IN THE MATTER OF:

THE RULES OF THE INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

AND

EDWARD HO RHA

NOTICE OF HEARING

An initial appearance ("Initial Appearance") will be held before a hearing panel ("Hearing Panel") of the Investment Industry Regulatory Organization of Canada ("IIROC") pursuant to Sections 8203 and 8205 of the Consolidated Enforcement, Examination and Approval Rules of IIROC in this matter. The purpose of the Initial Appearance is to schedule a hearing ("Hearing").

The Initial Appearance will be held by way of videoconference on April 22, 2021 at 10:00 a.m.

The Respondent must serve a Response ("Response") to this Notice of Hearing and the Statement of Allegations dated March 5, 2021 ("Statement of Allegations") in accordance with Section 8415 within 30 days from the effective date of service of this Notice of Hearing.

If the Respondent does not file a Response in accordance with Section 8415(1), the Initial Appearance may be immediately converted to a Hearing.

If the Respondent files a Response in accordance with Section 8415(1), the Initial Appearance will be immediately followed by an initial prehearing conference. In preparation for the prehearing conference, the Respondent must serve and file a prehearing conference form in accordance with Section 8416(5).

The purpose of the Hearing will be to determine whether the Respondent has committed the contraventions that are alleged by the staff of IIROC ("Staff"). The alleged contraventions are contained in the Statement of Allegations.

Pursuant to Section 8409, the Hearing will be conducted as a[n]:

☐ Oral Hearing

☒ Electronic Hearing

☐ Written Hearing

The Respondent may object to the format of the Hearing. The objection must be made in accordance with Section 8409.

The Initial Appearance, the Hearing and all related proceedings will be subject to the Rules of Practice and Procedure as set out in Section 8400.

Pursuant to the Rules of Practice and Procedure, the Respondent is entitled to attend the Hearing and to be heard, to be represented by counsel or by an agent, to call, examine and cross-examine witnesses, and to make submissions to the Hearing Panel at the Hearing.

If the Respondent fails to serve a Response at the Hearing the Hearing Panel may, pursuant to Section 8415(4):

(a) proceed with the hearing as set out in this Notice of Hearing, without further notice to the Respondent;

(b) accept as proven the facts and contraventions set out by Staff in the Statement of Allegations; and

(c) order sanctions and costs against the Respondent pursuant to Sections 8209, 8210 and 8214 and/or IIROC Dealer Member Rules 20.33 and 20.34.

If the Hearing Panel concludes that the Respondent did commit any or all of the contraventions alleged by Staff in the Statement of Allegations, the Hearing Panel may, pursuant to Sections 8209 and 8210 and/or IIROC Dealer Member Rules 20.33 and 20.34 impose any one or more of the following sanctions:

(a) a reprimand;

(b) disgorgement of any amount obtained, including any loss avoided, directly or indirectly, as a result of the contravention;

(c) 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 person, directly or indirectly, as a result of the contravention.

(d) suspension of the person's approval or any right or privilege associated with such approval, including access to a Marketplace, for any period of time and on any terms and conditions;

(e) imposition of any terms or conditions on the person's continued approval or continued access to a Marketplace;

(f) prohibition of approval in any capacity, for any period of time, including access to a Marketplace;

(g) revocation of approval;

(h) a permanent bar to approval in any capacity or to access to a Marketplace;

(i) permanent bar to employment in any capacity by a Regulated Person, and

(j) any sanction determined to be appropriate under the circumstances.

If the Hearing Panel concludes that the Respondent did commit any or all of the contraventions alleged by the Staff in the Statement of Allegations, the Hearing Panel may assess and order any investigation and prosecution costs determined to be appropriate and reasonable in the circumstances pursuant to Section 8214 and/or IIROC Dealer Member Rule 20.49.

DATED this 5 day of March 2021.

