

**INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA**

**ON BEHALF OF THE**

**INVESTMENT DEALERS ASSOCIATION OF CANADA**

**IN THE MATTER OF:**

**THE BY-LAWS OF THE  
INVESTMENT DEALERS ASSOCIATION OF CANADA**

**AND**

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

**AND**

**RAVINDRA KUMAR SUPPAL**

**NOTICE OF HEARING**

**TAKE NOTICE** that pursuant to Part 10 of Dealer Member Rule 20 and Section 1.9 of Schedule C.1 to Transition Rule No.1 of the Investment Industry Regulatory Organization of Canada (“IIROC”), a hearing will be held before a hearing panel of IIROC (“Hearing Panel”) on October 9, 10, 11, and 12, 2012 at 10:00 a.m., at the Delta Winnipeg, Kildonan room.

**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

**TAKE FURTHER NOTICE** that on June 1, 2008, IIROC consolidated the regulatory and enforcement functions of the Investment Dealers Association of Canada and Market Regulation Services Inc. Pursuant to the Administrative and Regulatory Services Agreement between IDA and IIROC, effective June 1, 2008, the IDA has retained IIROC to provide services for IDA to carry out its regulatory functions.

**THE PURPOSE OF THE HEARING** is to determine whether Ravindra Kumar Suppal (“the Respondent”) has committed the following contraventions that are alleged by the Staff of IIROC (“Staff”):

- i. From June of 2005 until April of 2010, the Respondent failed to use due diligence to learn and remain informed of the essential facts relative the First Nation band’s Trust, contrary to Rule 1300.1(a) (IDA Regulations 1300.1(a) prior to June 1, 2008);
- ii. From May of 2007 until April 2010, the Respondent made unsuitable trades in the account of the First Nation band’s Trust, Contrary to Rule 1300.1(q) (IDA Regulations 1300. (q) prior to June 1, 2008);
- iii. From September of 2009 until April of 2010, the Respondent made unauthorized trades in the account of the First Nation band’s Trust, contrary to Rule 29.1.

## **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 arises from the Respondents handling of an account for a First Nation band’s Trust (the “Trust”). The Respondent failed to properly understand the terms of the Trust Indenture. This resulted in mismanagement of the account and the Trust’s Corporate Trustee not being included in investment decisions.

### **Registration History**

2. The Respondent is currently Branch Manager with First Financial Securities Inc. (“First Financial”) in Winnipeg. He began with First Financial in December of 2003 as a Registered Representative (“RR”) and was promoted to Branch Manager in September of 2009.

### **Know your Client**

3. In June of 2005 the Respondent, while working as a RR at First Financial, opened an account on behalf of a Trust that was set up to benefit a First Nation band. The Trust Indenture designated four trustees, three of whom are from the First Nation (the “First Nation Trustees”). The fourth trustee is P.H. (the “Corporate Trustee”).
4. The Trust Indenture requires that investment decisions be made by a majority of the Trustees and that the Corporate Trustee must be one of the majority. However, the Respondent did not include the Corporate Trustee as part of the account opening process.

They are not included in any of the account's opening documents nor are they signatories on the account. Rather, the account was opened on the direction of the three First Nation Trustees only, and they are the only individuals listed as having trading authority over the account.

5. The Respondent did not obtain any documentation verifying that the First Nation Trustees had authority to give investment instructions on behalf of the Trust. The accounts opening documents included two forms, one purporting to be a "Resolution for Corporate Accounts", the other a "Resolution of the Board of Directors". The documents were relied upon by the Respondent to show that the First Nation Trustees were authorized to make decisions on behalf of the Trust. However, neither document referenced the Trust or had been endorsed by the Corporate Trustee. Rather, they read as resolutions of the First Nation band.
6. While the Respondent did not include the Corporate Trustee in the opening of the Trust's account, he did send monthly account statements to the Corporate Trustee. As well, the Corporate Trustee sent cheques to the Respondent with the direction that the forwarded funds be administered in compliance with the Trust agreement. This arrangement lasted from the account's opening in 2005 until September of 2009. In 2009 the Corporate Trustee realized the Trust was not being administered in accordance with the Trust's terms, and advised the Respondent that they must authorize trading instructions.
7. The Respondent also set investment objectives and risk factors which were not consistent with the Trust's requirements. The overriding investment policy set out in the Trust Indenture is as follows:
  - a. The Trust Fund and, in particular, the Initial Settlement Amount, is intended to be preserved in perpetuity to enable future generations to benefit from this Trust and, without limiting the generality of the foregoing, the Trust's investment policy must be dedicated to safety of the capital in perpetuity.
8. The Initial Settlement Amount was \$10,265,921.76. At the time the account was opened in June of 2005 the Trust's net value was approximately \$9,600,000.00. The Trust's net value did not exceed the Initial Settlement Amount until November of 2009.
9. Despite the investment policy and that the net value of the Trust was less than the Initial Settlement Amount, the account's investment objectives were listed as:
  - a. Capital Preservation 30%
  - b. Income (with some stability of principal) 30%
  - c. Long-term Growth 20%
  - d. Speculation 20%

With risk factors 50% low and 50% medium.

10. By 2009 the account's objectives were listed as was listed as 100% high risk and was invested in nothing but equity mutual funds.
  - a. Long-term Growth 80%
  - b. Speculation 20%

### **Suitability**

11. The Respondent made investments that were unsuitable for the Trust given the investment policy set out in the Trust Indenture.
12. The Respondent made fixed-income investments for the first two years after opening the account. However, in May of 2007 he began to recommend equity mutual funds. The percentage of equity mutual funds held in the trust grew from 23% in May of 2007 to 100% in January of 2010.

### **Unauthorized Trades**

13. In a letter dated September 17, 2009, the President and Chief Executive Officer of the Corporate Trustee advised the Respondent that they, as the Corporate Trustee, needed to approve all trading instructions. The Respondent was asked to return a signed copy of the letter by way of acknowledgment, which he did. However, the Respondent continued to trade in the Trust's account without receiving instructions from the Corporate Trustee.
14. The Corporate Trustee sent another letter to the Respondent, dated December 10, 2009, advising him that he had breached the Trust requirements by setting up the account the way he had. They also pointed out that the accounts opening documents were flawed, and that they, as Corporate Trustee, required signing authority. The Respondent, again, continued to trade in the Trust's account without receiving instructions or approvals from the Corporate Trustee.
15. The Corporate Trustee sent another letter to the Respondent, dated February 2, 2010. In it, they advised the Respondent that he was not authorized to carry out any trades in relation to the Trust.
16. After receiving the September 19, 2009 letter from the Corporate Trustee, the Respondent earned approximately \$137,079.00 in commissions from unauthorized trades. This includes the commission from the unauthorized sale of a Province of Manitoba Coupon worth approximately \$2,598,000.00. The Coupon was sold on December 11, 2009, without approval from the Corporate Trustee.

## **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 Vancouver, British Columbia, this “26” day of June, 2012.

**“Warren Funt”**

WARREN FUNT  
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