Re Naek

IN THE MATTER OF:

The Investment Dealer and Partially Consolidated Rules

and

Omer Naek

2025 CIRO 60

Hearing Panel of the Canadian Investment Regulatory Organization
(Québec District)

Heard: November 17, 2025
Decision: December 19, 2025

Hearing Panel
Michel Brunet, Chair, François Gervais and Yves Ruest

Appearances
Thomas Grenier, Enforcement Counsel
Laura Trépanier, Counsel for the Respondent

REASONS FOR PENALTY DECISION

Introduction

[1] At a prehearing conference on August 12, 2025, which all parties attended, the Hearing Panel was informed that:

(i) the Respondent confirmed to Enforcement Staff that he would not attend the hearing;

(ii) contravention #2 in the Statement of Allegations had been withdrawn by mutual agreement between the Enforcement Staff and the Respondent; and

(iii) Enforcement Staff and the Respondent had mutually agreed on penalties.

[2] According to the prehearing memorandum, in which the agreement reached during the prehearing conference was recorded:

(i) the parties accept as proven the facts and contraventions alleged in the Notice of Hearing and Statement of Allegations, except with respect to contravention #2; and

(ii) the Hearing Panel will hear submissions from the Enforcement Staff and the Respondent's Counsel at a hearing on penalties and costs to be held on November 17, 2025. The panel will then impose penalties and costs in accordance with sections 8209 and 8210, as it deems appropriate.

[3] At the beginning of the hearing on November 17, 2025, the Hearing Panel reiterated that it accepts as proven the facts and contraventions alleged in the Notice of Hearing and Statement of Allegations, except with respect to contravention #2. The panel also noted the Respondent's absence.

Contravention

[4] The contravention accepted as proven is as follows: between May 2020 and August 2021, the Respondent made unauthorized transfers and misappropriated funds from three of his clients, contrary to Rule 1400 of the Investment Dealer and Partially Consolidated Rules of the Canadian Investment Regulatory Organization (**CIRO**).

Material Facts

[5] Between May 2020 and August 2021, the Respondent made unauthorized transfers and misappropriated approximately $204,000 (CAD) and $15,000 (USD) from three client accounts.

[6] The affected clients were either vulnerable seniors or deceased when the unauthorized transfers and misappropriations occurred.

[7] The Respondent committed a series of fraudulent acts, including opening bank accounts unlawfully, to make the transfers and misappropriate the funds to his clients' detriment.

[8] The Respondent was registered with CIRO and its predecessor, the Investment Industry Regulatory Organization of Canada (**IIROC**), from September 2016 to November 2021.

[9] The Respondent has not been employed by or registered with a CIRO member since November 2021.

Client TDT

[10] On or around May 29, 2020, the Respondent opened a bank account in the name of TDT, a client of his who had passed away just over two months earlier (the **fraudulent bank account**).

[11] Between May 29 and June 22, 2020, the Respondent transferred funds three times from TDT's bank account to the fraudulent bank account. The Respondent first transferred the funds to TDT's account with the Dealer where he was registered. The total amount of funds misappropriated in this manner was $60,000 (CAD).

[12] On June 29, 2020, the Respondent withdrew $5,000 (CAD) from the fraudulent bank account and $5,000 (USD) from TDT's USD account.

[13] On or around July 14, 2020, the Respondent requested and obtained a bank draft for $20,000 (CAD) from the fraudulent bank account. The draft was made payable to a construction contractor from whom the Respondent and his spouse were buying a new home.

Clients GV and JL

[14] GV and JL, a married couple, opened brokerage accounts with the Respondent in October 2016 and September 2020, respectively.

[15] GV was born in 1929 and JL in 1923.

[16] GV died on September 11, 2020.

[17] In August 2020, GV provided the Respondent with two blank cheques signed by GV to transfer funds from his personal and joint accounts to TD Bank accounts.

[18] Instead of making those transfers, however, the Respondent used the cheques to pay the above-mentioned contractor a total of $55,000 (CAD) on or around August 25, 2020.

