

# Re Ewing

IN THE MATTER OF

**The Investment Dealer and Partially Consolidated Rules and the Dealer Member Rules**

**and**

**Matthew Philip Ewing**

2026 CIRO 01

Canadian Investment Regulatory Organization  
Hearing Panel (Ontario District)

Heard: November 20, 2025

Decision: January 5, 2026

## Hearing Panel

Louise Barrington, Chair

Randee Pavalow, Panel Member

Ron Smith, Panel Member

## Appearances

Jennie Brodski, CIRO Enforcement Staff Counsel

April Engelberg, CIRO Enforcement Staff Counsel

Michael Byers, Counsel for Matthew Philip Ewing

Stephanie Dandelé, Counsel for Matthew Philip Ewing

Matthew Philip Ewing (present)

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## PENALTY DECISION AND REASONS

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### INTRODUCTION

[1] After a seven-day hearing held between April 24 and May 2, 2025, the Hearing Panel released its decision on the merits of this case on July 31, 2025. The allegations against the Respondent fell into three categories:

- a. falsification of portfolio overview documents, contravening Investment Dealer and Partially Consolidated Rule 1400 (**IDPC Rule 1400**);
- b. personal financial dealings with six clients, contravening section 43 of IDPC Rule 3100; and
- c. discretionary trading without authorization, contravening Dealer Member Rule 1300 (**DMR 1300**).

[2] Following the hearing and deliberations, the Panel concluded that:

- a. There was insufficient reliable evidence to support a finding of falsification of documents, or of intentional deception of clients.<sup>1</sup> However, it was clear that the Respondent engaged in conduct inconsistent with good professional practice standards, in contravention of IDPC Rule 1400. Said conduct included misuse of his private email for business, reliance on client account overviews that he admits could be unreliable, and his failure to supervise the activities of associates on his team.

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<sup>1</sup> [Re Ewing 2025 CIRO 39](#), Reasons for Decision on Liability, paras 141-151.

- b. By using his private email for client business, the Respondent obscured the audit trail. He made it impossible to obtain a reliable picture of his client transactions for monitoring compliance with legal and ethical standards.
- c. Even accepting the Respondent's explanation that his co-workers could have manipulated and transmitted the disputed messages, the Respondent, as a Registered Representative and team leader, exposed himself and his employer to unauthorized activities, including fraud. This conduct, involving the accounts of seven clients over a period of some six months, put the reputations of his employer and the securities industry at risk, in breach of IDPC Rule 1400.
- d. The Respondent admitted to reimbursing clients' losses of approximately \$1.57 million from his personal funds without informing his employer. He also paid another client \$94,650 of his own funds for reasons that are unclear, again without his employer's knowledge.
- e. The Panel concluded that the Respondent had co-mingled client funds with his own funds on several occasions; by receiving them into an account he held jointly with his (future) wife, and part of those funds was used to purchase investments which, as a professional, he was ineligible to buy. His explanations as to the origin of the various transfers were implausible and unsupported by reliable evidence. Other transactions impugned by Enforcement Staff may or may not in themselves have been illicit. Still, the co-mingling of funds, together with the Respondent's unsupported explanations, led to the conclusion that these were indeed improper financial transactions, contravening DMR 43 and IDPC Rule 3100.
- f. The third allegation, of discretionary trading, was the red flag that sparked this investigation. The Respondent had an inordinately high volume of trades, particularly in, but not limited to, the month of April 2022, which made it seem unlikely that he obtained the necessary consent from each client before making a trade. However, he denied this, and the evidence tendered by Enforcement Staff was insufficient to discharge the burden of proving on a balance of probabilities that the Respondent had engaged in unauthorized discretionary trading.

[3] Prior to the Hearing on Penalty, Enforcement Counsel and the Respondent's Counsel delivered written submissions as to appropriate sanctions in this case, together with substantial compendia of legal authorities in support. At a one-day hearing, the Panel heard oral arguments from Ms. Brodski, Mr. Byers and Ms. Dandale.

[4] The CISO Sanction Guidelines<sup>2</sup> provide for the imposition of one or more categories of penalty, ranging from reprimand, supervision, disgorgement, fines, payment of costs, temporary suspension, re-qualification, or a permanent bar from future registration in the securities industry, as well as "any other fit remedy or penalty".

