

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

IN THE MATTER OF:

**THE RULES OF THE INVESTMENT INDUSTRY REGULATORY
ORGANIZATION OF CANADA**

AND

EDWARD PETER BODNARCHUK

NOTICE OF HEARING

TAKE NOTICE that pursuant to Part 10 of Dealer Member Rule 20 of the Investment Industry Regulatory Organization of Canada (“IIROC”), a hearing will be held before a hearing panel of IIROC (“Hearing Panel”) on May 9, 10 & 11, 2016, at the Radisson Hotel, 12th floor Ambassador D, 288 Portage Avenue, Winnipeg, Manitoba, at 10:00 a.m. (CDT), or as soon thereafter as the hearing can be heard.

TAKE FURTHER NOTICE that pursuant to Rule 6.2 of IIROC’s Dealer Member Rules of Practice and Procedure (“Rules of Practice and Procedure”), that the hearing shall be designated on the:

- The Standard Track
- The Complex Track

THE PURPOSE OF THE HEARING is to determine whether Edward Peter Bodnarchuk (“the Respondent”) has committed the following contraventions that are alleged by the Staff of IIROC (“Staff”):

Count 1

Between July of 2008 and November of 2012, the Respondent failed to use due diligence to learn and remain informed of the essential facts relative to GS, contrary to Dealer Member Rule 1300.1(a);

Count 2

Between July of 2008 and November of 2012, the Respondent made unsuitable recommendations for the account of GS, contrary to Dealer Member Rule 1300.1(q) ; and

Count 3

Between July of 2008 and November of 2012 the Respondent made discretionary trades in the accounts of GS, contrary to Dealer Member Rule 1300.4.

PARTICULARS

TAKE FURTHER NOTICE that the following is a summary of the facts alleged and to be relied upon by Staff at the hearing:

Overview

1. This matter stems from the Respondent’s handling of the accounts of GS. GS is a single woman with limited assets and income, who was investing for her retirement. The Respondent failed to know this client and recommended high risk investments that were unsuitable for her, resulting in a loss of a significant portion of GS’s investments.

Registration History

2. The Respondent is currently employed with PI Financial Corp. in Winnipeg, Manitoba, where he has been a Registered Representative since in 2012. His previous registration history includes:

From	To	Firm	Registration Category
July 2010	December 2012	National Bank Financial Ltd.	Registered Representative (Securities) (Retail)
April 2008	July 2010	Union Securities Ltd.	Registered Representative (Securities) (Retail)

May 2006	March 2008	DMW Securities Inc. (Dundee Securities Corporation)	Registered Representative <i>restricted to Mutual Funds</i>
February 2005	April 2006	HollisWealth Advisory Services Inc.	Mutual Fund Dealer Salesperson
July 2003	January 2005	Ten Star Financial Inc.	Mutual Fund Dealer Salesperson

Background

3. GS originally became a client of the Respondent sometime after 2004, while he was a Registrant at Dundee Securities Corp. She later moved her accounts with the Respondent to Union Securities Ltd. (April of 2008 to August of 2010) and then National Bank Financial Ltd. (August of 2010 to December of 2012).
4. Between July 31st of 2008 and November 30th of 2012 (the “Material Period”) the Respondent was managing the majority of GS’s liquid assets. In July of 2008 this totaled approximately \$49,000.00 and accounted for approximately two thirds of her overall liquid assets at that time.

Failure to Know Client

5. GS filled out two New Client Account Forms (“NCAFs”) during the Material Period. The first, when she moved her accounts to Union Securities Ltd. (“Union”) and the second, when she moved to National Bank Financial Ltd. (“National Bank”). Both NCAFs overstated GS’s risk tolerance, identifying them as 100% high risk (while at Union) and 100% very high risk (while at National Bank).
6. These stated risk tolerances were inconsistent with GS’s personal and financial circumstances, which included the following essential facts:
 - a. GS was in her mid-forties and had an annual income of approximately \$38,000.00 a year when she began investing with the Respondent;
 - b. GS did not have a pension. Her investments were intended to be used for her retirement, and initially accounted for the majority of her liquid assets;

- c. GS's net worth ranged from \$275,000.00 to \$300,000.00 with her liquid assets ranging from \$75,000.00 to \$100,000.00; and
- d. GS had limited investment knowledge and experience. GS understood that high risk investments would be subject to fluctuation, but she did not appreciate that she could lose a significant portion, if not all, of her investments.

Suitability

- 7. GS had placed her trust and confidence in the Respondent and was reliant on his advice. The Respondent recommended all of the trades in her accounts, and GS routinely followed his trade recommendations. Unsuitable recommendations made by the Respondent resulted in an inappropriate level of risk in GS's account holdings.
- 8. Over the Material Period the high risk portion of GS's accounts grew to a substantial percentage of her account's holdings. During the Material Period the high risk allocation ranged from 2.15% to 97.9%. Most of the issuers GS had invested in did not report any revenue on their financial statements.
- 9. GS's holdings became significantly concentrated in the metals and mining sector. During the Material Period the concentration in that sector ranged from 2.15% to 88%.
- 10. Of significance:
 - a. Between March of 2010 and December of 2012 (with the exception of September 2010) over 80% of GS's holdings were high risk;
 - b. Between November of 2009 and December of 2012 over 50% of GS's holdings were in junior mining companies that had not reported any significant earnings; and
 - c. For the one year period between March of 2010 and March 2011 (with the exception of September 2010) the concentration in junior mining companies exceeded 70% of GS's accounts holdings.
- 11. During the Material Period GS had expressed concerns to the Respondent about the losses in her accounts. Despite these concerns the Respondent did not recommend that GS rebalance her account to contain less risk.

