

FEB 05 2018

IN THE MATTER OF:

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

AND

ROBERT EDWARD SOLE

NOTICE OF HEARING

An initial appearance (“Initial Appearance”) will be held before a hearing panel (“Hearing Panel”) of the Investment Industry Regulatory Organization of Canada (“IIROC”) pursuant to Sections 8203 and 8205 of the Consolidated Enforcement, Examination and Approval Rules of IIROC in this matter. The purpose of the Initial Appearance is to schedule a hearing (“Hearing”).

The Initial Appearance will be held on: April 11, 2018 at 10:00 a.m.

The Initial Appearance will be held at: IIROC – British Columbia Room
121 King Street West, Suite 2000
Toronto, ON

The Respondent must serve a Response (“Response”) to this Notice of Hearing and the Statement of Allegations dated February 5, 2018 (“Statement of Allegations”) 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 Section 8415(1), the Initial Appearance may be immediately converted to a Hearing.

If the Respondent files a Response in accordance with Section 8415(1), the Initial Appearance will be immediately followed by an initial prehearing conference. In preparation for the prehearing conference, the Respondent must serve and file a prehearing conference form in accordance with Section 8416(5).

The purpose of the Hearing will be to determine whether the Respondent has committed the contraventions that are alleged by the staff of IIROC (“Staff”). The alleged contraventions are contained in the Statement of Allegations.

Pursuant to Section 8409, the Hearing will be conducted as an:

Oral Hearing

Electronic Hearing

Written Hearing

The Initial Appearance, the Hearing and all related proceedings will be subject to the *Rules of Practice and Procedure* as set out in Section 8400.

Pursuant to the *Rules of Practice and Procedure*, 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.

If the Respondent fails to serve a Response at the Hearing the Hearing Panel may, pursuant to Section 8415(4):

- (a) proceed with the hearing as set out in this Notice of Hearing, without further notice to the Respondent;
- (b) accept as proven the facts and contraventions set out by Staff in the Statement of Allegations; and
- (c) order sanctions and costs against the Respondent pursuant to Sections 8210 and 8214 and/or IIROC Dealer Member Rules 20.33 and 20.49.

If the Hearing Panel concludes that the Respondent did commit any or all of the contraventions alleged by Staff in the Statement of Allegations, the Hearing Panel may, pursuant to Section 8210 and/or IIROC Dealer Member Rules 20.33, impose any one or more of the following sanctions:

- (a) a reprimand;
- (b) disgorgement of any amount obtained, including any loss avoided, directly or indirectly, as a result of the contravention;
- (c) 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 person, directly or indirectly, as a result of the contravention.
- (d) 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;

- (e) imposition of any terms or conditions on the person's continued approval or continued access to a Marketplace;
- (f) prohibition of approval in any capacity, for any period of time, including access to a Marketplace;
- (g) revocation of approval;
- (h) a permanent bar to approval in any capacity or to access to a Marketplace;
- (i) permanent bar to employment in any capacity by a Regulated Person; and
- (j) any sanction determined to be appropriate under the circumstances.

If the Hearing Panel concludes that the Respondent did commit any or all of the contraventions alleged by the Staff in the Statement of Allegations, the Hearing Panel may assess and order any investigation and prosecution costs determined to be appropriate and reasonable in the circumstances pursuant to Section 8214 and/or IIROC Dealer Member Rule 20.49.

DATED this 5th day of February, 2018.



NATIONAL HEARING COORDINATOR
Investment Industry Regulatory Organization of Canada
Suite 2000, 121 King Street West
Toronto, Ontario, M5H 3T9

IN THE MATTER OF:

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

AND

ROBERT EDWARD SOLE

STATEMENT OF ALLEGATIONS

Further to a Notice of Hearing dated February 5, 2018 Enforcement Staff of the Investment Industry Regulatory Organization of Canada (IIROC) make the following allegations:

PART I - CONTRAVENTIONS ALLEGED

Contravention 1

Between August 2016 and September 2016, the Respondent, Robert Edward Sole (the “Respondent”), entered orders on IIROC-regulated marketplaces while his access to IIROC-regulated marketplaces was suspended, contrary to Dealer Member Rule 29.1 and/or Consolidated Rule 1400 (effective as of September 1, 2016).

