Re Hossain

IN THE MATTER OF:

The Mutual Fund Dealer Rules

and

Abid Hossain

2026 CIRO 27

Canadian Investment Regulation Organization (CIRO)
Hearing Panel (Ontario District)

To be heard: July 29, 2026, by videoconference

NOTICE OF MOTION

(MOTION BY THE RESPONDENT FOR PRODUCTION & DISCLOSURE OF RECORDS)

NOTICE is hereby given that a motion will be brought before a Hearing Panel (the "**Hearing Panel**") of the Canadian Investment Regulatory Organization ("**CIRO**") on July 29, 2026 at 11 AM.

NOTICE is further given that the motion will be conducted electronically.

THE MOTION is for:

[1] An order requiring TD Investment Services Inc. ("**TDIS**"), an appropriate employee or designate, to produce for inspection and provide copies of the following records to the Respondent by August 7, 2026: All receipts, vouchers, confirmations, withdrawal slips, cash-out records, redemption records, and any other source documents for each transaction referred to in the Statement of Allegations ("**SOA**"), including, but not limited to, records relating to the purported negative balance created by the Respondent in a TD Bank general ledger account as set out in paragraph 23(a) of the affidavit of Tracey Mackay;

(a) The "Large Cash Transaction Record", signed receipt, and any other documentation related to all withdrawals of cash in the SOA and/or information explaining how the Respondent was able to withdraw large sums of cash without documentation and multiple approvals;

(b) Bank policies relating to documentation required for a large cash transaction applicable at the time of each cash withdrawal in the SOA;

(c) Bank policies relating to transactions and signature requirements during the COVID-19 pandemic;

(d) All Bank (as defined in the SOA) records showing the daily or periodic cash withdrawal limits applicable at the relevant Bank branches;

(e) All documents showing the movement of funds into, out of, and within the Bank Suspense Account (as defined in the SOA) or general ledger accounts, for all transactions involving the Respondent's login for all customers from within the years 2019 to 2020 inclusive, including transaction histories, ledger entries, internal transfer records, receipts, confirmations and all other records identifying the originating and destination accounts;

(f) The complete account history for each of the Other Individuals' Account or Other Individual's Account holders (as defined in the SOA) as identified at paragraphs 28 and 32 of the SOA at the Bank within the years 2019 to 2020 inclusive, including all Bank accounts, investment accounts, term deposits, GICs, suspense accounts, and any related sub-accounts referenced in the disclosure;

(g) All records relating to the transaction described in footnote 4 of the SOA, including documents showing where the $52,155.25 came from (account name, number, receipts or record) as well as information explaining how the Bank addressed the loss of $52,155.25 from another account;

(h) All records relating to the $150,246.85 transaction (referenced at paragraph 28(b) of the SOA) and $150,500 transaction (referenced at paragraph 32 of the SOA), that were purportedly transferred to the Other Individuals' Accounts, including but not limited to documents showing where those funds were transferred to, how they were applied, what use the Other Individuals' Accounts made of these deposits, and how the Bank dealt with those funds;

(i) All records relating to the $22,717.60 transaction referenced in paragraph 28(b) and footnote 6 of the SOA, including documents showing where those funds were transferred to (including the transaction receipt, any supporting documentation, audit logs identifying who was logged into the general ledger at the relevant time, all credits and debits processed under those user logins during the relevant period, and any approvals, system notes, or audit trail associated with the transaction), how they were applied, what use was made of those funds, and how the Bank dealt with those funds (i.e., whether the Bank communicated the error and clawed back those funds or an acknowledgment that the Bank did not claw back the funds);

(j) Confirmation of whether Client X (as defined below and in the SOA) held a safety deposit box at the Bank within the years 2019 to 2020. If Client X held a safety deposit box at the Bank, records, logs, security video, receipts, or any other record that the Bank holds of the dates and times that the safety deposit box was accessed within the years 2019 to 2020;

(k) All documents sufficient to show the approvals, overrides, or multi-person authentication required for the transactions at issue, including records identifying the employees involved in authorizing, overriding, or processing those transactions; and

(l) The curriculum vitae of Tracey Mackay; and

(m) The name and curriculum vitae of the original lead investigator in this matter (collectively, the "**Bank Records**");

[2] An order vacating any previous order regarding the timing of the delivery of witness statements and/or documents of the Respondent such that the applicable timelines are as prescribed under the *Mutual Fund Dealer Rules of Procedure* (the "**Rules of Procedure**").

[3] In the alternative to paragraph 1, direction for a production motion as against TD Bank for the Bank Records.

[4] Such further and other relief as counsel may advise and the Hearing Panel may grant, including any protective orders deemed necessary to preserve the privacy of individual clients.