[19] Between August 28, 2020, and August 30, 2021, the Respondent transferred a total of $125,000 (CAD) and $10,000 (USD) to GV's and JL's accounts without authorization. He then misappropriated these funds for his own benefit through fraudulent acts. This included opening bank accounts in JL's name without authorization and making payments to third parties to whom he owed money.

Joint submission on penalties

[20] Enforcement Counsel and the Respondent's Counsel made submissions on penalties. The parties jointly agreed on the following penalties:

(a) A fine of $100,000;

(b) Disgorgement of $59,151;

(c) A permanent ban from registering with CIRO

(d) Costs of $5,000.

[21] Under the CIRO Rules (see Rule 8210), the panel has the power to impose one or more of the following penalties on the Respondent:

(i) a fine not exceeding the greater of:

(a) $5,000,000 for each contravention, and

(b) an amount equal to three times the profit made or loss avoided by the person, directly or indirectly, as a result of the contravention;

(ii) a permanent bar to approval in any capacity or to access to a Marketplace,

(iii) a permanent bar to employment in any capacity by a Regulated Person.

Guidelines

[22] The CIRO Sanction Guidelines state that CIRO "regulates the operations, standards of practice and business conduct of its Dealer Members and their regulated persons with a mandate to enhance investor protection and strengthen market integrity and public confidence while maintaining efficient and competitive capital markets."

[23] The Guidelines also state that "[i]n order to achieve this, sanctions should be significant enough to prevent and discourage future misconduct by the respondent (specific deterrence) and to discourage others from engaging in similar misconduct (general deterrence)."

[24] Furthermore, they state that "[a]ny sanction should be similar to sanctions imposed on respondents for similar contraventions in similar circumstances."

[25] Enforcement Counsel reminded us that, unlike with a settlement agreement, where panels must either accept or reject an agreement, we have the discretion to modify penalties by imposing more or less severe ones.

[26] We acknowledged this reminder but were concerned about complying with the case law regarding jointly recommended penalties by the parties, as set out in *R. v. Cook*, (1998) S.C.R. 597:

> There is a lack of consensus regarding the legal test trial judges should apply in deciding whether it is appropriate in a particular case to depart from a joint submission. There are four possible approaches: the fitness test; the demonstrably unfit test; the public interest test; and, the approach that treats the fitness and public interest tests as essentially the same. The public interest test is the proper legal test that trial judges should apply. Under the public interest test, a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or would otherwise be contrary to the public interest. For joint submissions to be possible, the parties must have a high degree of confidence that they will be accepted. The public interest test, by being more stringent than the other tests proposed, best reflects the many benefits that joint submissions bring to the criminal justice system and the corresponding need for a high degree of certainty in them.

[27] During our deliberations, we considered whether the recommended penalty of a permanent ban from registering with CIRO was severe enough, and whether the public interest instead demanded *a permanent bar to employment in any capacity by a Regulated Person*.

[28] Given the principles set out by the Supreme Court of Canada in *Cook*, cited above, and considering that the vast majority of penalties similar to those recommended in this matter are found in previous decisions involving similar circumstances, we concluded, following our deliberations, that we should accept the penalties against the Respondent as recommended.

[29] The following decisions are among those involving similar circumstances and submitted to our panel:

(i) *Re Suppal,* 2014 IIROC 45:

> The Panel acknowledges, however, that penalty decisions should be consistent with penalties imposed by other panels in similar circumstances.

(ii) *Re Au-Young*, 2024 CIRO 03:

> In 2018 and 2019, the Respondent misappropriated monies from two clients' accounts, in the amounts of $45,000 US dollars. He used falsified letters of direction from the clients instructing his firm to issue a third-party cheque to Vancouver Bullion & Currency Exchange, where he then had the monies transferred into his own bank accounts.
>
> The parties agreed to the following sanctions and costs:
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> 1. permanent ban from registration in any capacity with the Corporation;
> 2. fine of $125,000; and
> 3. costs of $7,500.
>
> Two of the contraventions were extremely serious: the Respondent misappropriated the funds of two different clients, on two separate occasions. The sums of money were significant ($30,000 and $45,000). As was stated in *Re Rutledge* 2022 IIROC 36, at para 36, "[m]isappropriation of client funds is among the most serious misconduct a registrant can engage in. It goes to the very heart of the trust clients put in registrants and their firms." Similarly, in this case, misappropriating client funds is at the highest level of seriousness; it goes to the very heart of the trust that clients place in registrants and their firms, and it clearly harms the integrity and reputation of the capital markets. (Factors 5 and 6)
>
> The Respondent attempted to obtain a financial benefit from the misconduct (Factor 9).
>
> We conclude that the permanent ban is appropriate in this case, in the light of the very serious matter of misappropriations of funds at two different times from two different clients, and the clear indication that the Respondent is not to be trusted. The Sanction Guidelines require a permanent ban to be considered in such circumstances. It seems necessary here not only because of the misappropriations but also because of the totality of the misconduct.