Contravention 2

Between August 2016 and September 2016, the Respondent engaged in an outside business activity without obtaining the approval of his Dealer Member, contrary to Dealer Member Rule 18.14.

Contravention 3

In October 2017, the Respondent failed to cooperate with Enforcement Staff who were conducting an investigation, contrary to section 8104 of the Consolidated Rules.

PART II - PARTICULARS

Overview

1. At all material times, the Respondent worked as a proprietary trader at W.D. Latimer Co. Limited. (“W.D. Latimer”).
2. In a settlement agreement that was approved by an IIROC hearing panel, the Respondent admitted that he had placed orders that he did not intend to execute on IIROC-regulated marketplaces. Pursuant to the settlement agreement, the Respondent’s access to IIROC-regulated marketplaces was suspended.
3. In June 2017, Enforcement Staff learned that during his suspension and while he was still employed by W.D. Latimer, the Respondent had commenced employment as a trader with a proprietary trading firm with direct electronic access to IIROC-regulated marketplaces (the “Proprietary Trading Firm”) and that he had entered orders on IIROC-regulated marketplaces.
4. The Respondent did not inform W.D. Latimer that he was working as a trader at the Proprietary Trading Firm and once his suspension was completed, he returned to W.D. Latimer to trade.
5. In July 2017, Enforcement Staff opened an investigation into the Respondent’s conduct.
6. In October 2017, the Respondent failed to comply with Enforcement Staff’s request to attend an investigatory interview.

Respondent's Registration History

7. The Respondent first began working in the securities industry in 1996.
8. In May 2008, he began working as a proprietary trader at W.D. Latimer and was registered as an Investment Representative (Institutional) dealing with securities.

July 2016 Settlement Agreement

9. In July 2016, the Respondent and IIROC Staff entered into a settlement agreement (the "Settlement Agreement") in which the Respondent admitted that between March 2013 and June 2013, he entered orders that he did not intend to execute (non-bona fide orders), during the pre-opening of the TSX Venture Exchange with the intent of affecting the Calculated Opening Price (the COP) of securities to his own advantage. This practice is commonly known as "spoofing".
10. In the Settlement Agreement, the Respondent also admitted that between October 2014 and December 2014, he entered orders that he intended to execute (bona fide orders) on one side of the market, while simultaneously placing non-bona fide orders on the other side of the market in order to induce other market participants to react and trade with his bona fide orders at an artificial price. This practice is commonly known as "layering".
11. The Settlement Agreement contained the following terms of settlement:
 - (i) a fine of \$10,000 payable by the Respondent to IIROC;
 - (ii) costs of \$1,000 payable by the Respondent to IIROC; and
 - (iii) a suspension of access to IIROC-regulated marketplaces from August 15, 2016 to September 15, 2016.
12. On July 28, 2016, the Settlement Agreement became effective and binding upon the Respondent and Enforcement Staff when it was accepted by an IIROC hearing panel.

13. Accordingly, the Respondent's access to IIROC-regulated marketplaces was suspended from August 15, 2016 to September 15, 2016 (the "Suspension Period").
14. During the Suspension Period, the Respondent was still employed by W.D. Latimer.
15. On September 18, 2016, the Respondent's access to IIROC-regulated marketplaces was reinstated.
16. Between September 19 and 27, 2016, the Respondent entered orders to IIROC-regulated marketplaces in his capacity as an Investment Representative (Institutional) with W.D. Latimer.
17. On September 30, 2016, the Respondent left his employment at W.D. Latimer and he has not been registered with IIROC since.
18. The Respondent has not paid the \$11,000 fine and costs payable to IIROC pursuant to the Settlement Agreement.