[5] Although not binding upon the Panel, the Guidelines are intended to promote consistency, fairness and transparency in the exercise of the Panel's discretion in determining sanctions. The principles upon which they are based are as follows:

- a. They are preventive in nature, to protect the public, strengthen market integrity, and improve business standards. To deter other similar misconduct, the sanctions should be proportional and in line with industry expectations, after consideration of any mitigating and aggravating factors.
- b. Sanctions should ensure that respondents do not benefit financially from their misconduct. The sanctions should serve as a deterrent by removing any incentive to engage in similar misconduct.
- c. Sanctions should be more severe for a respondent with a prior disciplinary record.
- d. For multiple violations, the total sanction should appropriately reflect the totality of the misconduct, but should not be excessive or disproportionate to the gravity of the total misconduct.
- e. The respondent's ability to pay may be a relevant consideration; the burden is on the respondent to raise this issue.

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<sup>2</sup> CISO Sanction Guidelines, effective as of February 1, 2024, replaced the IIROC and MFDA Sanction Guidelines.

- f. A respondent may be entitled to credit for providing proactive and exceptional assistance to CIRO Enforcement Staff.

[6] According to CIRO Sanction Guidelines<sup>3</sup>, a permanent bar should be considered where, among other things, the proven contraventions involve significant harm to the investing public, the integrity of the market or the securities industry, or there was an element of criminal or quasi-criminal activity, or there is reason to believe that the respondent could not be trusted to act honestly and fairly. The permanent bar may be imposed in addition to fines and disgorgement where there has been significant harm to investors or the industry. The extent of the harm is an important factor in determining sanctions.<sup>4</sup>

[7] Fines and disgorgement of up to \$5 million per contravention, of up to three times the profit made by the respondent, and commensurate with the seriousness of the misconduct should be at a level that cannot be viewed as “a cost of doing business” and the amount of disgorgement should ensure that a respondent does not benefit financially from the misconduct thus removing any incentive to engage in non-compliant conduct.

[8] Suspensions are imposed for serious contraventions or a pattern of misconduct, where there has been fraudulent, willful or reckless misconduct, where there has been harm to investors, the marketplace or the securities industry as a whole.

[9] Dealer Members must ensure that suspended regulated persons are not permitted to engage in securities-related activities.

#### **SUBMISSIONS OF ENFORCEMENT COUNSEL**

[10] Enforcement Counsel proposed the following sanctions:

- a. permanent bar to future employment in the securities industry as a Registered Representative,
- b. fine of \$100,000,
- c. disgorgement of funds improperly obtained, calculated at \$280,000, and
- d. costs of \$50,000 in accordance with IDPC Rule 8214(1).

[11] In their written submission, Enforcement Counsel recalled that the Panel had found the Respondent had engaged in misconduct under DMR 43 by failing to adhere to good professional practices, including failure to supervise the members of his team. Although evidence was insufficient to support the allegation of fraud, the Respondent either sent, or allowed to be sent from his personal email, overviews of client accounts that were clearly unreliable. The sending of messages from the business to the personal and back to the business accounts with inflated values invited suspicion. At the very least, the Respondent failed to supervise his associates with appropriate due diligence, allowing them free access to his own business and personal email.

[12] Contrary to IDPC Rule 3100, the Respondent had had personal financial dealings with clients in excess of \$2 million, including borrowing \$900,000 from one client and \$280,000 from another. He had also reimbursed clients for losses on their accounts without his employer's knowledge. Furthermore, he received, into an account he held jointly with his (now) wife, and without a plausible explanation, \$30,000 from another client and \$10,000 from yet another, in dealings not reported to his employer.

[13] The Respondent co-mingled client funds into this joint account, totaling \$200,000, which most likely was used to acquire investments that he, as a professional, was ineligible to purchase.

[14] Enforcement Counsel argues that the Respondent has not demonstrated remorse for his actions and has not been candid or cooperative with Enforcement Staff or with the Panel.<sup>5</sup>

[15] Enforcement Counsel then referred to the cases presented to the Panel prior to the hearing, to assist in evaluating sanctions to be imposed in other cases. Some but not all are cited in this decision; all were

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<sup>3</sup> See Permanent Bars, page 10.

<sup>4</sup> See Part III, Additional Considerations, page 9.