"NATIONAL HEARING COORDINATOR"
NATIONAL HEARING COORDINATOR
Investment Industry Regulatory Organization of Canada
Suite 2000, 121 King Street West
Toronto, Ontario, M5H 3T9

IN THE MATTER OF:

THE RULES OF THE INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

AND

EDWARD HO RHA

STATEMENT OF ALLEGATIONS

Further to a Notice of Hearing dated March 5, 2021, Enforcement Staff make the following allegations:

PART I – REQUIREMENTS CONTRAVENED

(i) Between January 2016 and May 2017, the Respondent engaged in excessive trading that was unsuitable and inconsistent with good business practices, in the client accounts of Mr. & Mrs. R, contrary to Dealer Member Rule 1300.1(o) and (q);

(ii) Between January and December 2017, the Respondent failed in his know your client obligations, for his clients Mr. & Mrs. C, contrary to Dealer Member Rules 1300.1(a);

(iii) Between January and December 2017, the Respondent engaged in excessive trading that was unsuitable and inconsistent with good business practices, in the client accounts of Mr. & Mrs. C, contrary to Dealer Member Rule 1300.1(o) and (q); and

(iv) In October 2017, the Respondent borrowed money from his client, HW, contrary to Dealer Member Rule 43.2(3).

PART II – RELEVANT FACTS AND CONCLUSIONS

Overview

1. The Respondent engaged in a pattern of excessive and unsuitable trading for two sets of clients, while generating significant trading commissions. He also borrowed $95,000 from an additional client, which he never repaid.

Registration History

2. The Respondent is currently not working in an IIROC registered capacity. He was a Registered Representative with Richardson GMP Limited ("Richardson GMP") from 2008 until May 2017. He left Richardson GMP when they were going to place him under strict supervision. The Respondent then moved to Mackie Research Capital Corporation ("Mackie Research"). The Respondent left Mackie Research in March 2018. The conduct in question took place while he was employed at both Richardson GMP and Mackie Research.

Background

3. Throughout 2016 and 2017, the Respondent had been experiencing personal, professional, and financial difficulties. This included:

   a. Over the previous five year period he had lost approximately $3,000,000 in his personal trading account;

   b. He was going through a divorce and moved into his parents' home; and

c. Richardson GMP compliance staff identified concerns about the trading in his personal accounts as well as the maintenance of his margin accounts.

4. These problems coincided with the Respondent engaging in unsuitable and excessive trading practices for two sets of clients (Mr. & Mrs. R and Mr. & Mrs. C). These clients suffered significant losses, while the trading generated substantial trading commissions.

5. In May 2017, Richardson GMP advised the Respondent he was to be placed under strict supervision. The Respondent then moved to Mackie Research. While at Mackie Research the Respondent ceased his excessive trading practices, however, the holdings for Mr. & Mrs. C remained unsuitable.

6. In October 2017, the Respondent borrowed money from his client, HW. The loan was purportedly to cover the margin position in the Respondent's personal Mackie Research trading account. HW complained to both Mackie Research and IIROC. He later died, without the Respondent ever repaying the loan. HW did receive $25,000 in compensation from Mackie Research.

Mr. & Mrs. R

7. BR & SR (Mr. & Mrs. R) are a retired couple. At the beginning of 2016 they were aged 76 and 68, respectively. Mr. & Mrs. R's account forms indicate the Respondent oversaw the entirety of their liquid assets. The majority (90%) of Mr. & Mrs. R's assets were held in the following accounts:

   a. Mr. R held a Cash, RRIF and TFSA account; and
   b. Mrs. R held a Cash, RRIF and TFSA account.

8. Between January and October 2016, the Respondent engaged in excessive trading that was unsuitable and inconsistent with good business practices. During this period, their accounts incurred excessive trading commissions and suffered significant losses. The

Respondent ceased the inappropriate trading in Mr. R's accounts after his firm placed him on heightened supervision, in October 2016. However, he continued engaging in unsuitable trading in Mrs. R's account until May 2017.