(iii) *Re Rutledge*, 2022 IIROC 36:

> Misappropriation of client funds is among the most serious misconduct a registrant can engage in. It goes to the very heart of the trust clients put in registrants and their firms. As such, it clearly harms the integrity and reputation of the capital markets. The Panel agrees with the sentiment expressed in *Re McCarthy*, above, at para 1:
>
> > In an industry that has trust as its most fundamental principle, theft is a repudiation of the most basic industry value.

(iv) *Re McCarthy*, 2021 IIROC 33:

> In that case, the contraventions alleged against the respondent spanned a longer period than in the present case. The respondent forged signatures and misappropriated funds from her clients' accounts from 2006 to 2019. The panel reiterated the following principles and factors:
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> > The sanctions must be significant enough to prevent and discourage future misconduct by the Respondent;
> >
> > The sanctions must be significant enough to deter other registrants from engaging in similar misconduct;
> >
> > The sanctions must reinforce the public trust in the investment industry regulatory system and IIROC's ability to protect the investing public and market integrity;

The primary purpose of sanctions is prevention and not punishment;

The sanctions imposed should be similar to those imposed on other respondents for similar contraventions under similar circumstances;

The Sanction Guidelines are for guidance and the Panel retains the discretion to impose the sanctions that it considers appropriate; and

The sanctions should ensure that the Respondent has not profited from the misconduct;

A permanent bar should be considered when:

- there has been significant harm to the investing public or the integrity of the market;
- the misconduct had an element of criminal or quasi-criminal activity; and
- there is reason to believe that the Respondent cannot be trusted to act honestly in the future;

The significant factors to consider here are that:

- the conduct was premeditated, intentional and has criminal-like components;

The panel's decision in *McCarthy* was as follows:

- Permanent bar from approval in any capacity or access to a Marketplace;
- Permanent bar from employment in any capacity by a Regulated Person; and
- Fine of $950,000.

(v) *Re Kumar*, 2015 IIROC 33:

In the Settlement Agreement, Mr. Kumar admitted to the contravention of IIROC Dealer Member Rule 29.1 as follows:

a) Between February 2013 and April 2014, the Respondent made improper use of $1,450,980 in client funds by transferring these funds from the brokerage accounts of four clients into his own personal brokerage account without the clients' consent or authorization, contrary to IIROC Dealer Member Rule 29.1.

In our view, a permanent prohibition is appropriate and not outside the bounds of reasonableness. The Respondent engaged in repeated and intentional deceitful conduct. He betrayed the trust that his clients, his employer and the securities industry placed in him. In these circumstances, a permanent ban on registration with IIROC has been recognized in prior cases as the appropriate penalty.

A permanent prohibition on IIROC registration is also reasonable according to the IIROC Sanction Guidelines. Clearly, the repeated and intentional misappropriation of the clients' funds placed this conduct at the high end of the severity of conduct referred to in the Sanction Principles and Key Factors. Item 6 of the Sanction Principles suggests that the Hearing Panel consider a permanent bar when the contraventions involve significant harm to the investing public, the integrity of the market and the securities industry, or the misconduct has an element of criminal or quasi-criminal activity, or there is reason to believe that the Respondent cannot be trusted to act in an honest and fair manner with clients. Each of those elements is applicable in the present case as the Respondent's conduct in repeatedly misappropriating his clients' funds violated the basic principles of trust and confidence underlying the securities industry.