<sup>5</sup> At the hearing, Ms. Brodski referred to Staff's second examination of the Respondent, conducted by April Engelberg to contradict the Respondent's claim that he had been candid and co-operative with CIRO.

considered by the Panel to evaluate their similarities and distinctions from the present case. The Panel, although not bound by either the Guidelines or the precedent cases, considered the factors set out in both to produce a decision regarding sanctions that was appropriate and would meet the expectations of those operating in the securities industry.

[16] In *Re Movassaghi*<sup>6</sup>, the respondent had falsified client signatures, or ought to have known that the signatures were false and failed to exercise due diligence. He misled Enforcement Staff in sworn interviews, “akin to perjury”, and did not appear at the hearings on liability or penalty. In that case, there was harm to the investing public and an element of criminal or quasi-criminal behaviour. There was reason to believe that the respondent could not be trusted and financial losses to clients, due to ongoing conduct intended to deceive or mislead. A settlement agreement including fines of \$30,000 for forgeries and \$50,000 for misleading IIROC, a permanent ban and costs of \$40,000 were imposed by a hearing panel.

[17] A permanent ban proposed by Enforcement Staff was ordered in *Re Kazina*<sup>7</sup>, where the respondent had engaged in securities-related business outside the account of a Member Dealer, with clients and others. This activity took place over years. Although there was no proof of dishonesty or intent to harm, “altruistic reasons [do] not change the fact that he [Kazina] broke the rules and investors were harmed as a result.” Intent was not a mitigating factor.

[18] A permanent ban also resulted in *Re Szekely*<sup>8</sup>, where the respondent had solicited over \$287,000 from clients for securities deals made outside the Dealer Member account, and failed to repay the clients, engaged in personal dealings with clients, or had a second unrelated, undisclosed secondary occupation, and engaged in personal financial dealings with a client. In this context, he also engaged in unauthorized high-risk trading and co-mingled his own funds with those of clients. He then failed to cooperate with MFDA investigating staff, contravening MFDA By-laws. In that case, both counsel agreed that the seriousness of the misconduct and harm to clients warranted the permanent prohibition from conducting securities related business.

[19] *Re Belknap*<sup>9</sup> involved undisclosed outside business activities with clients relating to the purchase and sale of art. The respondent, who was aged 75 at the time of the investigation, admitted to having conducted improper business activity for over 15 years, during which his clients lost an estimated \$6.5 million. In the settlement agreement, the penalty was set at a fine of \$175,000, costs of \$10,000 and a permanent ban from registration in any capacity with IIROC. The hearing panel observed, “when a person undertakes activity outside the auspices of the firm, that fundamental protection provided for in securities regulation is unable to occur.”<sup>10</sup>

[20] In an IDA decision<sup>11</sup>, a seasoned professional in the industry was found to have failed in his supervisor duties and was fined and required to re-write the Partners, Directors and Officers examination, despite his attempts to supervise two client accounts, he approved KYC forms prepared by a Registered Representative that were no longer compatible with the client’s changed investment goals and he failed to prevent the Registered Representative’s excessive trading or “churning” on client accounts. The penalty was a fine of \$50,000 and costs of \$35,000.

[21] In *Re Pariak-Lukic*<sup>12</sup>, a Registered Representative, without the knowledge of her firm, and without disclosing a conflict of interest to her clients, recommended or facilitated off-book investments without the required prospectus. IIROC had asked for a \$50,000 fine, two-year suspension, re-writing the Securities and Conduct and Practices examinations and costs of \$45,000. The original decision imposed a fine of \$50,000, close supervision for six months, re-writing the examinations and costs of \$45,000. It did not include a suspension.<sup>13</sup>

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<sup>6</sup> *Re Movassaghi* 2022 IIROC 02

<sup>7</sup> *Re Kazina* 2025 CIRO 01 at paras 118-119, citing *Re Walker*

<sup>8</sup> *Re Szekely* MFDA #2018132, 2019

<sup>9</sup> 2020 IIROC 15

<sup>10</sup> See *Re Trueman* 2016 IIROC 29

<sup>11</sup> *Re Mills*, [2001] I.D.A.C.D. No. 7, Bull. 2842, April 17, 2001

<sup>12</sup> 2014 IIROC 11

<sup>13</sup> *Re Pariak-Lukic*, ONOSC 357, and *Pariak-Lukic v IIROC*, Divisional Court No 361/15

[22] IIROC Staff appealed to the Securities Commission, arguing that the panel had made errors in law by adopting an “overly restrictive” approach to the facts to be considered in determining the appropriate penalty. The panel concluded that the respondent’s misconduct was not the result of dishonesty or acting in bad faith or “any kind of moral turpitude”.