Excessive and Unsuitable Trading in Mr. & Mrs. R's Accounts

9. A review of the trading in the accounts for the year 2016 show:

   a. Mr. R's accounts turned over 7.21 times. This resulted in Mr. R paying $13,277 in transactional commissions, which represented 16.67% of his average portfolio value of $79,665. As such, Mr. R would have required a 16.67% return to cover the commissions he paid;

   b. Mrs. R's accounts turned over 12.35 times. This resulted in Mrs. R paying $23,277 in transactional commissions, which represented 25.5% of his average portfolio value of $91,320. As such, Mrs. R would have required a 25.5% return to cover the commissions she paid; and

   c. Together, Mr. & Mrs. R paid combined transactional commissions of $36,554 in their accounts in 2016. This represented 21.4% of their combined average portfolio value of $170,985 during this period.

10. In addition, the Respondent continued to trade excessively in Mrs. R's accounts until May 2017. A review of her accounts for the additional five month period show:

    a. The accounts were turned over 1.88 times, for an annualized turnover ratio of 4.51; and

    b. Mrs. R paid $1,600 in transactional commissions, which represented 5.3% of her average portfolio value of $30,267.

11. In total, the Respondent personally received approximately $9,488 from the total commissions generated in Mr. & Mrs. R's account from January 2016 to May 2017.

Impact on Mr. & Mrs. R's Accounts

12. Mr. & Mrs. R's accounts suffered significant losses during the relevant period:

    a. In 2016 Mr. R's account declined by $63,161 (43%). Of that, $13,277 (14.36%) resulted from transaction commissions paid by Mr. R;

    b. In 2016 Mrs. R's accounts declined by $78,431 (65%). Of that, $23,277 (23.7%) resulted from commissions from transaction commissions paid by Mrs. R;

    c. In January to May 2017, Mrs. R's accounts declined by a further $9,997 (28%). Of that, $1,600 (4.66%) resulted from commissions paid by Mrs. R; and

    d. Together, between January 2016 and May 2017, Mr. & Mrs. R's portfolio declined by a total of $163,430 (61.4%). Of that, $38,530 (14.5 %) resulted from transaction commissions paid by Mr. & Mrs. R.

13. The S&P/TSX Composite index increased 17.5% for the year 2016, and only declined 1.32% from January to May 2017.

Mr. & Mrs. C

14. RC and DC (Mr. & Mrs. C) are a retired couple. At the beginning of 2017 they were aged 73 (Mr. C) and 74 (Mrs. C). They had been clients of the Respondent since 2013. He oversaw seven accounts for these clients, which contained the entirety of Mr. & Mrs. C's liquid assets.

15. Mr. & Mrs. C's assets were held in the following six accounts:

    a. Mrs. C held a RRIF, Spousal RRIF, TFSA and a Cash account;
    b. Mr. C held a RRIF, TFSA, and a Cash account; and
    c. Mr. & Mrs. C held a joint Cash account.

16. They held the majority (95%) of their assets in their RRIF accounts. Most of the losses and trading occurred in these accounts. While the Cash accounts only held 2% of their combined portfolio.

17. Between January and May 2017, the Respondent engaged in excessive trading in Mr. & Mrs. C's accounts. During this period, their accounts suffered significant losses. When the Respondent ceased excessively trading Mr. & Mrs. C's accounts when he moved to Mackie Research. However, their account holdings remained unsuitable throughout the rest of 2017.

Failure to Know Mr. & Mrs. C

18. Mr. & Mrs. C increased the high-risk allocations on their account forms to inappropriate levels, as follows:

    a. In August 2014, Mr. C increased the high-risk allocation for all his accounts from 10% to an inappropriate, 70% high risk. He then raised this to 80% high risk in December 2016; and

    b. In May 2017, Mrs. C raised the high-risk allocations for her accounts from a range of 10% to 30%, to an inappropriate, 50% high risk.

19. These allocations were inconsistent with Mr. & Mrs. C's personal and financial circumstances, which included:

    a. They were aged 73 (Mr. C) and 74 (Mrs. C) and both retired, as of December 2016;
    b. The accounts held the entirety of their liquid assets;
    c. They did not want excessive risk in their accounts;

d. They were concerned about transaction fees; and

e. While they had moderate investment knowledge, they were relying on the Respondent for investment advice.

Excessive Trading in Mr. & Mrs. C's Accounts

20. Between January and May 2017, the Respondent engaged in excessive trading that was not suitable for Mr. & Mrs. C, and which was inconsistent with good business practices.

