INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

IN THE MATTER OF:

THE RULES OF THE INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

AND

MARK FRIDGANT

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 August 26, 2014 at the IIROC Alberta Room, 121 King Street W, Suite 2000 in Toronto, Ontario, at 10:00 a.m., 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 Mark Fridgant (the "Respondent") has committed the following contraventions that are alleged by the Staff of IIROC ("Staff"):

Count # 1

Between November 2005 and November 2012, the Respondent provided fictitious portfolio statements to two sets of clients which misrepresented the total value of their

account holdings, contrary to IIROC Dealer Member Rule 29.1 (IDA By-law 29.1 prior to June 1, 2008).

Count # 2

In November 2012, the Respondent made inaccurate statements and misrepresented the holdings of these clients when questioned by representatives of his Dealer Member firm, contrary to IIROC Dealer Member Rule 29.1 (IDA By-law 29.1 prior to June 1, 2008).

PARTICULARS

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

A. Overview

1. Between November 2005 and November 2012, the Respondent provided two of his clients, EP and CP, with a total of eight portfolio statements purporting to show their total account holdings. The values in the portfolio statements differed significantly from the actual value as set out in the account statements that the clients received from the relevant Dealer Member. The Respondent advised the clients that they should only rely on the portfolio statements which he had provided. He informed them that the client statements from the Dealer Member were incorrect for a variety of reasons. Since EP and CP trusted the Respondent, they relied on his misrepresentations. In fact, the portfolio statements provided by the Respondent were inaccurate and overstated the clients' actual account holdings by approximately $440,000. The Respondent knowingly created these fictitious portfolio statements and provided them to EP and CP in an attempt to mislead them into believing that their investments were worth more than they actually were.

2. In November 2012, the Respondent misrepresented the portfolio holdings in the accounts of two additional clients, RM and MM. The Respondent had advised RM and MM that

they held an investment worth approximately $400,000 with the “Bank of Paris” and provided RM and MM with a portfolio summary that purported to show this investment. RM and MM did not in fact have any investments with the “Bank of Paris”. Since RM and MM trusted the Respondent, they relied on his misrepresentations.

3. When the Respondent’s Dealer Member became aware of these misrepresentations to RM and MM, representatives of the Dealer Member questioned the Respondent. The Respondent continued his misrepresentations and advised that RM and MM continued to hold securities in an account at another Dealer Member. There is no evidence that RM or MM held these securities either at the Dealer Member or at another Dealer Member firm.

4. The next day, the Respondent advised the Dealer Member that he would be taking a leave of absence for medical reasons. He has not returned to work and has had no further contact with his clients, his Dealer Member or IIROC.

B. Registration History

5. From December 2011 to January 2013, the Respondent was registered as a Registered Representative with a Toronto, Ontario branch of PI Financial Corp. (“PI”), a Dealer Member of IIROC. The Respondent had previously been registered as a Registered Representative with Jennings Capital Inc. (“Jennings”) from September 2006 to December 2011 and with Canaccord Capital Corporation (“Canaccord”) from April 1999 to September 2006. Prior to that, he had been registered with various other Dealer Members since 1985.

6. In 2000, an IDA Hearing Panel found that the Respondent had engaged in conduct unbecoming a Registered Representative by effecting transactions in a client account in order to generate excessive commissions, had created a potential tax liability in a client account, and had failed to use due diligence to ensure that recommendations for a client were appropriate. The Hearing Panel ordered a fine of $55,000, a one month suspension, two years of strict supervision and a requirement to re-write the Conduct and Practices

Handbook Examination.

7. On June 1, 2008, the Respondent became a regulated person of IIROC.

8. In January 2013, the Respondent's employment was terminated for cause by PI as a result of the events described herein.

C. The Clients - EP and CP

9. EP and CP had been clients of the Respondent since the early 1980s. EP had an RRSP and CP had an RRSP account which was subsequently converted to a RRIF account.

10. EP and CP had followed the Respondent from Canaccord to Jennings and ultimately to PI.

11. In or around November 2005, while the Respondent was registered at Canaccord, he provided EP and CP with a portfolio update showing a combined value in both EP and CP's accounts of over $242,000. In fact, the actual combined market value of their Canaccord accounts at the end of November 2005 was only $30,000, a discrepancy of over $212,000.

12. Between April 2007 and November 2010, while the Respondent was registered at Jennings, he provided EP and CP with a total of six portfolio updates showing a combined value in both EP and CP's accounts ranging from $266,000 to $439,000. In fact, the actual combined market value of their Jennings accounts during this period ranged from $21,000 to $33,000, which represented discrepancies of between $233,000 to $411,000.

13. In or around July 2012, while the Respondent was registered at PI, he provided EP and CP with a portfolio update showing a combined value in both EP and CP's accounts of

over $465,000. In fact, the actual combined market value of their PI accounts at the end of July 2012 was only $26,000, a discrepancy of over $439,000.

14. In some cases, the Respondent misrepresented the number of shares held by EP and CP in the portfolio updates. In other cases, the Respondent included securities on the portfolio statements that were not actually held in their accounts.

15. At times, EP questioned the discrepancies between the values listed in the portfolio statements provided by the Respondent and the account statements provided by the Dealer Members. The Respondent explained that the Dealer Member statements inaccurately reflected the account value and did not account for cash and/or money market holdings. The Respondent further advised EP that all of his clients had similar complaints about the accuracy of the account statements provided by the Dealer Members. Because of their longstanding relationship with the Respondent and the trust they placed in him, EP and CP accepted this explanation.