[23] IIROC Staff also argued that the panel had thus overlooked material evidence and failed to consider the risk and suitability of the investments recommended by the respondent, and then wrongly considered the effect of the “trauma” of the investigation and IIROC hearing on the respondent. As a result, the panel failed to give sufficient weight to the principle of deterrence and to the expectations of the securities industry. IIROC Staff argued that the panel’s decision was inconsistent with public interest in light of the seriousness of the respondent’s conduct.

[24] The Ontario Securities Commission (**OSC**) agreed that the panel had proceeded on an incorrect principle, failing to consider the “reckless disregard for the interests of her clients” and citing the Guidelines’ recommendation of a suspension for “egregious cases involving large value high-risk off-book distributions”. The OSC’s decision, substituted for that of the IIROC hearing panel, imposing a two-year suspension. An appeal to the Divisional Court was dismissed with costs.

[25] Citing *Re Cartaway Resources Corp* and *Re Wong*<sup>14</sup>, the panel in *Re Jenkins* noted that, “A penalty that is meant to deter generally is a penalty that is designed to keep an occurrence from happening; it discourages similar wrongdoing in others. In a word, a general deterrent is preventative. It is therefore reasonable to consider general deterrence as a factor, albeit not the only one, in imposing a sanction...” and,

[T]o achieve both general and specific deterrence, the penalties imposed must be appropriately unpleasant to the respondent taking into account the respondent’s specific misconduct and must also be in line with industry expectations.... If a penalty is less than industry’s understandings would lead its members to expect for the conduct under consideration, it may undermine the goals of the Association’s disciplinary process; similarly, excessive penalties may reduce respect for the process and concomitantly diminish its deterrent effect.

[26] In *Re Minhas*<sup>15</sup>, a permanent ban coupled with a fine of \$150,000 and disgorgement of \$275,000 were ordered by the hearing panel as an appropriate deterrent where the respondent acted in an undisclosed conflict of interest by borrowing \$400,000 from three clients. He reimbursed one client but produced no evidence that \$275,000 was repaid to the others. Mr. Minhas attended an interview by CIRO staff, explained the nature of the investment he had made with the funds, and claimed to have repaid the loans. He undertook to provide information and documents to prove these explanations. He then failed to cooperate with the investigation, did not provide the promised documents and ignored the Notice of Hearing and subsequent related communications from CIRO. He failed to attend the hearing and at the time of the hearing was not registered to work in the securities industry.

#### **SUBMISSIONS ON BEHALF OF THE RESPONDENT**

[27] Counsel (Mr. Byers and Ms. Dandale) for the Respondent proposed the following sanctions:

- a. suspension for 1 year,
- b. fine of \$35,000,
- c. no disgorgement order,
- d. no costs.

[28] Mr. Byers first noted the Panel’s discretion in establishing a fair penalty in this case. He stated that the Respondent recognized that he had engaged in wrongdoing, specifically regarding a loan to client JF and acknowledged that a significant penalty would be forthcoming.

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<sup>14</sup> [2004] 1 S.C.R. 672 and 2010 IIROC 50, both cited in *Re Jenkins* 2021 IIROC 05.

<sup>15</sup> 2025 CIRO 17

[29] He argued that the sanctions sought by CIRO Enforcement Staff are disproportionate and not rooted in the Panel's actual findings or precedent. He argued that the Panel should consider the effect of the penalties on the Respondent and the message they send to the securities industry. He argued that the Respondent has paid a significant price for what he did, incurring costs and debt for defending charges, some of which were dismissed. Mr. Ewing has now been out of the securities industry for three years for misconduct that was at least partly due to circumstances, including the health challenges faced by his (now) wife, and the effects of the COVID pandemic.

[30] He pointed out that Enforcement Staff had failed to discharge their burden of proof to prove their allegations of falsification of documents and direct trading. Thus, the Panel should view the result as a "partial success".

[31] He also stressed the evidentiary difficulties in this case; no witness, apart from the Respondent, was able to offer the direct testimony of someone involved in the supervision or execution of the activities complained of. No receipts or bank records were put into evidence to support Mr. Ewing's statement that loans had been repaid. The only evidence of repayment was a cryptic email stating that he was "on his way, bringing money." The absence of documentary proof does not lead to a conclusion that the money was not repaid.