Accessing IIROC-Regulated Marketplaces While Suspended

19. Direct electronic access (DEA), allows an eligible client of a Dealer Member to enter orders directly to IIROC-regulated marketplaces by means of an electronic connection to the Dealer Member's trading system.
20. In June 2017, IIROC's Trade Review and Analysis department discovered that during the Suspension Period, the Respondent had entered orders on IIROC-regulated marketplaces through the Proprietary Trading Firm.
21. The Proprietary Trading Firm was a DEA client of a Dealer Member.

22. During the Suspension Period, the Respondent executed approximately 48 buy orders and 59 sell orders in 9 issuers on IIROC-regulated marketplaces.
23. In response to enquiries made by Enforcement Staff, the Proprietary Trading Firm provided the following information:
- employees of the Proprietary Trading Firm trade on its behalf with the firm's capital;
 - on August 15, 2016, the Proprietary Trading Firm interviewed the Respondent;
 - on August 24, 2016, the Respondent began working at the Proprietary Trading Firm;
 - on September 1, 2016, the Respondent first accessed live markets;
 - the Respondent never disclosed his disciplinary history with IIROC to the Proprietary Trading Firm;
 - in the summer of 2017, the Proprietary Trading Firm learned of the Settlement Agreement;
 - after it became aware of the Settlement Agreement, the Proprietary Trading Firm raised the issue with the Respondent and he confirmed that he was the subject of the Settlement Agreement; and
 - effective July 12, 2017, the Proprietary Trading Firm terminated the Respondent's employment.

Failure to Inform W.D. Latimer

24. The Respondent failed to inform W.D. Latimer of his employment with the Proprietary Trading Firm and he did not seek W.D. Latimer's approval for that activity.

The IIROC Investigation

25. By a letter dated August 14, 2017, Enforcement Staff advised the Respondent that it had begun an investigation into his conduct while he was employed at W.D. Latimer (the "Investigation").

26. By a separate letter dated August 14, 2017, Enforcement Staff requested the Respondent's attendance at an interview to answer questions regarding the Investigation. Enforcement Staff proposed that the interview be conducted on September 8, 2017 and asked the Respondent to confirm his availability for that date by August 25, 2017.
27. The two letters dated August 14, 2017 were sent to the Respondent in the same envelope via registered mail, which was signed and received at the intended address on August 17, 2017.
28. By a voicemail that was left for the Respondent on August 28, 2017, Enforcement Staff again asked him to confirm his availability for the September 8, 2017 interview.
29. By an email that was sent on August 29, 2017, Enforcement Staff asked the Respondent to retrieve an urgent encrypted message. The encrypted message, which was sent to the Respondent via a separate email on the same day, urged him to confirm his availability for the September 8, 2017 interview. The encrypted message also warned the Respondent about the potential consequences of failing to respond to Enforcement Staff's request for an interview.
30. The Respondent did not respond to any of the above-noted communications and he did not attend the September 8, 2017 interview.

Failure to Comply with Enforcement Staff's Request

31. As a result, by way of a letter dated September 20, 2017, that was personally served on the Respondent on September 25, 2017, Enforcement Staff compelled the Respondent to attend an interview on October 26, 2017 to answer questions in relation to the Investigation.
32. The September 20, 2017 letter also advised the Respondent that if he failed to attend the October 26, 2017 interview or if he did not reschedule the interview, Enforcement Staff

would initiate disciplinary proceedings against him for failure to cooperate with the Investigation.

33. By way of a September 27, 2017 email, the Respondent informed Enforcement Staff that he was no longer in the financial industry and he would not be attending the October 26, 2017 interview.
34. By way of an October 2, 2017 email, Enforcement Staff, among other things, informed the Respondent that he remained subject to IIROC's jurisdiction for six years following the date on which he ceased to be an IIROC-regulated person. Therefore, he was required to attend the October 26, 2017 interview.
35. The Respondent failed to attend the October 26, 2017 interview.

DATED at Toronto, Ontario this 5th day of February, 2018.