378: zero
 - AO: \$50,000
 - the Ks: \$200,000

- the L's: \$200,000
- the N's: \$400,000

17. 1378 purchased the Barton Project on April 14, 2022, for \$2,750,000. 1378 granted a charge on the Barton Street property to LCI and DR for \$2.1 million on the same day.
18. The Ns' understanding was that half of their investment (\$200,000) was a loan. NII was the source of the \$400,000 provided by the Ns towards the Barton Project.
19. The Respondent sent emails from time to time to the clients updating them on the status of the Barton Project.

Interest payments to the Ns re Barton Project

20. The Ns provided \$400,000 from NII into 1378's bank account on March 28, 2022. JN advised that they received some interest payments on the loan portion of their investment, but those payments ceased in November 2022, as the Respondent advised that he was suspending payments for the time being.

AO Re-paid re Barton Project

21. The Respondent re-paid the principal amount of \$50,000 back to AO in August 2022. None of the other clients have received the return of the principal amount they provided regarding the Barton Project.

C. The Omemee Project

22. According to the Respondent, his clients the Ks had sold a milk quota, were seeking a good return on some of the funds, and after discussion, the Ks provided him with a loan of \$200,000 for the Omemee Project.
23. The Respondent is a director of 14002512 Canada Inc. (“1400”) which was incorporated on May 2, 2022. 1400 is owned by the Respondent, AO and another company owned by a real estate agent.
24. The Ks signed a promissory note dated May 18, 2022 (the “Omemee note”) prepared by the Respondent, indicating the Ks as lenders of \$200,000 and the Respondent as Director of 1400 and borrower.
25. According to the Respondent, he has an equity position in the Omemee Project. His former assistant/client AO, (who is also his life partner), has an equity position as well in the Omemee Project.
26. The Respondent also asked the Ns to provide funds towards the Omemee Project but they declined when the Respondent refused to provide them with any security on the financing.
27. 1400 purchased the Omemee property for \$1,765,000 on June 6, 2022, with a charge in the same amount in favour of the Bank of Montreal.

Interest Payments to the Ks

28. According to the Respondent, 1400 paid interest to the Ks, in the amount of \$1,667 per month, for the months of July 2022 to March 2023, inclusive.

29. The Respondent told Staff that the Ks have not received the return of their principal amount provided.

Respondent Did Not Inform His Firm of This Activity

30. The Respondent did not inform his Dealer Member that he was participating with clients in any of these real estate Projects. The Respondent did not receive approval from ACM to engage in these personal financial dealings with the clients.
31. The ACM Sales Compliance Manual prohibits personal financial dealings with clients. In 2021 and 2022, the Respondent affirmed to ACM that he had complied with the contents of the current version of the ACM Sales Compliance Manual, which affirmations were inaccurate.

DATED at Toronto, Ontario, this 28th day of February, 2024.