16. In or around January 2013, EP attempted to contact the Respondent to discuss his and his wife's accounts. EP was advised by a representative of PI that the Respondent had not been in the office for weeks and it did not appear that he would return.

17. Shortly thereafter, following further investigation into his and CP's account holdings, EP discovered the discrepancies of $439,000 in the value of the accounts and filed a complaint with PI, Jennings and Canaccord.

18. EP has been unsuccessful in his attempts to contact the Respondent since that time.

D. The Clients MM and RM

19. MM and RM had been clients of the Respondent since at least 2001. MM and RM had multiple accounts with the Respondent at Canaccord, Jennings and ultimately PI.

20. On November 14, 2012, RM emailed the Respondent inquiring, among other things, about the risk level of her account holdings. She also asked the Respondent to provide a statement in writing verifying the amounts that were invested "with the Bank of Paris".

21. At the time, none of MM or RM's accounts at PI held an investment in the "Bank of Paris".

22. On November 19, 2012, RM again emailed the Respondent, requesting a summary of the securities held in her and MM's accounts with PI.

23. On November 20, 2012, the Respondent emailed RM a summary of the securities held in the accounts. Among the securities listed was an investment in "One Financial VAR S/U SR Investment Certificate" with a Face Value of $400,000 and Nil risk, "according to BNP Paribas (Canada)".

24. Shortly thereafter, representatives of PI discovered these emails and contacted RM to discuss her account holdings.

25. On November 21, 2012, three representatives of PI met with the Respondent to discuss, among other things, the investment in "Bank of Paris". The Respondent advised that the "Bank of Paris" investment was a structured note offered by "First Financial", with a principal guarantee provided by BNP Paribas. The Respondent advised that this product was purchased when the accounts were held at Canaccord, but that these were not transferred over along with the other accounts and holdings when the Respondent moved to PI.

26. PI asked the Respondent to confirm these representations in writing by the end of the day. The Respondent advised that he would do so the next day. The Respondent did not do so.

27. In fact, neither RM nor MM had any accounts remaining at Canaccord. All of their accounts had been closed in late 2006, with the proceeds transferred to Jennings.

28. Prior to the accounts being transferred out from Canaccord, MM and RM held 5,100 units worth approximately $460,000 of ONE Financial BNP Paribas Step-Over Bonds, Series 3, a principal protected note offered by ONE Financial Corporation, issued and guaranteed by BNP Paribas S.A.

29. MM and RM also held 4,760 units worth approximately $416,000 of ONE Financial Variable Step-Up Bonds, a principal protected note offered by ONE Financial Corporation, issued and guaranteed by BNP Paribas S.A.

30. The units in both of these principal protected notes were transferred to RM and MM's accounts at Jennings in or around October 2006.

31. Between September 2008 and September 2009, while the accounts were held at Jennings, all of these units were sold and the proceeds were used to purchase various other securities. The sale of these units resulted in a total loss of over $163,000 to MM and RM.

32. When MM and RM transferred their accounts to PI in December 2011, they no longer held any units of either of the ONE Financial BNP securities.

E. The PI Investigation, the IIROC Investigation and the Respondent's Current Whereabouts

PI Investigation

33. As noted above, following a meeting with representatives of PI on November 21, 2012, the Respondent advised that he would confirm his version of events in writing the following day. Instead, on November 22, 2012, the Respondent faxed PI a note from his doctor stating that he would be unable to attend work from November 22, 2012 until November 30, 2012 for medical reasons.

34. The Respondent provided similar notes on November 28, 2012 and December 11, 2012 stating that he would be unable to work until January 2, 2013.

35. On November 22, 2012 PI placed the Respondent under strict supervision and on November 30, 2012, PI suspended the Respondent.

36. Throughout December 2012 and January 2013, PI made numerous attempts to contact the Respondent and to request that he attend a follow up interview.

37. On January 24, 2013, having received no response to the numerous attempts to contact him, the Respondent's employment was terminated for cause by PI.

IIROC Investigation

38. By letter dated June 5, 2013, IIROC advised the Respondent that it had opened an investigation into his conduct. This letter was sent via registered mail to his last known address as recorded on the National Registration Database. This letter was not picked up.

39. By letter dated July 16, 2013, IIROC requested that the Respondent attend an interview in relation to the investigation. An attempt was made to personally serve this letter on the Respondent at his last two known addresses as recorded on the National Registration Database. These attempts to personally serve the letter were unsuccessful.

40. IIROC Staff have also made numerous attempts to telephone the Respondent, without success.

41. Since meeting with the PI representatives on November 21, 2012, the Respondent has not attended the offices of PI or responded to any of PI's requests for further information nor has he responded to any of the numerous attempts made by IIROC Staff to contact him.

42. Currently, the Respondent's whereabouts are unknown. By absconding and abandoning his practice without notice, the Respondent has frustrated the ability of his clients, PI and IIROC to fully investigate this matter and to determine the extent of his conduct.

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 Toronto, Ontario, this 29th day of May, 2014.

ELSA RENZELLA
VICE-PRESIDENT, ENFORCEMENT
INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
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