Accordingly, in our view, that portion of the proposed penalty involving a permanent prohibition on the Respondent being an IIROC representative should be accepted.

(vi) *Re Ramsay*, 2013 IIROC 41:

Bearing in mind the seriousness of these offences, including in particular the misappropriation of funds from vulnerable and dependent clients, and in the absence of any significant mitigating factors which might persuade us to reduce the normal penalty which would flow from these offences, we have no hesitation in imposing a permanent bar on the Respondent from approval with IIROC. Quite apart from the impact that this might have on the Respondent, we certainly hope that it will serve as a deterrent to others who may be tempted or inclined to engage in similar misconduct which brings the reputation and integrity of the capital markets into disrepute.

In accordance with the provisions of Rule 20.33(2) we accordingly impose the following penalties upon the Respondent:

(1) A permanent ban from approval with IIROC; and

(2) a fine in the amount of $200,000 which includes all disgorgement amounts sought by IIROC, as disgorgement is a sanction, not restitution.

(vii) *Re Rao*, 2011 IIROC 12:

The Panel accepts the joint settlement recommendation of counsel in the Settlement Agreement dated January 21, 2011, which is as follows:

(a) A permanent ban of registration with IIROC;

(b) A global fine in the sum of $270,000.00. The Respondent also agrees to pay costs to IIROC in the sum of $15,000.00.

The Respondent admits to the following contraventions of IIROC Rules, Guidelines, IDA By-laws, Regulations or Policies:

From or about May to November 2008 the Respondent, while a Registered Representative, engaged in business conduct or practice which is unbecoming or detrimental to the public interest in that he misappropriated client funds, contrary to IIROC Rule 29.1.

(viii) *Re Stoneburg*, 2010 IIROC 56:

As set out in the Notice of Hearing, dated May 10, 2010, it is alleged by IIROC that the Respondent committed the following contraventions:

1. In or about September 2006 the Respondent, while a Registered Representative with Canaccord Capital Corp., engaged in business conduct or practice which is unbecoming or detrimental to the public interest in that he misappropriated approximately $150,000 from two clients, contrary to IIROC Rule 29.1.

2. From or about August 2007 to May 2009 the Respondent, while an employee and later a registered Representative with yourCfO Advisory Group Inc., engaged in business conduct or practice which is unbecoming or detrimental to the public interest in that he misappropriated in excess of $200,000 from approximately 11 clients, contrary to IIROC Rule 29.1.

In considering the other penalties requested, we have considered the protection of the investing public, the integrity of the securities market, general deterrence, the protection of the IDA/IIROC membership and the protection of the integrity of the IDA/IIROC enforcement process. In addition, the Panel took into consideration IIROC's Dealer Member Sanction Guidelines and referenced five related decisions provided by counsel in IIROC's Penalty Brief (Exhibit 3).

The Panel recognizes that these are serious allegations. We are unaware as to whether the Respondent truly appreciates the significance of his improper activities. We are also concerned about damage that may be caused to the integrity of the capital markets. The penalty that is imposed must deter other persons who would be tempted to act in a similar manner.

In the view of the Panel, the acts of the Respondent can be considered to be a very serious issue of forgery. Based on all of these considerations, the submission of counsel as to penalty is appropriate and correct. In the result, the council imposes the following penalties:

(a) a permanent prohibition upon the Respondent from conducting security-related business in any capacity while in the employ of or associated with any IDA (IIROC) member;

(b) a fine in the amount of $425,000;

(c) costs of $30,000.

Penalties imposed

[30] In summary, the above decisions make it clear that misappropriating funds is not merely a contractual or civil offence, but an intrinsic contravention of the fundamental duties arising from the relationship of trust. Such misappropriation must be considered an indicator of permanent moral unfitness.

[31] For all the above reasons, we are imposing the following penalties on the Respondent:

(i) A fine of $100,000

(ii) Disgorgement of $59,153

(iii) A permanent ban from registration with CIRO

(iv) Costs of $5,000

DATED at Montreal this 19th day of December, 2025.

"Michel Brunet"
Michel Brunet, Chair

"François Gervais"
François Gervais

"Yves Ruest"
Yves Ruest