THE GROUNDS for the motion are:

A. The Parties

[5] Between September 2006 and September 8, 2020, the Respondent was a dealing representative of TDIS and employed by TD Bank. Between February 7, 2014 and September 8, 2020, the Respondent was a designated branch manager;

[6] TDIS is a Dealer Member of CIRO and formerly a member of the Mutual Fund Dealers Association;

[7] On September 8, 2020, TD Bank terminated the Respondent's employment and TDIS terminated the Respondent's registration for reasons unrelated to this matter;

[8] Client X is a client of TDIS and holds accounts at TD Bank;

B. Allegations and Status of Proceeding

[9] On July 30, 2025, CIRO Enforcement Staff ("**Staff**") commenced a disciplinary proceeding against the Respondent and issued the Notice of Hearing and the SOA; The SOA alleges that between February and September 2020, the Respondent contravened the *Mutual Fund Dealer Rules* (the "**MFD Rules**") in relation to client investment redemption proceeds as well as investigation cooperation. In particular:

(a) **Contravention 1:** Between February 2020 and September 2020, the Respondent misappropriated, misapplied, or failed to account for the proceeds of redemptions of client investments that he processed, contrary to MFD Rule 2.1.1;

(b) **Contravention 2:** Commencing in August 2024, the Respondent failed to cooperate with an investigation by CIRO Staff into his conduct, contrary to MFD Rule 6.2.1;

[10] With respect to Contravention 1, the SOA alleges that the Respondent:

(a) redeemed approximately $1,001,456 from a specific Bank client's ("**Client X**") Guaranteed Investment Certificates ("**GICs**") held in accounts at the Bank;

(b) deposited some of the redemption proceeds to a Bank general ledger account, including a temporary suspense account such as the Bank Suspense Account, to offset a negative balance created by the Respondent;

(c) transferred the remaining redemption proceeds to term deposits or GICs that were in Client X's name at the Bank; and

(d) redeemed monies from the term deposits or GICs by:

(i) depositing them to other individuals' accounts; depositing them to a Bank general ledger account to offset a negative balance the Respondent created by previously redeeming monies from the account; and

(ii) withdrawing them as cash;

[11] On or around March 13, 2026, Staff provided the disclosure index for this matter;

[12] On or around March 30, 2026, the Respondent delivered a reply to the Notice of Hearing pursuant to Rule 8 of the Rules of Procedure;

[13] In his reply, the Respondent disputes the allegations and asserts that:

(a) The Respondent acted under the direction of Client X;

(b) Client X maintained a safety deposit box and withdrew large sums of cash which were placed into that safety deposit box;

(c) The Respondent cannot confirm or deny the amounts contained in Client X's accounts or the specific transactions alleged; and

(d) The Respondent had no knowledge that Client X made a complaint to the Bank or that the Bank paid money to Client X other than through CIRO's documents;

[14] On or around May 16, 2026, counsel for the Respondent delivered a letter to counsel for CIRO requesting additional disclosure of the Bank Records relating to the matter (the "**Disclosure Request**");

[15] On or around May 20, 2026, counsel for CIRO responded to the Disclosure Request; On or around May 29, 2026, counsel for the Respondent sent an e-mail to CIRO counsel expressing why some of the Disclosure Request was relevant. CIRO's counsel responded the same day, indicating that their position remained unchanged;

[16] On or around June 22, 2026, CIRO counsel sent an e-mail attaching three documents that had inadvertently not been disclosed. One of those documents was a TD Response to a Summons, dated June 23, 2025. At pages 2 and 3 of that disclosure, there is a summary of various general ledger accounts and a notation that not all general ledger accounts, including the ones referred to, are required to have a zero balance at the end of each business day;

[17] On or around July 2, 2026, CIRO counsel sent a letter to TD Bank requesting disclosure of certain information related to this matter by July 10, 2026;

[18] On or around July 9, 2026, CIRO counsel sent two e-mails to counsel for the Respondent, providing their request to TD Bank for information with an expected response date of July 15, 2026;

[19] On or around July 16, 2026, TDIS responded to the CIRO letter to TD Bank dated July 2, 2026;

[20] The hearing on the merits is currently scheduled for September 28-30, 2026;

C. The Hearing Panel's Jurisdiction to Order Disclosure

[21] Rule 7.3.6.2 of the MFD Rules provides:

> Every Member, Approved Person and other person under the jurisdiction of the Corporation may be required by a Hearing Panel: to attend before it at any of its proceedings and give information respecting any matter involved in the proceeding; and
>
> (a) to produce for inspection and provide copies of any books, records and accounts of such person, or within such person's possession and control, relevant to the matters being considered.

[22] Rule 1.3 of the Rules of Procedure provides:

> (1) These Rules shall be liberally construed to secure the most expeditious and cost-effective determination of every proceeding on its merits consistent with the requirements of fairness.
>
> (2) Where matters are not provided for in these Rules, the practice may be determined by analogy to them.