21. A review of these accounts (excluding the Cash accounts) for this period show:

a. Mr. C's accounts were turned over 1.36 times for the year 2016. During the first five months of 2017, the accounts were turned over 1.83 times, for an annualized turnover ratio of 4.4. This resulted in Mr. C paying $46,152 in transactional commissions in just five months. This represented 3.66% of his average portfolio value of $1,260,203 during this period;

b. Mrs. C's accounts were turned over 0.98 times for the year 2016. During the first five months of 2017, the accounts were turned over 2.19 times, for an annualized turnover ratio of 5.25. This resulted in Mrs. C paying $51,742 in transactional commissions in just five months. This represented 4.38% of her average portfolio value of $1,181,337 during this period; and

c. Together, Mr. & Mrs. C paid combined transactional commissions of $97,894 in their accounts, from January to May 2017. This represented 4% of their combined average portfolio value of $2,441,540 during this period.

22. In total, the Respondent personally received approximately $35,263 from the total commissions generated in Mr. & Mrs. C's account from January to May 2017.

Unsuitable Holdings in Mr. & Mrs. C's Accounts

23. While the excessive trading in Mr. & Mrs. C's accounts ceased after they followed the Respondent to Mackie Research, the holdings remained unsuitable for the rest of 2017. Of note, for that period:

    a. Over 60% of their portfolio were concentrated in the energy sector, which consisted of only four holdings; and

    b. Despite identifying 15% low risk allocation in their account forms, their low risk holdings made up between 0.8% and 4% of their account holdings.

24. In total, the Respondent personally received approximately $15,792 from the total commissions generated in Mr. & Mrs. R's account from May to December 2017.

Impact on Mr. & Mrs. C

25. Mr. & Mrs. C's accounts suffered significant losses between January and May 2017, while at Richardson GMP. Of note, during that five month period:

    a. Mr. C's account declined by $200,733 (15.3%). Of that, $46,152 (3.5%) resulted from transaction commissions he paid;

    b. Mrs. C's accounts declined by $170,021 (14%). Of that, $51,742 (4.3%) resulted from transaction commissions she paid; and

    c. Together, Mr. & Mrs. C's portfolio declined by $370,755 (15%). Of that, $97,894 (3.9 %) resulted from transaction commissions paid by Mr. & Mrs. C.

26. During that same period the S&P/TSX Composite index declined by 1.32%.

27. Mr. & Mrs. C's accounts suffered further losses between June and December 2017, while at Mackie Research. During that seven month period the combined portfolio of Mr. & Mrs. C declined by a further $64,765 (3.3%). During that same period the S&P/TSX Composite index increased by 5.33%.

Loan from Client MW

28. In October 2017, the Respondent borrowed $95,000 from his client MW. The money was never repaid, and MW subsequently died in 2019. The Respondent approached MW for the loan, claiming he needed the money to cover a margin position in his personal Mackie Research trading account. He told MW that Mackie Research would terminate him if he did not cover this position.

29. In support of the loan, the Respondent provided MW a loan document, dated October 3, 2017. The document purported to assign to the client a beneficial interest in approximately 6,000 units of a security the Respondent held in his trading account. The loan document identified the shares as having a value of $118,680 as of October 2, 2017. The Respondent drafted the loan document using Mackie Research letterhead, and had a Mackie Research employee sign it as a witness.

30. The Respondent never transferred the securities to MW; later that month Mackie Research sold the securities to cover the Respondent's margin position.

31. MW was 68 years old at the time of the loan. Of note:

a. MW had never met the Respondent in person;
b. It does not appear the loan covered the margin position;
c. The Respondent informed MW in March 2018, that he would likely not be able to pay him back; and

d. After filing a complaint with IIROC, MW passed away in 2019, and the loan was never repaid.

32. The Respondent's actions exposed Mackie Research to potential legal liability. This resulted in Mackie Research paying MW $25,000 as part of a civil litigation settlement.

DATED at Calgary, Alberta this 5th day of March, 2021.