[32] Counsel also argued that the Respondent had co-operated with Enforcement Staff and the Panel, a submission refuted by Ms. Brodski, who noted the incompatible statement from the Respondent's interview with the position taken at the hearing, as well as his attempts to keep certain relevant documents out of the hearing on the basis of privilege to which the Panel found that he was not entitled. Mr. Byers replied that the Respondent had a right to defend himself, and no obligation to "tell everything, nor to disclose every instance of wrongdoing;" if he misled clients or the Dealer Member, it was by silence and had not been by any outright lie.

[33] Ms. Dandale cited the case of *Re Mott*<sup>16</sup> to demonstrate that a permanent ban and a fine of over \$175,000 were appropriate for that egregious case, in contrast with the present case where the conduct was less serious, since there was no evidence before the Panel that the Respondent's misconduct actually harmed any of Mr. Ewing's clients. No former clients testified in the investigation or hearing, and the Panel is unaware of any complaints from clients before this investigation began.

[34] Mr. Byers stated that Mr. Ewing had "paid a price" for his misconduct, citing his own personal losses incurred when he compensated clients for losses in their accounts. He stated that Mr. Ewing has lost a great deal of his own money, is not working in the securities industry and has no intention of returning.

[35] Mr. Byers argued that the Panel should consider the effect of the penalty on the Respondent and urges the Panel to consider the absence of aggravating factors.

[36] The panel in *Re Mott* cited *Re Kowalsky*, addressing that argument: "While the primary objective of sanctions is to prevent future misconduct by the Respondent and other industry participants, and not to punish the Respondent, some element of punishment of the Respondent is the inevitable result [sic] of any sanctions. But the fact that some punishment of the Respondent may occur, should not inhibit the Panel from imposing sanctions, so long as the primary goal of those sanctions is the prevention of future misconduct. [Underlining in original.]"<sup>17</sup>

[37] Several other cases made available by the Respondent tended to show limited use of suspensions, especially of over two years. The Panel has considered the cases presented by both sides.

## ANALYSIS

### The Panel's Findings on the Merits

[38] As set out in the Introduction, with respect to the falsification of documents, the Panel found insufficient evidence to satisfy the burden of proof. However, it was clear that the Respondent engaged in conduct inconsistent with good professional practice standards, in contravention of IDPC Rule 1400. The use of his personal emails for correspondence with clients obscured this conduct, so the Dealer Member firm was unable

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<sup>16</sup> 2024 CIRO 31

<sup>17</sup> *Re Kowalsky* 2022 MFDA 31 at para. 11

to supervise the Respondent's conduct. This was exacerbated by the Respondent's failure, over the months, to monitor and protect the system against the errors or misconduct of his associates. The Panel has considered the case law and counsels' submissions with respect to sanctions with this finding in mind.

[39] The second allegation of private financial dealings with clients was partly admitted by the Respondent, and the Panel found that the remainder had been proven as alleged, and imposed sanctions accordingly.

[40] The third allegation of unauthorized discretionary trading was identified primarily through an analysis of trade volumes over a several-month period. However, the evidence tendered by Enforcement Staff rested solely on quantitative data. In the absence of witness testimony or specific client complaints, the Panel finds the evidence insufficient to discharge the burden of proof on a balance of probabilities. As the contravention was not established, the sanctions imposed by this Panel do not reflect this allegation.

**Appropriate Sanctions**

[41] For ease of comparison, the sanctions proposed by each side are set out in chart form below. The Panel has considered them in light of the appropriate CISO Sanction Guidelines and the cases cited by Counsel.

SANCTION	CISO PROPOSES	RESPONDENT PROPOSES
Suspension	permanent bar	1 year suspension
Fine(s)	\$100,000	\$35,000
Disgorgement	\$280,000	none
Costs	\$50,000	none
Other terms	none	supervision on re-admission

**Scope and nature of the misconduct (# size, character, pattern, over what time period, was it intentional, wilfully blind or reckless)**

[42] *Contravention 1.* Although there was no finding of falsification or forgery of the client overviews as alleged, the Respondent did breach the Dealer Member policies and IDPC Rule 1400 through conduct that was reckless and harmful. The multiple incidents with several different clients involved did constitute a pattern of neglect at the very least, even if the evidence is insufficient to identify any specific individual as its author.