[23] Rule 8421 of the *Investment Dealer and Partially Consolidated Rules* (the "**Investment Dealer Rules**") provides that the Tribunal may order any person to produce documents. As TDIS and certain employees are registered with CIRO and under CIRO's oversight and jurisdiction, by analogy the Tribunal ought to be able to make a similar order either under the MFDA Rules or the Investment Dealer Rules;

[24] Pursuant to the MFD Rules, the Rules of Procedure, and common law disclosure obligations, Staff must disclose all documents and things in CIRO's possession or control that are relevant to the proceeding, including documents and things that are relevant to the Respondent's ability to make full answer and defence. CIRO has requested some of the Bank Records from TD Bank, and TDIS has responded, reflecting the position that TDIS has sufficient control over those records to produce and disclose them;

[25] The Bank Records are likely relevant to issues at the hearing and the production is necessary in the interests of justice, including to permit the Respondent to make full answer and defence;

[26] In relation to Contravention 1, the Bank Records are relevant to and probative of:

(a) the source and destination of the funds at issue, and the proof thereof;

(b) whether Client X authorized, directed, and/or participated in the transactions;

(c) whether the transactions as outlined in the affidavit of Tracey Mackay actually reflect what they purport to be;

(d) whether the funds were subsequently recovered, reversed, or returned;

(e) Bank systems, controls, policies, and/or approvals involved in the transactions;

(f) whether Client X accessed a safety deposit box during the relevant period which would provide affirmative evidence that Client X received those funds; and

(g) the use that the Other Individuals purportedly made of the funds.

[27] CIRO acknowledges that at least some of the Bank Records requested above are relevant and have requested those records. With respect to certain records, the Respondent states:

(a) With respect to the movement of money into and out of various general ledger accounts, there may have been dozens or hundreds of transactions each day. At any given time, those accounts may have included millions of dollars, and the general ledger accounts do not need to reconcile. Ms. Mackay's conclusion that the money leaving those accounts (to the Other Individuals' Accounts or Other Individual's Account) was the money belonging to Client X as opposed to other transactions entirely cannot be audited, assessed or fairly challenged, as the Bank has not supplied the underlying records that must have been considered in order to reach those conclusions. The underlying records include:

(i) Records of all monies going into and out of the general ledger accounts, which must have been considered in order to conclude that the money leaving the general ledger account was the same money that was placed into the general ledger account as opposed to belonging to a different transaction entirely;

(ii) Bank records of the Other Individuals reflecting their account activity and how the money has been used, which would provide evidence of whether that money belonged to a different transaction entirely;

(b) With respect to cash withdrawal and safety deposit box records, these records have the potential to corroborate the Respondent's position that the cash was provided directly to Client X;

(c) With respect to bank policies for large cash transactions, these are relevant to the Respondent's assertion that it was not possible to remove such large sums of money from the Bank without documentation, multiple checks and oversight;

(d) With respect to bank policies related to the COVID-19 pandemic, these are relevant to address Ms. Mackay's assertions of documentary expectations for transactions during this period;

[28] There is reason to believe that the records identified and the conclusions drawn by Ms. Mackay in her affidavit are not credible or reliable. As Ms. Mackay was not the actual investigator, it is not clear what records were available to her and that she looked at prior to authoring the affidavit, raising credibility concerns. The reliability of the records and conclusions has been brought into question as in response to the Respondent's disclosure request, Staff sought additional information from TDIS concerning the transactions at issue. In response, TDIS advised that "the bank was unable to verify the specific amounts in issue due to the complexity of Hossain's movement of funds among various General Ledger (GL) accounts to which he had access."

[29] The Bank Records are in TDIS's possession and/or control;

[30] The transactions involving the Bank Records are referenced throughout the SOA but the Bank Records are not contained in the disclosure provided by Staff;

[31] The Respondent requested the Bank Records from Staff. Staff has requested two segments of the Bank Records from TD Bank and has otherwise refused to produce the Bank Records;

[32] The salutary effects of an order to produce the Bank Records outweigh the deleterious effects of the order;

[33] The prejudice to the Bank and individuals' dignity, privacy, or security of the person is minimal. CIRO's own documents and the affidavit of Tracey Mackay include reference to names and bank account information;

[34] Such further and other grounds as counsel may advise and the Hearing Panel may permit.

THE FOLLOWING evidence and materials will be relied upon at the hearing of the motion:

[35] The Respondent's motion record consisting of the affidavit of Christine Le Dressay with exhibits, sworn July 17, 2026, in accordance with Mutual Fund Dealer Rule 6.5(1); The Respondent's memorandum of fact and law in accordance with Mutual Fund Dealer Rule 6.5(1);

[36] *Mutual Fund Dealer Rules*, including but not limited to rules 2.1.1 and 7, including 7.3.6.2;

[37] *Mutual Fund Dealer Rules of Procedure*, including but not limited to rules 1.3, 1.5, 6, 7, 8, and 10;

[38] *Investment Dealer and Partially Consolidated Rules*, including but not limited to rule 8421;

[39] *Re Echelon and Burns*, 2024 CIRO 94;

[40] *R v Stinchcombe*, 1991 CanLII 45 (SCC), [1991] 3 SCR 326;

[41] *R v O'Connor*, 1995 CanLII 51 (SCC), [1995] 4 SCR 411;

[42] *R v McNeil*, 2009 SCC 3;

[43] Such further and other evidence as counsel may provide and the Hearing Panel may permit.

DATED at Toronto, Ontario, this 20 day of July, 2026.

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Lawyers for Abid Hossain