Discretionary Trading

12. Most of the trades executed in GS's accounts were done so on a discretionary basis. While the Respondent would occasionally contact GS he only did so to discuss her accounts in general terms and did not receive approval for specific trades. In most cases the Respondent did not advise GS of one or more of the following:
- a. which security would be purchased;
 - b. the quantity of the security to be purchased;
 - c. the price of the security to be purchased; or
 - d. the timing of the purchase.
13. At no time were any of GS's accounts designated or approved as discretionary accounts. As such, the accounts were not being supervised as discretionary accounts. At no time did the Respondent meet the proficiency requirements necessary to act as a Portfolio Manager.

Losses

14. Over the Material Period, GS's combined accounts incurred a loss of approximately \$30,457. This represented a loss of approximately 53% of the value of her accounts. During the same time, the S&P/TSX Composite Total Return Index declined 9.96%.

Commissions

15. The Respondent earned approximately \$722.00 in commissions from GS's account during the National Bank period.

GENERAL PROCEDURAL MATTERS

TAKE FURTHER NOTICE that the hearing and related proceedings shall be subject to the Rules of Practice and Procedure.

TAKE FURTHER NOTICE that pursuant to Rule 13.1 of the Rules of Practice and Procedure, the Respondent is entitled to attend and be heard, be represented by counsel or an agent, call, examine and cross-examine witnesses, and make submissions to the Hearing Panel at the hearing.

RESPONSE TO NOTICE OF HEARING

TAKE FURTHER NOTICE that the Respondent must serve upon the Staff of IIROC a Response to the Notice of Hearing in accordance with Rule 7 of the Rules of Practice and Procedure within twenty (20) days (for a Standard Track disciplinary proceeding) or within thirty (30) days (for a Complex Track disciplinary proceeding) from the effective date of service of the Notice of Hearing.

FAILURE TO RESPOND OR ATTEND HEARING

TAKE FURTHER NOTICE that if the Respondent fails to serve a Response or attend the hearing, the Hearing Panel may, pursuant to Rules 7.2 and 13.5 of the Rules of Practice and Procedure:

- (a) proceed with the hearing as set out in the Notice of Hearing, without further notice to the Respondent;
- (b) accept as proven the facts and contraventions alleged by Staff in the Notice of Hearing; and
- (c) order penalties and costs against the Respondent pursuant to Dealer Member Rules 20.33, 20.34 and 20.49.

PENALTIES & COSTS

TAKE FURTHER NOTICE that if the Hearing Panel concludes that the Respondent did commit any or all of the contraventions alleged by Staff in the Notice of Hearing, the Hearing Panel may, pursuant to Dealer Member Rules 20.33 and 20.34, impose any one or more of the following penalties:

Where the Respondent is/was an Approved Person:

- (a) a reprimand;
- (b) a fine not exceeding the greater of:
 - (i) \$1,000,000 per contravention; and
 - (ii) an amount equal to three times the profit made or loss avoided by such Approved Person by reason of the contravention.
- (c) suspension of approval for any period of time and upon any conditions or terms;

- (d) terms and conditions of continued approval;
- (e) prohibition of approval in any capacity for any period of time;
- (f) termination of the rights and privileges of approval;
- (g) revocation of approval;
- (h) a permanent bar from approval with the IIROC; or
- (i) any other fit remedy or penalty.

Where the Respondent is/was a Dealer Member:

- (a) a reprimand;
- (b) a fine not exceeding the greater of:
 - (i) \$5,000,000 per contravention; and
 - (ii) an amount equal to three times the profit made or loss avoided by the Dealer Member by reason of the contravention;
- (c) suspension of the rights and privileges of the Dealer Member (and such suspension may include a direction to the Dealer Member to cease dealing with the public) for any period of time and upon any conditions or terms;
- (d) terms and conditions of continued Membership;
- (e) termination of the rights and privileges of Membership;
- (f) expulsion of the Dealer Member from membership in the IIROC; or
- (g) any other fit remedy or penalty.

TAKE FURTHER NOTICE that if the Hearing Panel concludes that the Respondent did commit any or all of the contraventions alleged by the Staff in the Notice of Hearing, the Hearing Panel may pursuant to Dealer Member Rule 20.49 assess and order any investigation and prosecution costs determined to be appropriate and reasonable in the circumstances.

DATED at Calgary, Alberta, this 11th day of March, 2016.

“Warren Funt”

WARREN FUNT

VICE-PRESIDENT, WESTERN CANADA
INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
Suite 2800-Royal Center
1055 West Georgia Street
PO Box 11164
Vancouver, BC V6E 3R5