[43] *Contravention 2.* The Panel found that there had been a number of different but inappropriate financial interactions with clients: loans and private, secret reimbursements, investments in cars and wines, in addition to securities, all outside the regulatory system. As a professional, the Respondent knew or ought to have known that co-mingling client money in an account of which he was a joint owner, is indefensible.

**Harm to clients or others in the market, vulnerable clients, reputation of the marketplace**

[44] No monetary harm to a particular individual was proven. Still, the Respondent's conduct outside the confines of securities law and professional regulations left clients and others without the protection of those requirements and standards. The Respondent's failure to comply, intentionally or negligently, caused harm to investors' confidence in the securities markets. The harm was the breach of the public's trust in the integrity and reputation of the financial markets.

**Disciplinary history**

[45] Counsel for the Respondent stressed that the Respondent had no prior disciplinary action by regulatory authorities and invited the Panel to consider this in mitigation of the penalty to be assessed. The Panel concluded that absence of aggravating factors does not create a mitigating factor. It simply does not affect the level of the penalty.

**Amounts obtained or attempted to obtain, or loss avoided as a result of improper activity**

[46] The improper activity concerned at least \$2 million over the months investigated by CIRO. However, there is little evidence from clients and incomplete documentation of the exact amounts of the transactions, loans and possible repayments. Mr. Ewing stated that he had himself paid over \$1 million to clients who had lost money in their accounts. No client came forward at the hearing to claim that the Respondent's actions had done harm. The only evidence that individuals may have been affected is the schedule to an affidavit filed, over the Respondent's protest, that contained the redacted names of 63 complainants in another action, of whom the two unredacted names were clients whose accounts were involved in the conduct alleged in these proceedings. There is absolutely no first-hand evidence of any individual losing money or suffering any other harm as a result of Mr. Ewing's misconduct.

**Has Respondent accepted responsibility and acknowledged the misconduct to employer prior to detection?**

[47] Mr. Byers stated in closing submissions that Mr. Ewing has acknowledged his misconduct and understands that there will be a penalty. The Panel concluded that accepting the inevitable during the course of the hearing is not the same as acknowledging it and accepting responsibility *prior to detection*.

**Was the Respondent subject to internal discipline by the Dealer Member or another regulator or criminally?**

[48] The Respondent's employer terminated his employment on November 18, 2022. The reason for termination, according to the Canadian Securities Administrators form, was failing to cooperate with NBF during NBF's internal review into alleged misconduct, including alteration of client statements, financial dealings with clients, use of personal email for registerable purposes. There was no allegation of criminal activity, or of unauthorized discretionary trading, in the termination letter.

**Has the Respondent provided proactive and exceptional assistance to the investigation, or attempted to delay or conceal information or provided misleading testimony?**

[49] Mr. Byers stated that the Respondent had admitted his wrongdoing, "paid a substantial price" and provided assistance to the investigation. However, as Ms. Brodski observed that the admission came late, and only when the Respondent was faced with evidence that could not be ignored. This is not conduct which can be considered as "proactive and exceptional assistance to the investigation" and therefore is not an element to be considered in mitigation.

**Did the Respondent attempt to conceal their misconduct, or to mislead, deceive or intimidate a client, regulatory authority or a Dealer Member?**

[50] The Panel did not make a finding of intentional concealment of the misconduct. However, it did find that the Respondent's misconduct was reckless and misleading. Using both his personal and work accounts for client business, his lack of supervision of his associates, allowing them free access to his computer and email accounts, and his failure to verify the content of admittedly unreliable documents sent to clients contributed to "obscure the field." As a result, clients were deceived, and the Dealer Member's supervision was ineffective.

[51] With respect to the co-mingled funds, the application to invest with Canaccord contained false information regarding his residence and employment to facilitate an investment that a professional was ineligible to buy.

**Did the Respondent fail to heed regulatory guidance or the Dealer Member's policies and procedures with respect to the misconduct?**

[52] The Respondent's misconduct contravened not only industry standards, but also the rules and best practices of his employer. The Respondent was aware, or should have been aware, of his employer's policies and industry best practices, but neglected to ensure they were followed.

