

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

IN THE MATTER OF:

**THE RULES OF THE INVESTMENT INDUSTRY REGULATORY
ORGANIZATION OF CANADA (IIROC)**

AND

OWEN BLAGRAVE MENZEL

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. IIROC Enforcement Staff (“Staff”) and the Respondent Owen Blaggrave Menzel (the “Respondent”), consent and agree to the settlement of this matter by way of this agreement (the “Settlement Agreement”).
2. The Enforcement Department of IIROC has conducted an investigation (the “Investigation”) into the Respondent’s conduct.
3. 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

4. Staff and the Respondent jointly recommend that the Hearing Panel accept this Settlement Agreement.
5. The Respondent admits to the following contravention of IIROC Dealer Member Rules, Guidelines, Regulations or Policies:

From January 2010 to February 2012, the Respondent failed to adequately supervise Registered Representative Rajiv Puri, contrary to IIROC Dealer Member Rules 38, 1300.2, and 2500.

6. Staff and the Respondent agree to the following terms of settlement:
 - a) Payment of a fine in the amount of \$20,000; and,
 - b) A six week suspension from registration as a Supervisor.
7. The Respondent agrees to pay costs to IIROC in the sum of \$1,500.

III. STATEMENT OF FACTS

(i) Acknowledgment

8. 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) Factual Background

Overview

9. At all material times, the Respondent was the Ultimate Designated Person, Chief Compliance Officer and a Supervisor at PWM Capital Inc. ("PWM") in Toronto, Ontario. He was responsible for the supervision of all PWM personnel, including supervision of Registered Representative Rajiv Puri ("Puri") from 2010 to 2012.
10. From January 2010 to early 2012, the Respondent failed to adequately supervise Puri in that he did not sufficiently review or question the activities that Puri conducted in his client accounts. In particular, he failed to supervise the opening of a number of Puri client accounts which purchased or intended to purchase shares in MobileBits Holdings Corp. ("MBIT"), an Over the Counter Bulletin Board stock. In fact, MBIT shares were not legally qualified for distribution in Ontario or Quebec.
11. Puri's employment was terminated by PWM in February 2012. At that time PWM informed IIROC that Puri had failed to disclose certain outside business activities.

Disciplinary action against Puri

12. Following a December 2013 disciplinary hearing, an IIROC Hearing Panel found, among other things, that Puri had failed to exercise due diligence when opening certain client accounts at PWM.
13. In a sanction decision dated January 20, 2014, the Hearing Panel imposed various sanctions on Puri, including fines totaling \$36,000 and a six month suspension from registration.

Background

14. The Respondent has been an Approved Person with IROC in various capacities since 2002. From January 2010 until January 2013, he was employed with PWM and registered with IROC as the UDP and Supervisor, as well as the CCO at various times.
15. In early 2013, PWM changed its name to Arton Investments (“Arton”). The Respondent is currently approved as the UDP, Supervisor, CCO and CFO at Arton.
16. Since November 2012, PWM and now Arton no longer maintain any retail clients. Arton’s business activities are limited solely to the Quebec Immigrant Investor Program (“QIIP”). The QIIP is a Quebec government initiative which helps individuals and their families gain entry to that province by providing funds in support of Quebec’s economic development.

Puri’s work location

17. The Respondent was aware that from time to time Puri worked at various locations other than PWM’s offices. Occasionally Puri was out of the country. The Respondent was also aware that sometimes Puri worked out of a home office and sometimes he worked out of the Toronto office of a company known as “Skyline”.

MBIT

18. According to the Respondent, Puri told him that he was associating himself with Skyline who was promoting the sale of MBIT shares.
19. In approximately February of 2011, the Respondent asked Puri about MBIT when Puri provided him with a new account opening form proposing to transfer in MBIT shares. The Respondent understood from Puri that he wanted to open accounts for clients who had already purchased MBIT shares but planned to diversify the holdings in their accounts.
20. The Respondent told Staff that he believed that Puri’s clients had already invested in MBIT shares prior to opening their new accounts at PWM. One email sent by Puri to the Respondent in February 2011 indicates, however, that at least one client had not yet purchased MBIT shares.

Opening of new accounts at PWM

21. Puri opened approximately 30 new accounts at PWM in 2011, all of which purchased or proposed to purchase MBIT shares. A number of new account application forms for these clients were sent to PWM’s carrying broker without having been signed by the Respondent.

22. Six of the new accounts that Puri opened at PWM in 2011 had MBIT shares deposited into them.
23. The Respondent knew that MBIT shares bore a restricted legend. The Respondent did not review a stock purchase agreement or any of the other documents relating to MBIT, other than some stock certificates.
24. In actual fact, MBIT shares were not legally qualified for distribution in Ontario or Quebec.

Lack of adequate supervision

25. The Respondent failed to conduct sufficient due diligence at the time that Puri opened the new accounts in 2011. The Respondent did not adequately supervise Puri in that he:
 - (a) failed to question Puri's involvement in assisting clients to purchase shares of MBIT;
 - (b) failed to ask Puri whether MBIT shares were approved for sale or distribution in Ontario or Quebec where Puri's clients resided;
 - (c) permitted Puri to work from Skyline's offices;
 - (d) did not review the MBIT documentation distributed by Skyline and provided to him by Puri, which included a pooling agreement, a shareholder agreement and other documents relating to purchases of MBIT shares;
 - (e) did not make sufficient inquiries into the circumstances of the opening of these accounts; and,
 - (f) did not make any notes of any discussions with Puri regarding MBIT.
26. Other details of the inadequate supervision include the fact that from January 2010 to February 2012, the Respondent:
 - (a) often did not know where Puri was physically located;
 - (b) allowed Puri to work outside of the country where he could not adequately supervise him;
 - (c) did not visit Puri's home office;
 - (d) did not conduct any supervision related reviews of Puri's work emails;

- (e) allowed Puri to use an email account held outside of PWM for business communications, even though the Respondent could not access or review this account; and
- (f) failed to follow up with Puri to determine whether he had completed a 2011 PWM questionnaire relating to the disclosure of his outside business activities.

Mitigating Factors

- 27. The Respondent does not have any previous disciplinary history with IIROC.
- 28. The Respondent co-operated with Staff's Investigation and this prosecution.

IV. TERMS OF SETTLEMENT

- 29. 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.
- 30. The Settlement Agreement is subject to acceptance by the Hearing Panel.
- 31. The Settlement Agreement shall become effective and binding upon the Respondent and Staff as of the date of its acceptance by the Hearing Panel.
- 32. 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.
- 33. If the Hearing Panel accepts the Settlement Agreement, the Respondent waives his rights under IIROC rules and any applicable legislation to a disciplinary hearing, review or appeal.
- 34. 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.
- 35. The Settlement Agreement will become available to the public upon its acceptance by the Hearing Panel.
- 36. 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.

37. Unless otherwise stated, any monetary penalties and costs imposed upon the Respondent are payable immediately upon the effective date of the Settlement Agreement.
38. 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 Toronto in the Province of Ontario, this "17th" day of December, 2014.

"WITNESS"

"OWEN BLAGRAVE MENZEL"

AGREED TO by Staff at the City of Toronto in the Province of Ontario, this "16th" day of "January", 2015.

"WITNESS"

"KATHRYN ANDREWS"
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 "16th" day of "January", 2015,
by the following Hearing Panel:

Per: "Jeffrey Flinn"
Panel Chair

Per: "Debbie Archer"
Panel Member

Per: "Zahra Bhutani"
Panel Member