**Is this an appropriate case to order Disgorgement of money obtained as a result of the Respondent's misconduct?**

[53] With respect to the claim for disgorgement, Enforcement Counsel cited the cases of *Re Limelight*<sup>18</sup> and *Re Fauth*<sup>19</sup>, to argue that, once a finding is made that the Respondent obtained funds through misconduct, the burden of proof shifts, and it is up to the Respondent to prove that the funds have been repaid. The Respondent testified, without documents or other corroborating evidence that he had repaid the sum of \$500,000 to JM, partly by bank transfers and partly in cash. There is no evidence of what happened to the co-mingled funds in the bank account held jointly by Mr. Ewing and his spouse.

[54] The section on “Applying the Disgorgement Remedy” in the *Re Limelight* case pertains to the illegal sale of securities to the public. The OSC determined that, over a period of two years, Limelight sold approximately 1.6 million Limelight shares to investors. As a result of these transactions, Limelight received about \$2.75 million from investors. Limelight traded without registration and engaged in the unlawful distribution of shares. Paragraph 48 of the decision indicates that the SEC must first establish the disgorgement amount and then the burden shifts to the respondent to dispute the reasonableness of that number.

[55] Unlike the *Limelight* case, which clearly details the illegal sales activities and dollar amounts, the present case involves personal dealings with clients and the amounts received and repaid lack these specifics and certainty. The Panel’s decision focused on CIRO’s failure to demonstrate that Mr. Ewing personally benefited from his actions.

[56] The same is true in the *Fauth* case. Fauth was the founder, sole director, officer and voting shareholder of Espoir, a company he used to raise money from the public. The funds were to be pooled and reinvested in other opportunities to generate investment returns. He was the only person involved in raising money for Espoir, and the only one who dealt with its investors. Over approximately 10 years, Espoir raised more than \$15.5 million from investors who purchased three-year debentures or advanced loans under promissory notes. (Espoir Notes). The penalties included a disgorgement amount of \$2,585,414.87 (said to represent the sum of the payments to non-arm’s length parties between Jan 1, 2009, and Sept 30, 2014, as calculated by a former Staff investigative accountant). All of the investor witnesses relayed a consistent story regarding what Fauth told them about Espoir and what they understood about the Espoir “safe and secure” opportunity.

[57] Once again, unlike the *Fauth* case, which has multiple witnesses and an identifiable paper trail related to money, the present case lacks these elements. Without witnesses and more unmistakable evidence that the Respondent personally profited from his activities, CIRO Enforcement Staff failed to meet its burden to present a convincing argument for disgorgement.

## **COSTS**

[58] Enforcement Staff presented an affidavit of Ricki Ann Newmarch, National Co-Ordinator in the Enforcement Department of CIRO, identifying the CIRO Enforcement Staff Bill of Costs, of which the greatest expense was nearly \$180,000 for the two investigators who worked on the case and testified at trial. The total cost was stated as \$310,589.36. Of this amount, Staff claimed an order that Mr. Ewing contribute \$50,000.

[59] The Respondent’s Counsel reminded the Panel that of the three allegations, the first was reduced to a less serious contravention, and the third was unproven. Mr Byers suggested that the Panel consider this a “partial win”, pointing out that the Respondent had had to bear the cost of defending the unproven allegations, and thus did not deserve to have to pay costs of the seven-day hearing.

[60] The Panel considers that the costs presented by CIRO were reasonable, and CIRO Enforcement Staff agree with that the Respondent should not bear the entire cost of the procedure. The Panel considers that a contribution from Mr. Ewing of \$50,000 is appropriate in the circumstances of this case.

## **PENALTY**

[61] After careful consideration of the facts and law, the Panel has decided that the appropriate penalty in this matter is:

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<sup>18</sup> (2008) 31 OSCB 12030, 2008 ONSEC 28

<sup>19</sup> 2019 ABASC 102

- a. suspension, for a period of ten years, from registration in any capacity with CIRO;
- b. any future registered activity to be subject to successful completion of the then-current Conduct and Practices Handbook examination and to one year of supervision;
- c. a fine of \$75,000; and
- d. payment of \$50,000 towards the costs of these proceedings.

**DATED** at Toronto this 5<sup>th</sup> day of January 2026.

“Louise Barrington” \_\_\_\_\_

Louise Barrington, Chair

“Ron Smith” \_\_\_\_\_

Ron Smith, Panel Member

“Ranee Pavalow” \_\_\_\_\_

Ranee Pavalow, Panel Member

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